



ZONING RESOLUTION

FOR

SEVIER COUNTY, TENNESSEE

Adopted September 1, 2006

With Amendments through December 16, 2013

**Sevier County Planning Department
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Sevierville, Tennessee 37862
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APPENDIX A

Sections 2.5.6 - 2.5.9 of the **Preferred Directions Report** by Saratoga Associates

APPENDIX B

Public Chapter No. 340 which expanded TCA, Title 63-1-301 through 311

Amendments To The Zoning Regulations

Effective Date	Amended Sections
11-01-2006	Section 201. Definitions. Heliport.
11-01-2006	Section 506. C-2 General Business District.
02-18-2008	Section 201. Definitions. Building.
02-18-2008	Section 308. Signs.
02-18-2008	Section 601. Minimum Building Setback Lines.
02-18-2008	Section 603. Lot Frontage Requirements.
12-15-2008	Section 701 A-1 Zoning.
12-15-2008	Section 504.A. R-2M Medium Density Residential District.
12-15-2008	Section 201. Definitions. Amusement.
12-15-2008	Section 201. Definitions. Bed and Breakfast.
12-15-2008	Section 602.1. Lot Area Requirements.
12-15-2008	Section 604.2. Building Height Restrictions.
10-1-2010	Section 302.1. Flood Protection
12-20-2010	Section 313. Critical Slope District Development Guidelines
12-20-2010	Section 508. CS Critical Slope District
12-20-2010	APPENDIX A
02-20-2012	Section 504.A.1 Intent and Purpose
02-20-2012	Section 504.A.2 Uses Permitted
05-21-2012	Section 201. Definitions. Pain Management Clinic
05-21-2012	Section 506.2 Uses Permitted
05-21-2012	APPENDIX B
12-16-2013	Section 403. Lots of Record
12-16-2013	Section 601. Minimum Building Setback Line

ARTICLE I - INTRODUCTION

101. Title

102. Purpose

103. Authority

101. Title. This resolution shall be known as the Zoning Resolution of Sevier County, Tennessee and the zoning map shall be referred to as the Zoning Map of Sevier County, Tennessee.

102. Purpose. The purposes of this Resolution are consistent with authority in state statutes, to promote the health, safety, convenience, order, prosperity, and welfare, of both the present and future residents of Sevier County. To attain this purpose, the code contains regulations conducive to the following; a less congested and more efficient transportation system, safety from fire, adequate light and air for buildings, structures, and their inhabitants. Furthermore, the purposes of this Resolution are to further and implement any plans adopted by Sevier County, and to be consistent with any growth plan adopted under provisions of Public Chapter 1101 of 1998, under provisions of Tennessee Code Annotated Section 6-58-101, et, seq.

103. Authority. The authority to adopt and to amend this resolution and the zoning map is provided by Tennessee Code Annotated Sections 13-7-101 through 13-7-117.

103.1. Effect.

Except as hereinafter it is unlawful to erect, construct, reconstruct, alter, maintain, or use any building or structure or to use any land in violation of any regulation in any provision of any ordinance or any amendment thereof enacted or adopted by any county legislative body under the authority of this part unless conforming with all applicable provisions of this resolution.

103.2. Jurisdiction.

This resolution shall be effective throughout the entire area of Sevier County, Tennessee excepting all incorporated areas, the Gatlinburg Planning Region, and the Great Smoky Mountains National Park.

ARTICLE II - DEFINITIONS

201. Definitions. Unless otherwise stated, the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include the future tense. The singular number includes the plural and the plural the singular. The word “shall” is mandatory, not directory. The words “used” or “occupied” as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.

Accessory Use. The term applies to a building, structure or use that is:

- a. subordinate to and serves a principal building or principal use;
- b. subordinate in area, extent, or purpose to the principal building or principal users or occupants of the principal building principal use; and
- c. located on the same lot as the principal building or principal use.

Adult Oriented Business. An adult oriented business is one in which at least twenty-five (25) percent of the floor stock merchandise, whether printed, video, or sexual devices, are oriented toward the adult population. Said merchandise generally depicts male or female genitalia and/or breasts and/or sexual acts.

Amusement. A commercial amusement ride or recreational use offering activities including mechanical rides with defined parameters for which there is a separate admission charge. Such uses as golf clubs or golf courses, and multiple amusement activities parks and/or recreational parks shall be developed as PUDs.

Bed and Breakfast Establishment. An inn or other unique residential facility offering bed and breakfast accommodations and one (1) daily meal and having not more than twelve (12) guest rooms furnished for pay, with guests staying not more than fourteen (14) days, and where the innkeeper resides on the premises or property and where the guest rooms are established and maintained distinct and separate from the innkeeper’s quarters.

Buffer. An area of land undeveloped except for landscaping, fences, etc. used to protect a use situated on one (1) lot from the deleterious effects of the use on the adjacent lot.

Building. Any structure, including all porches, decks, overhangs, built for support, shelter or enclosure of persons, animals, chattels, or personal property of any kind.

Building Height. The vertical distance measured from the base of a building to the highest point of the roof.

Building Setback Line. A line indicating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

Building Setback Line, Front. A line indicating the minimum allowable distance between the street right-of-way, or of an official future street right-of-way line, and the front of a building on a lot. The

front building setback line extends the full width of the lot and is parallel to or concentric with the street right-of-way.

Building Setback Line, Rear. A line indicating the minimum allowable distance between the rear property line and a building on a lot. The rear setback line extends the full width of the lot.

Building Setback Line, Side. A line indicating the minimum distance between the side property line and a building on a lot. The side setback line extends from the front building to the rear setback line.

Condominium. The ownership of single units in a multiple unit structure or structures with common elements.

Customary Home Occupation. A gainful occupation or profession conducted by one or more members of a family residing on the premises and conducted entirely within the principal dwelling unit.

Day Care Center. An establishment which receives for care and supervision six (6) or more children or adults for less than twenty-four (24) hours per day unattended by parent or legal guardian, and shall include day nurseries, child or senior adult day care services, connected to the required utilities.

Dwelling Unit. One or more rooms designed as a unit for occupancy as living quarters for sleeping and cooking purposes.

a. *Dwelling, Multi-Family.* A building designed, constructed or reconstructed and used for more than two dwelling units, with each dwelling unit having a common structural wall with any other dwelling on the same floor.

b. *Dwelling, Single Family.* A building designed, constructed or reconstructed and used for one dwelling unit.

c. *Dwelling, Two Family or Duplex.* A building designed, constructed, or reconstructed and used for two dwelling units that are connected by a common structural wall.

Flea Market. An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures.

Flood. A temporary condition of partial or complete inundation of dry land areas from the overflow of water from streams or rapid accumulation or runoff or surface water from any source.

Floor Area. The total area of all floors of a building, including a finished attic and finished basement.

Heliport. Land from which helicopters take off and land. "Heliport" does not include heliports operated by a health care institution or land on which a helicopter makes a landing for emergency or law enforcement purposes.

Junkyard. In concert with *Tennessee Code Annotated* Section 54-20-103: an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. Includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation.

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

Local Collector. A street that collects traffic from local streets and whose adjacent land use is primarily residential in nature.

Local Street. A street designed to provide vehicular access to abutting property and to discourage through traffic.

Lot. A parcel of land which fronts on and has access to either a public street, private street, or private easement; and which is occupied or intended to be occupied by a building or buildings with customary accessories and open spaces.

Lot of Record. A lot existing prior to this resolution, the boundaries of which are filed as legal record.

Major Collector. A street that collects traffic from local collectors and connects with arterial roads.

Manufactured Residential Dwelling. A factory-built, single-family structure that is manufactured under the authority of 42 U.S.C. Sec. 5401 (*The National Manufactured Home Construction and Safety Standards Act*) and is used as a place of human habitation, defined by *Tennessee Code Annotated* Section 68-126-202 as a structure built on a permanent chassis with or without a foundation, connected to the required utilities, and including the plumbing, heating, air conditioning, and electrical systems contained therein.

Medical Office. The office of a doctor, physician, dentist, or other similar profession.

Motor Vehicle. Any self-propelled vehicle designed primarily for transportation of persons or goods along public roads or other public ways.

Nonconforming Uses. Any structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

Pain Management Clinic. A Privately owned facility in which a medical doctor, an osteopathic physician, and advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than ninety (90) days in a twelve (12) month period.

Place of Worship. A building used for public worship by a congregation, excluding buildings used exclusively for residential, educational, or recreational uses not normally associated with worship. Such buildings include churches, chapels, cathedrals, temples, and similar places.

Planned Unit Development. An integrated design for development of residential, commercial, or industrial uses or combination of uses which is professionally designed to allow flexibility and initiative in site and building design and location, in accordance with a plan approved by the planning commission.

Principal Use. The specific primary purpose for which land or a building is used.

Public Use. A use designed to service members of the community, such as schools, libraries, post offices, community centers, governmental offices, and facilities for emergency services.

Personal Service. An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature, such as beauty and barber shops, shoe repair shops, and tailor shops.

Professional Services. An office providing the services of an attorney, architect, engineer, accountant, or other similar profession.

Retail Trade and Service. An establishment engaged in selling goods and/or offering services to the general public for personal, small business, or household use or consumption.

Rural Business. A rural business shall be a small office or small-scale retail sales or service type business. Such businesses shall be primarily directed toward providing local or neighborhood services to rural-residential areas. Rural businesses are intended to be of smaller size, intensity and scale than commercial uses, which would be more commonly found in commercial zoning districts. Rural businesses shall be similar to home occupations except that the activity can occur in an accessory structure detached from the principal residence.

Sign. Any device that is located with the intent to be visible to persons not located on the lot, and is designed to attract the attention of such persons or to communicate information to them.

Single-wide Mobile Home. A mobile home mounted on a single chassis and designed for transportation after fabrication on streets or highways on its own wheels.

ARTICLE III – GENERAL PROVISIONS

301. Continuance of Nonconforming Uses and Structures

302. Flood Protection

303. Site Plan Requirements for Commercial, Industrial, Multi-Family, Public, and Semi-Public Uses

304. Storm Water Runoff Design Standards

305. Off-Street Vehicle Parking

306. Driveways

307. Vision Clearance for Traffic

308. Signs

309. Manufactured Residential Park Standards

310. Planned Unit Development (PUD) Regulations

311. Standards for Junkyards, Salvage Yards, and Dumps

312. Development Standards for Telecommunications Towers

313. Critical Slope District Development Guidelines

301. Continuance of Nonconforming Uses and Structures. Lawful nonconforming uses, buildings, and structures existing at the time of passage of this zoning ordinance, or any amendment thereto, shall be allowed to remain subject to the following provisions:

1. Any nonconforming commercial, industrial, or other business establishment may continue to operate provided no change in the use of the land is undertaken. Such establishments shall be allowed to expand, construct additional facilities, or reconstruct facilities on the property owned by the establishment provided that there is a reasonable amount of space to avoid nuisances to adjacent property owners and no change in the use of the land is undertaken. However, the expansion of said establishments through the acquisition of additional land is prohibited.
2. No commercial or industrial nonconforming use may be reestablished once it has been discontinued for more than thirty (30) months as per *Tennessee Code Annotated* Section 13-7-208.

302. Flood Protection.

302.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1.1. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-101 through 13-7-115, Annotated delegated the responsibility to the county legislative body to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the SEVIER County, Tennessee, Mayor and COUNTY COMMISSION, do resolve as follows:

1.2. Findings of Fact

1. The **SEVIER** County, Tennessee, Mayor and its Legislative Body wish to establish eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
2. Areas of Sevier County, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

1.3. Statement of Purpose

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

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, 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 development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

1.4. Objectives

The objectives of this Resolution are:

1. To protect human life, health, safety and property;
2. To minimize expenditure of public funds 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, streets and bridges located in floodprone areas;

6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodprone area;
8. To establish eligibility for participation in the NFIP.

302.2 DEFINITIONS

Unless specifically defined below, words or phrases used in this Resolution shall be interpreted as to give them the meaning they have in common usage and to give this Resolution its most reasonable application given its stated purpose and objectives.

"Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this Resolution, shall conform to the following:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

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

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

"Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"Area of Special Flood Hazard" see **"Special Flood Hazard Area"**.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

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

"Building" see **"Structure"**.

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

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

"Emergency Flood Insurance Program" or **"Emergency Program"** means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

"Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.

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

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or resolution adopted by the community as a basis for that community's participation in the NFIP.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or resolution adopted by the community as a basis for that community's participation in the NFIP.

"Existing Structures" see **"Existing Construction"**.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

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

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

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

"Flood Insurance Study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or **"Floodprone Area"** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

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

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

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

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

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

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

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

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on the Sevier County, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - a. By the approved Tennessee program as determined by the Secretary of the Interior or
 - b. Directly by the Secretary of the Interior.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Resolution, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

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

"New Construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management Resolution and includes any subsequent improvements to such structure.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this resolution or the effective date of the initial floodplain management resolution and includes any subsequent improvements to such structure.

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

"100-year Flood" see **"Base Flood"**.

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

"Reasonably Safe from Flooding" means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

"Recreational Vehicle" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

“Special Flood Hazard Area” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

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

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

"State Coordinating Agency" the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

"Structure" for purposes of this Resolution, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

"Substantial Improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Resolution.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Resolution is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

302.3 GENERAL PROVISIONS

3.1 Application

This Resolution shall apply to all areas within the unincorporated area of Sevier County, Tennessee.

3.2 Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified in Sevier County, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), *Community Panel Numbers 47155C0020 thru 47155C0475, dated May 18, 2009*, along with all supporting technical data, are adopted by reference and declared to be a part of this Resolution.

3.3 Requirement for Development Permit

A development permit shall be required in conformity with this Resolution prior to the commencement of any development activities.

3.4 Compliance

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

3.5 Abrogation and Greater Restrictions

This Resolution is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Resolution conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

3.6 Interpretation

In the interpretation and application of this Resolution, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

3.7 Warning and Disclaimer of Liability

The degree of flood protection required by this Resolution is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Resolution does not imply that land outside the Areas of

Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Resolution shall not create liability on the part of Sevier County, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Resolution or any administrative decision lawfully made hereunder.

3.8 Penalties for Violation

Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this resolution or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, 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 Sevier County, Tennessee from taking such other lawful actions to prevent or remedy any violation.

302.4 ADMINISTRATION

4.1 Designation of Resolution Administrator

The Sevier County Planning Director is hereby appointed as the Administrator to implement the provisions of this Resolution.

4.2 Permit Procedures

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

1. Application stage
 - a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Resolution.
 - b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Resolution.
 - c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Section 302.5, Sections 5.1 and 5.2.
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

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

4.3 Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this Resolution have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
6. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Section 302.4, Section 4.2.

7. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Section 302.4, Section 4.2.
8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Section 302.4, Section 4.2.
9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Resolution.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Sevier County, Tennessee FIRM meet the requirements of this Resolution.
11. Maintain all records pertaining to the provisions of this Resolution in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Resolution shall be maintained in a separate file or marked for expedited retrieval within combined files.

302.5 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 General Standards

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

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Resolution, shall meet the requirements of "new construction" as contained in this Resolution;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Resolution, shall be undertaken only if said non-conformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Section 302.5, Section 5.2;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

5.2 Specific Standards

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Section 302.5, Section 5.1, are required:

1. Residential Structures

In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 302.2). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

2. Non-Residential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Section 302.2). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Section 302.4, Section 4.2.

3. Enclosures

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
 - 1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - 2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;
 - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Section 302.5, Section 5.2.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - 1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
 - 2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Section 302.2).
- c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Section 302.5, Sections 5.1 and 5.2.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
 - 1) Be on the site for fewer than 180 consecutive days;
 - 2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
 - 3) The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Section 302.5, Section 5.5).

5.3 Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated

Located within the Special Flood Hazard Areas established in Section 302.3, Section 3.2, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for Sevier County, Tennessee and certification, thereof.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 302.5, Sections 5.1 and 5.2.

5.4 Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Special Flood Hazard Areas established in Section 302.3, Section 3.2, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the

water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 302.5, Sections 5.1 and 5.2.

5.5 Standards for Streams without Established Base Flood Elevations and Floodways (A Zones)

Located within the Special Flood Hazard Areas established in Section 302.3, Section 3.2, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Section 302.5, Sections 5.1 and 5.2.

2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.

3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Section 302.2). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Section 302.4, Section 4.2. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Section 302.5, Section 5.2.

4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within Sevier County, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Section 302.5, Sections 5.1 and 5.2. Within approximate A Zones, require that those subsections of Section 302.5 Section 5.2 dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

5.6 Standards For Areas of Shallow Flooding (AO and AH Zones)

Located within the Special Flood Hazard Areas established in Section 302.3, Section 3.2, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Section 302.5, Sections 5.1 and 5.2, apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 302.5, Section 5.2.
2. All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Resolution and shall provide such certification to the Administrator as set forth above and as required in accordance with Section 302.4, Section 4.2.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

5.7 Standards For Areas Protected by Flood Protection System (A-99 Zones)

Located within the Areas of Special Flood Hazard established in Section 302.3, Section 3.2, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Section 302.4 and 302.5 shall apply.

5.8 Standards for Unmapped Streams

Located within Sevier County, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

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

2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Sections 302.4 and 302.5.

302.6 VARIANCE PROCEDURES

6.1 Regional Board of Zoning Appeals

1. Authority

The Sevier County, Tennessee Regional Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Resolution.

2. Procedure

Meetings of the Regional Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Regional Board of Zoning Appeals shall be open to the public. The Regional Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the Regional Board of Zoning Appeals shall be set by the Legislative Body.

3. Appeals: How Taken

An appeal to the Regional Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Resolution. Such appeal shall be taken by filing with the Regional Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. The Administrator shall transmit to the Regional Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Regional Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time by hearing the appeal at the regularly scheduled monthly Board of Appeals meeting. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers

The Regional Board of Zoning Appeals shall have the following powers:

a. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Resolution.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

- 1) The Sevier County, Tennessee Regional Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Resolution.
- 2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Resolution to preserve the historic character and design of the structure.
- 3) In passing upon such applications, the Regional Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Resolution, and:
 - a) The danger that materials may be swept onto other property to the injury of others;
 - b) The danger to life and property due to flooding or erosion;
 - c) The susceptibility of the proposed facility and its contents to flood damage;
 - d) The importance of the services provided by the proposed facility to the community;
 - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
 - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - j) 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, water systems, and streets and bridges.
- 4) Upon consideration of the factors listed above, and the purposes of this Resolution, the Regional Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Resolution.
- 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

6.2 Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section 6.1.
2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Resolutions.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for \$100)coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

302.7 LEGAL STATUS PROVISIONS

7.1 Conflict with Other Resolutions

In case of conflict between this Resolution or any part thereof, and the whole or part of any existing or future Resolution of Sevier County, Tennessee, the most restrictive shall in all cases apply.

7.2 Severability

If any section, clause, provision, or portion of this Resolution shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Resolution which is not of itself invalid or unconstitutional.

7.3 Effective Date

This Resolution shall become effective immediately after its passage, the public welfare demanding it.

Approved and adopted by the Sevier County, Tennessee, Mayor and Legislative Body.

APRIL 22, 2010

Date

303. Site Plan Requirements for Commercial, Industrial, Multi-Family, Public, and Semi-Public Uses. A site plan must be submitted to the planning commission for any commercial, industrial, multi-family, public, or semi-public construction proposed in Sevier County.

303.1. Guidelines for Submission.

1. *Submission Deadline.* The site plan shall be submitted to the planning commission of jurisdiction at least fifteen (15) days prior to the meeting at which it is to be reviewed.
2. *Preparation.* All site plans shall be professionally prepared and certified by a licensed surveyor, engineer, architect, and/or landscape architect.
3. *Expiration.* Approval of a site plan will expire within six (6) months after the date of its approval, unless a building permit has been issued within that period for the proposed development.

303.2. Site Plan Design Standards.

1. *Boundaries.* Accurately plot locations and dimensions of all property lines, building setbacks, rights-of-way, and easements on or bounding the site.
2. *Location.* Display location map of the site along with a north arrow.
3. *Scale.* The site plan shall be drawn at an appropriate scale not less than one inch equals thirty feet (1" = 30') unless the site contains ten (10) acres or more, then the site plan may be drawn at a scale of not less than one inch equals sixty feet (1" = 60').
4. *Site.* Depict accurate location and dimensions of all existing and proposed structures, signs, driveways, parking areas, loading areas, landscaping, buffering, utility connections, drainage ways, drainage structures, and other relevant natural or manmade elements that may affect site design or layout.
5. *Topography.* Provide a topographic map at contour intervals of no less than two (2) feet.
6. *Drainage.* Incorporate a drainage plan with calculations of discharge and plans for discharge and detention in conformance with the Stormwater Ordinance of Sevier County, Tennessee. This drainage plan should conform to Section 304 of this zoning resolution.
7. *Erosion Control.* Incorporate an erosion control plan compliant with the Stormwater Ordinance of Sevier County, Tennessee.
8. *Area Subject to Flood.* The limits of the 100-year floodplain shall be shown in accordance with the provisions of Section 302.
9. *Ingress and Egress.* Detail location and dimensions of all entrances and exits onto any public or private thoroughfare, in conformity with all applicable provisions of this zoning resolution.

10. Landscaping. Include a landscaping plan if the site requires buffering from adjacent uses. The landscaping plan shall include minimum standards, width, number of trees, shrubs, and grass as a function of parking and building areas.

303.3. Site Plan Standards for Single-Family and Two-Family Residences.

A sketch plan shall be submitted to the zoning compliance officer for construction of single-family or two-family residences. This sketch plan shall note the dimensions of the structure in relation to property lines, easements, and setbacks.

- 304. Storm Water Runoff Design Standards.** Stormwater runoff design plans shall conform with the Stormwater Ordinance of Sevier County, Tennessee.

- 305. Off-Street Vehicle Parking.** Off-street automobile parking is required for all uses in all zoning districts.

305.1. Parking Space Requirements.

The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below. For uses not specifically mentioned herein, off-street parking requirements shall be determined by the planning commission.

1. Automotive Services. One (1) space per three hundred (300) square feet of floor space.
2. Assembly Halls. One (1) space per twenty-five (25) square feet in the main assembly room.
3. Churches. One (1) space per four (4) seats.
4. Clubs and Lodges. One (1) space per three hundred (300) square feet of floor space.
5. Dwelling, Multi-family. Minimum 1.5 spaces per dwelling unit.
6. Dwelling, Single Family and Duplexes. Two (2) spaces per dwelling unit.
7. Eating and Drinking Establishments. One (1) space per four (4) seats plus one (1) space per maximum number of possible employees.
8. Gas Stations and Automobile Service Stations. One (1) space per one thousand (1,000) square feet of land area involved.
9. Hotels, Motels, and Bed and Breakfast Inns. One (1) space per room, plus one (1) space per three (3) employees.
10. Industrial. One (1) space per one (1) employee during peak work time.
11. Manufactured Home Sales Establishments. Two (2) spaces per one thousand (1,000) square feet.
12. Medical Offices. Five (5) spaces per one (1) doctor.

13. Mini-Warehouses. One (1) space per twenty-five (25) storage units, plus one (1) space per employee; or four (4) spaces; whichever is greater.
14. Motor Vehicle Sales. One (1) space per two thousand (2,000) square feet of interior or exterior sales, display, or storage area up to a total of twenty (20) spaces.
15. Movie Theaters. One (1) space per three (3) seats plus one (1) space per employee during peak work shift.
16. Professional Offices. One (1) space per three hundred (300) square feet of floor space.
17. Recreational Establishments. One (1) space per four (4) customers, based on maximum service capacity plus one (1) space per employee.
18. Retail Sales. One (1) space per three hundred (300) square feet of floor space.
19. Schools, Elementary and Junior High. One (1) space per employee plus ten (10) additional spaces for visitors.
20. Schools, High. One (1) space per employee plus ten (10) additional spaces for visitors and five (5) spaces per classroom.
21. Warehouses. One (1) space per one thousand (1,000) square feet of usable floor space.
22. Wholesale Sales. One (1) space per employee during peak work shift plus one (1) space per four hundred (400) square feet of floor space.

305.2. Parking Lot Design.

The following design requirements shall apply to all parking facilities except those associated with single-family dwellings and duplexes.

1. Stall dimensions shall be nine (9) feet wide by eighteen (18) feet deep.
2. Lot aisles shall be twenty (20) feet wide for one-way traffic and twenty-four (24) feet wide for two-way traffic.
3. All parking areas shall be designed so that no vehicle is required to back onto a public street or alley to obtain egress.
4. All parking lots shall include handicap parking spaces in accordance to the Americans with Disabilities Act.
5. No plants or structures shall be placed that will obstruct the vision of vehicular or pedestrian traffic.

306. Driveways. The following regulations shall apply to all driveways:

1. All driveways shall be positioned as close to at right angles with roads as possible.
2. All driveways shall be positioned so that the following sight distance minimums can be met in either direction, dependent upon the speed limit of the fronting road.

Frontage Road Speed Limit (mph)	Minimum Driveway Sight Distance (ft)
25 or lower	50
30, 35	75
40, 45	100
50+	150

3. All driveways shall be positioned no closer than twenty-five (25) feet from any intersection of roads or another.

307. Vision Clearance for Traffic. No use shall be established nor structure constructed nor planting established or maintained that will obstruct the vision of vehicular or pedestrian traffic entering onto or using any adjacent public or private street.

308. Signs. It is the intent of this resolution to allow reasonable number and area of signs identifying properties, uses of properties, and events or businesses within the community. All new signs erected, constructed, or placed upon any property or building within Sevier County, Tennessee shall conform to the following general provisions:

1. Any lot or parcel shall be permitted one (1) property identification sign to be not greater than ten (10) square feet in area with a height not greater than four (4) feet from the finished grade of the ground. Any such sign not part of a site plan shall not require a permit.
2. For business use conducted in a residential structure or on a residential lot, one (1) business identification sign shall be permitted per structure or lot to be no greater than twenty-five (25) square feet in area with a height no greater than six (6) feet from the finished grade of the ground. Where such a lot fronts upon more than one road, an additional business identification sign may be permitted.
3. For commercial and agricultural districts the following shall apply:
 - a. No part of the sign shall be placed within five (5) feet of the right-of-way of any public or private street.
 - b. Such signs shall not exceed thirty (30) feet in height or three hundred (300) square feet in area.
 - c. No flashing or intermittent signs shall be allowed within three hundred (300) feet of any residential zoning district.

- d. Auction signs shall be permitted in all districts, not to exceed two hundred (200) square feet, and shall be removed within seven (7) days.
4. A residential subdivision or planned unit development shall be permitted two (2) entrance signs per each entrance to the development. Such signs shall conform to the following specifications:
- a. No sign shall exceed one hundred and twenty (120) square feet in sign area.
 - b. No sign shall exceed twelve (12) feet in height.
 - c. No part of the sign shall extend more than fifteen (15) feet above ground level.
 - d. No part of the sign or structure shall be placed within five (5) feet of the right-of-way of any public or private street.
5. Billboard signs located within the commercial zoned properties adjacent to Federal Interstate Highway I-40 shall be allowed only if permitted by State of Tennessee, and shall conform to the state's size and height requirements.

309. Manufactured Residential Home Park Standards.

- 1. Mobile home standards shall apply to any residential development consisting of more than two (2) single-wide mobile homes. A mobile home park is defined as more than two (2) units on one lot, tract, or parcel, more than two (2) units on individual contiguous lots, tracts, parcels.
- 2. Mobile home parks shall have an evergreen buffer composed of vegetation five (5) feet in width and at least eight (8) feet tall. The buffer shall be required on any perimeter of the park.
- 3. Internal roads shall be built, at minimum, to the standards of Type II private easements as provided in the Subdivision Regulations for Sevier County, Tennessee.
- 4. All mobile home parks shall be provided with sanitary sewer.
- 5. Adequate water service shall be provided to facilitate a six-inch water line throughout the park. ¾-inch water lines must be provided to each individual home site as well. A fire hydrant with adequate volume and pressure shall be located within five hundred (500) feet of each residence.
- 6. Any site plan for a proposed mobile home park shall meet all applicable requirements of Section 310. The planning commission may deny the site plan due to poor site design for traffic patterns, poor visibility at mobile home park entrance, poor drainage plans, lack of parking, etc.
- 7. The developer shall prohibit trash, garbage, and waste buildup. A solid waste dumpster pad shall be included in the site design of a mobile home park. No used appliances or

inoperable vehicles are allowed in park. Dumpster stations or other appropriate containers will be provided and collected for disposal at a sanitary landfill.

310. Planned Unit Development (PUD) Regulations. The purpose of the planned unit development regulations is to provide for diversification in the relationship of uses and structures to their sites and also provide flexibility, which will create a more desirable living environment. A PUD shall mean an integrated, professionally prepared design for development of residential, commercial, or industrial uses.

310.1. Applicability of PUD Regulations.

A PUD may be developed in any district provided that the permitted uses and density requirements of the district allow for the development and the planning commission approves the PUD plan elements. Residential, commercial, public, semi-public, industrial uses, or combinations of these uses where district or special regulations permit, may be developed under the PUD concept. Cluster type subdivisions and condominiums, townhouses, multi-dwelling units, rental developments, self-storage facilities, manufactured home parks, multi-use parks, travel trailer parks, and multi-use or ownership developments shall be considered as PUD's for the purpose of this resolution.

310.2. General Requirements.

All PUD developments shall comply with the following requirements:

1. Minimum Site. No PUD shall have an area less than that required by the planning commission as adequate for the proposed project; however, the minimum site shall not be less than the minimum lot size required in the district in which the proposed project is to be located.
2. Structures and Open Space. The planning commission shall require structures and open spaces to be arranged on the site in such a way that adjacent uses will not be adversely affected.
 - a. No freestanding building shall be located closer than twenty (20) feet to any other building.
 - b. Minimum setback and lot width at setback requirements for lots may be altered upon approval of the planning commission; except that there shall be an exterior setback no smaller than twenty-five (25) feet around the perimeter of the project.
3. Open Space Requirements. Preservation, maintenance, and ownership of open space areas and facilities shall be accomplished by one or more of the following methods, and shall be established in an appropriate legal manner:
 - a. A property owners association, or
 - b. The developer or management authority of the PUD.
4. Parking and Access Control Requirements. The provisions found in Section 305 relating to vehicular access and parking shall be adhered to, except that the planning commission may alter these requirements in instances in which a superior design alternative is presented which will not be detrimental to the public interest or in conflict with the intent of this resolution.

5. Density Requirements for Residential PUD. The density and lot size requirements of the district shall apply to any planned unit development.

6. Street and Utility Construction Standards. Public and common ways for pedestrian and vehicular circulation shall be developed in relationship to other existing and planned streets and ways with the Sevier County Major Road Plan. Whether or not the subdivision of property is proposed within the PUD, all proposed streets, and right-of-way improvements shall comply with the construction standards set forth in the subdivision regulations.

310.3. Guidelines for Submission.

1. Submission Deadline. The PUD plan shall be submitted at least fifteen (15) days prior to the meeting at which it is to be reviewed.
2. Preparation. All PUD plans shall be professionally prepared and certified by a licensed surveyor, engineer, architect, and/or landscape architect.
3. Scale. The PUD plan shall be drawn at a scale not less than one inch equals thirty feet (1" = 30') unless the site contains ten (10) acres or more, then the PUD plan may be drawn at a scale of not less than one inch equals sixty feet (1" = 60').
4. Expiration. Approval of a PUD plan will expire within six (6) months after the date of its approval, unless a building permit has been issued within that period for the proposed development.

311. Standards for Junkyards, Salvage Yards, and Dumps. Because of the nature of junked yards, lots, tracts, and the health hazard posed from vermin, junked yards must be cleaned or a permit granted as a dump, junk, or salvage yards. Approval of a site plan is required in addition to the Board of Zoning Appeals approval for a special exception of this use. The following regulations must be met as well:

1. No junkyards shall be permitted within five hundred (500) feet from a residence, school, church, park, or public gathering place. There shall be a twenty-five (25) foot buffer between a junkyard and all adjacent property.
2. All junkyards shall operate with a valid business license and are considered as a commercial use of land.
3. All motor vehicles stored or kept in junkyards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
4. Dumps: No person shall own or maintain a dump within Sevier County until a site plan has been submitted and approved by the planning commission, has received approval as a special exception by the Board of Zoning Appeals, and a permit has been issued by the Tennessee Department of Environment and Conservation, Division of Solid Waste. No dump shall be permitted within five hundred (500) feet of a residence, school, church,

park, or public gathering place. All debris must be covered daily from public view. The dumping of chemicals or toxins is not permitted. Other standards required for junkyards shall also be required for dumps.

312. Development Standards for Telecommunications Towers.

312.1. Purpose.

The general purpose of this Section is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, specifically:

1. To regulate the location of towers and telecommunication facilities in the county.
2. To protect residential areas and land uses from potential adverse impact of towers and telecommunications facilities.
3. To minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and camouflaging techniques.
4. To promote and encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers.
5. To ensure that towers and telecommunications facilities are compatible with surrounding land uses.

312.2. Development of Towers.

1. Telecommunications Towers as Principal Use. Telecommunications towers are considered as a principal use of land.
2. Site Plan Requirements. A site plan is required for any proposed telecommunications tower. The site plan shall show the locations of the property lines, tower, accessory building(s) or facilities, guy wires, and supports, and must meet the requirements of Section 303.
3. Lighting. Towers shall not be lighted by artificial lighting except as required by the FAA or other applicable authority.
4. Setbacks. In addition to the minimum setbacks required in the zone in which a tower is located, a tower shall be constructed no closer than one-hundred fifty (150) feet from any existing residence or occupied structure.
5. Signs. Signs shall not be allowed on towers or antennas, except safety signs that are required by law or regulation.
6. Fencing. Telecommunications towers and antennas shall be completely surrounded by a security fence.

7. Landscaping. Tower facilities shall be landscaped by means of native evergreen plant species to sufficiently obscure said facilities from view. The landscaped area shall be no less than eight (8) feet in height and shall be natural or planted vegetation or opaque fencing. The preservation of mature trees is preferred except where such tree growth would interfere with the operation and maintenance of the facilities.
8. Co-Location. No new tower shall be built, constructed, or erected in Sevier County unless the tower is capable of supporting another person's operating telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed by the applicant on the tower.
9. Exemptions. Radio towers and/or antennas less than forty (40) feet in height and which are accessory to an existing residence, business, or government agency. Also exempt are antenna or similar facilities that are attached to existing structures provided they do not extend the height of the structures by more than forty (40) feet.
10. Tower Removal. When the active use of telecommunications tower ceases for a period of six (6) consecutive months, the tower shall be removed at the owner's expense.

313. Critical Slope District Development Guidelines

313.1. Purpose. This zoning district is established as an overlay district to identify property within Sevier County which has steep slopes and for which additional development design care and consideration must be given, prior to the development occurring. The intent of this zone is also to establish development design and review standards, which will protect the integrity of the steep slope areas, resulting in development, which will enhance and preserve the character and beauty of the steep slope areas of the county.

313.2. Slope Trigger Point. This district shall be established as an overlay district for all properties within the Sevier County Zoning Resolution jurisdiction, and shall be established for all properties with an average slope of 30% or greater.

313.2.1. Parcels with less than 30% average slope as per Section 313.3, and which are no greater than 100 feet in elevation above the adjacent valley corridor as measured from the adjacent Federal, State, or County highway shall be exempt from Section 313.4 herein.

313.3. Slope Calculation. A grid system shall be utilized to calculate average slope for each property. A topographic map should be prepared with contour intervals of 2 ft. for areas of proposed disturbance, and 5 ft. intervals for areas where disturbances will not occur. A grid with then be established by multiplying the contour interval by 5, yielding a 10 ft. grid for disturbed areas and a 25 ft. grid for undisturbed areas. Slope will be averaged within each grid square, and a composite determination arrived at for each land entity. In the case of subdivision plats, the slopes determined in each grid will distinguish areas of unique terrain, and establish where these CSFZ recommendations kick-in and to what extent. For the development of single lots, the slope calculation from each grid cell will be summed and averaged for the entire lot with a single slope score determined for the property.

313.4 Development Standards.

Note: Lots of record shall submit detailed site plans showing proposed cuts and fills, and driveway and house seat locations. Within the Critical Slope Zone, the development on lots of record shall follow these requirements as closely as possible.

313.4.1. Design Standards

313.4.1.1. Where staff determines it is necessary, cuts and fills shall be pre-designed by a licensed engineer. Serrated cuts are encouraged on slopes greater than 2:1 to promote vegetation. The maximum height of cut/fill slopes shall not exceed 35 feet. However, engineered cut/fill slopes may receive a variance for heights greater than 35 feet if reduced impact to the environment may be shown. Retaining wall construction may be required to stabilize cut or fill slopes. (Variance requests to be heard by The Board of Zoning Appeals).

313.4.1.2. Disturbance shall not exceed 25% of the development or lot area.

313.4.1.3. All utilities shall be installed below ground.

313.4.1.4. Post construction impervious area shall not exceed 15 % of the lot area.

313.4.1.5. Soils maps and test borings shall identify areas suspected of containing acid rock. These areas should be avoided, and where encountered shall be capped and sealed to prevent percolation.

313.4.1.6. All development shall provide post construction screening of minimum 75% screened, during leaf-on conditions (May thru October), as viewed from the Federal, State, and County highways, many of which are Scenic Corridors. Properties not screened 75% may utilize mitigation measures found in Appendix A, from Sections 2.5.6 thru 2.5.9 of the Saratoga Report.

313.4.2. Safety Standards.

313.4.2.1. Within the critical slope district, dwelling unit and occupant safety shall be established by one of the following alternatives:

313.4.2.1.a. Detached dwellings and structures shall have a minimum side and rear yard separation between structures as follows:

Water Supply	Minimum Separation
No supply	200 ft. (100 ft. side and rear setbacks)
500 gpm/ 30 min	100ft. (50 ft. side and rear setbacks)
750 gpm/ 30 min or more	50 ft. (25 ft. side and rear setbacks)

313.4.2.1.b. Detached dwelling units with residential fire sprinklers shall have a minimum separation in side yards of 100 feet, meaning a minimum 50 foot side and rear yard setback area.

313.4.2.1.c. Each unit shall establish a defensible space of 30 feet measured horizontally around the structure. Firewise standards (established and maintained by the Tennessee Division of Forestry) shall be followed for vegetation within the defensible space. Combustible materials generated from clearing and construction shall be cleared from the site by removal, mulching, or controlled burning.

313.4.3. Density.

313.4.3.1. Typical land and lot subdivision and PUD developments shall have a maximum density of one dwelling unit per lot.

313.4.3.2. Lot size requirements shall be as follows:

Average Slope	Minimum Lot Size
30% -49.9%	2 acres
50% +	3 acres

313.4.4. Certification.

313.4.4. Within 60 days of completed work, developments within the critical slope district shall be certified “as-built” in compliance with the approved design plans and criteria by a licensed engineer or licensed surveyor, whichever is appropriate. The plans shall be “certified” prior to Final Plat approval or Final PUD site plan approval.

ARTICLE IV – APPLICATION OF REGULATIONS

- 401. **Zoning Affects Every Building and Use**
- 402. **Customary Home Occupations**
- 403. **Lots of Record**
- 404. **Conformity to Beer Resolution**
- 405. **Conflict with Other Regulations**

401. **Zoning Affects Every Building and Use.** After this code is adopted, all new development shall conform to the requirements in this code, including, but not limited to, erection of a new building, addition, moving, or any other alteration of an existing structure.

402. **Customary Home Occupations.** Such activities must be confined to the principal dwelling unit of the lot. Provided that at least one worker permanently resides in the dwelling, the following uses may be considered customary home occupations and are allowed in districts that permit them:

1. Professional offices.
2. Arts and crafts made by the owners of the premises.
3. Beauty/barber shops.
4. Antiques sales.
5. Educational instruction.
6. Any other uses which the *Board of Zoning Appeals* finds to be of similar character.

403. **Lots of Record.** New construction or additions to existing structures on lots of record shall follow these requirements of this Zoning Resolution as closely as possible. Where lots, platted or deeded prior to the adoption of this Zoning Resolution, exist and do not conform to the minimum lot size or setback requirements, construction may be approved, if no adjacent properties can be purchased to meet minimum requirements. After the adoption of this Zoning Resolution, no lot may be subdivided which does not meet the minimum lot size requirements and setbacks.

404. **Conformity to Beer Resolution.** The Sevier County Zoning Resolution shall comply with all aspects of the existing Beer Resolution as adopted by the Sevier County Commission; including the 2000' restriction from any church, school, or public gathering place and 300' from any residential structure.

405. **Conflict with Other Regulations.** In the case of conflict between this Resolution or any part thereof, and the whole or part of any existing or future resolution of Sevier County or any other planning jurisdiction, the most restrictive shall in all cases apply.

ARTICLE V – ZONING DISTRICTS

- 501. Classification of Districts
- 502. A-1 Agricultural District
- 503. R-1 Rural Residential District
- 504.A. R-2M Medium Density Residential District.
- 504.B. R-2 High Density Residential District
- 505. C-1 Rural Commercial District
- 506. C-2 General Commercial District
- 507. I-1 Industrial District
- 508. CS - Critical Slope District

501. Classification of Districts. For the purpose of this resolution, the following zoning districts are hereby established in the unincorporated sections of Sevier County and are shown on “The Zoning Map of Sevier County, Tennessee.” Area, yard, and height requirements for each district shall conform to Article VI of this resolution.

A-1 Agricultural District

R-1 Rural Residential District

R-2M Medium Density Residential District

R-2 High Density Residential District

C-1 Rural Commercial District

C-2 General Commercial District

I-1 Industrial District

CS - Critical Slope District

502. A-1 Agricultural District.

502.1. Intent and Purpose.

This district is created to establish and preserve areas with agricultural and rural qualities by allowing for traditional agricultural and rural uses along with low-density residential activities. Other land uses associated with the service of local residents are allowed as well.

502.2. Uses Permitted.

1. Single-family homes, manufactured homes, and two-family homes.
2. Single-wide mobile homes.
3. Places of worship.
4. Family and private cemeteries.
5. Rural businesses
6. Customary home occupations as regulated in Section 402.

502.3. Uses Prohibited.

Any use not listed above is prohibited in this district, unless determined by the Sevier County Board of Zoning Appeals as being similar to one listed above and conforming to the intent of this zoning district.

503. R-1 Rural Residential District.

503.1. Intent and Purpose. This district is established for low-density residential development, while preventing non-compatible commercial, industrial, and dense residential uses. The requirements of this district are designed to encourage residential activities and preserve the residential character of the area.

503.2. Uses Permitted.

1. Single-family homes, manufactured homes and two-family homes.
2. Public uses.
3. Daycare centers.
4. Places of worship.
5. Family and private cemeteries.
6. Customary home occupations as regulated in Section 402.

503.3. Uses Prohibited.

Any use not listed above is prohibited in this district, unless determined by the Sevier County Board of Zoning Appeals as being similar to one listed above and conforming to the intent of this zoning district.

504.A. R-2M Medium Density Residential District.

504.A.1 Intent and Purpose.

The intent of this district is to establish areas for medium density residential and related uses, while preventing non compatible uses that would interfere with the residential characteristics of the district.

504.A.2 Uses Permitted.

1. Any use permitted in the R-1 district.
2. Tri-plex and Four-plex multi- unit dwellings. (maximum of two stories)
3. Bed and Breakfast Establishments (limited to a maximum of four (4) bedrooms for rent).

504.A.3. Uses Prohibited.

Any use not listed above is prohibited in this district, unless determined by the Sevier County Board of Zoning Appeals as being similar to one listed above and conforming to the intent of this zoning district.

504.B. R-2 High Density Residential District.

504.B.1. Intent and Purpose.

The intent of this district is to establish areas for high-density residential and related uses, while preventing non-compatible commercial, industrial, and other uses that would interfere with the residential characteristics of the district. Because of the high density nature of the allowed uses, any R-2 district shall be served by public water and sewer systems.

504.B.2. Uses Permitted.

1. Any use permitted in the R-1 and R-2M districts.
2. Apartment buildings.
3. Assisted-living centers.
4. Manufactured residential home parks in accordance with Section 309.
5. Bed and Breakfast Establishments.
6. Real Estate Offices.

504.B.3. Uses Prohibited.

Any use not listed above is prohibited in this district, unless determined by the Sevier County Board of Zoning Appeals as being similar to one listed above and conforming to the intent of this zoning district.

505. C-1 Rural Commercial District.

505.1. Intent and Purpose.

This district is established to provide areas for residential uses and business activities that serve local residents of the immediate area. These business uses should not require high visibility or accessibility and are encouraged to be located along collector streets or main intersections for maximum convenience for local residents, while maintaining the rural characteristics of the areas.

505.2. Uses Permitted.

1. Any use permitted in the R-1 and R-2 districts.
2. Hardware stores, convenience stores, video rental stores, laundromats, personal service establishments, gasoline service stations, florists, greenhouses, antique stores, and craft shops.
3. Travel trailer parks.
4. Restaurants.
5. Self-storage facilities developed under the PUD regulations in Section 310.
6. Professional Offices.
7. Amusements, Amusement Rides, and Recreational Uses.

505.3. Uses Prohibited.

Any use not listed above is prohibited in this district, unless determined by the Sevier County Board of Zoning Appeals as being similar to one listed above and conforming to the intent of this zoning district.

506. C-2 General Commercial District.

506.1. Intent and Purpose.

This district is established to create areas for compatible business activities requiring high visibility and accessibility. The requirements of this district are designed to encourage commercial establishments in high traffic areas for maximum convenience of local residents or regional travelers.

506.2. Uses Permitted.

1. Any use permitted in the R-1, R-2, and C-1 districts.
2. Grocery stores and drug stores.
3. General retail establishments.
4. Shopping centers and retail outlets.
5. Professional offices.
6. Automobile repair outfits.
7. Motels and hotels.
8. Appliance sales and service.
9. Automobile, mobile home, and boat sales.
10. Medical offices and clinics.
11. Warehousing and distribution centers.
12. Flea markets.
13. Commercial cemeteries.
14. Amusement Parks, recreational Parks, Golf Courses and Similar Uses, (to be developed in PUD's).
15. Pain Management Clinic (Subject to the following)
 - a. Site Plan approval by Planning Commission with a map showing existing land use and zoning within one half (1/2) mile of the proposed site should be submitted with an application for a Use on Review Proposal along with the license of the applicant, certificate of need, site plan, survey or other information deemed reasonable by the planning commission for use in making a thorough evaluation of the proposal.
 - b. The consideration for approval by the appropriate Regional Planning Commission (same as site plan approval) of a pain management clinic or facility or a methadone treatment clinic or facility shall be contingent upon the receipt of the appropriate license and/or certificate of need and compliance with all statutes, rules regulations promulgated by the State of Tennessee as per TCA 63-1-301 through 311. (See Appendix B)
 - c. Measurements shall be made in a straight line on the Sevier County tax map from the nearest property line of the lot on which the treatment clinic or facility is situated to the nearest property line of the following uses:
 - Must be 2,000' from any school, daycare facility, park, or church.
 - Must be 2,000' from any public recreation, amusement, family entertainment, or a residence.
 - Must be 2,000' from any establishment that sells alcoholic beverages for on/off-premises consumption; 2,000' from any other pain clinic or methadone treatment clinic or facility.

506.3. Uses Prohibited.

Any use not listed above is prohibited in this district, unless determined by the Sevier County Board of Zoning Appeals as being similar to one listed above and conforming to the intent of this zoning district.

506.4. Uses Permitted on Review.

The following uses are permitted on review by the BZA.

1. Heliports provided that the following conditions are met:
 - a. No portion of a parcel proposed to contain a heliport shall be located within nine (9) miles of the boundary of the Great Smoky Mountains National Park, which does not include the Foothills Parkway.
 - b. Land to be used as a heliport shall not be located within one thousand (1000) feet of any residence, school, place of worship, or other place of assembly.
 - c. A parcel with a proposed heliport adjacent to a residential district shall contain adequate buffering of trees or opaque fencing no less than ten (10) feet in height.
 - d. No heliport shall be located within fifty (50) feet of any property line or structure.

507. I-1 Industrial District.

507.1. Intent and Purpose.

This district is established to allow for industrial land uses that require intensive transportation facilities, utilities, and other infrastructure that would not be compatible with other residential and commercial uses. The requirements of this district are constructed to promote industrial activities and prevent most other uses.

507.2. Uses Permitted.

The following uses are permitted provided they fulfill any applicable state and federal environmental and anti-pollution standards. Said uses must also meet any additional applicable requirements of this resolution and receive endorsement from the Sevier County Industrial Board:

1. Warehousing or wholesaling of manufactured goods, except explosives, flammable gases or liquids as finished products.
2. Retail activities conducted accessory to the assembly, fabrication, and/or warehousing or commodities.
3. Professional offices.
4. Medical offices.
5. Utility substations and other above ground fixed equipment.
6. Textile production.
7. Lumber and wood product manufacturing.
8. All types of wholesale trade industry.
9. Adult oriented businesses, provided that no portion of the building is located closer than two thousand (2,000) feet to any public or private school, day care center, place of worship, or the R-1 and R-2 districts.

507.3. Uses Prohibited.

Any use not listed above is prohibited in this district, unless determined by the Sevier County Board of Zoning Appeals as being similar to one listed above and conforming to the intent of this zoning district.

507.4. Industrial Performance Standards.

Any use established in the I-1 Industrial District after the adoption of this resolution shall be so operated as to comply with the following performance standards. Likewise, any use already established as of the effective date of this resolution shall be allowed to be altered, enlarged, expanded, or modified, provided that emissions conform to these same performance standards:

1. The emission of smoke or particulate matter in such manner or quantity deemed to be detrimental to the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and unlawful.
2. The emission of smoke or particulate matter, from all sources within the lot area, containing more than five (5) percent by weight or particles having a particle diameter larger than twenty (20) microns is prohibited.
3. Dust and other types of air pollution, borne by the wind from such sources as storage areas, yards, roads, driveways within the site shall be minimized by appropriate landscaping, paving, or other acceptable means.
4. The emission of odors shall not be strongly discernable at or beyond the site's property lines as to produce a public nuisance or hazard.
5. No use shall, at any time, discharge any toxic matter across the site's property lines in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business.

508. CS Critical Slope District.

508.1. Intent and Purpose. This zoning district is established as an overlay district to identify property within Sevier County which has steep slopes and for which additional development design care and consideration must be given, prior to the development occurring. The intent of this zone is also to establish development design and review standards, which will protect the integrity of the steep slope areas, resulting in development, which will enhance and preserve the character and beauty of the steep slope areas of the county.

508.2. Uses Permitted. Any uses permitted in the underlying zoning districts.

508.3. Uses Prohibited. Any use not listed and permitted in the underlying zoning districts is prohibited.

ARTICLE VI – AREA, YARD, AND HEIGHT REQUIREMENTS

- 601. Minimum Building Setback Lines**
- 602. Lot Area Requirements**
- 603. Lot Frontage Requirements**
- 604. Height Restrictions**

601. Minimum Building Setback Line.

601.1 Minimum Front Building Setback Line. The minimum depth of front building setback lines, measured from the street right-of-way line, shall be determined by the classification of road on which the property fronts, unless a greater distance is deemed to be necessary for the protection of the contemplated development on the property.

Front Building Setbacks	
Residential, Cul-de-sac & Minor Access Streets	20 feet*
Minor Collector Streets	20 feet*
Major Collector Streets	40 feet
Arterial Streets & Highways	50 feet

* Where applicable, the minimum building setback may be lessened by provisions contained within Article III.C.4. of the *Sevier County Subdivision Regulations*. All PUDs have an exterior setback no small than 25 feet.

601.2 Minimum Side and Rear Building Setback Line. The minimum depth of side and rear building setback lines, measured from the side or rear property line, shall be determined by the zoning classification, the lot size and the availability of Public Water, unless a greater distance is deemed to be necessary for the protection of the contemplated development on the property.

Side & Rear Building Setbacks				
	Without Public water	With Public water	With or without Public water	PUD (Exterior setback)
	Any Size	< 30,000 sq. ft.	> 30,000 sq. ft.	Any Size
A-1	25 feet**	10 feet	25 feet**	25 feet
R-1, R-2M, R-2	25 feet**	10 feet	25 feet**	25 feet
C-1, C-2	25 feet**	10 feet	25 feet**	25 feet
I-1	25 feet**	10 feet	25 feet**	25 feet
CS	See Section 313.4.2 - Safety Standards			

**For Lots of Record, as defined in Section 403, recorded before February 18, 2008, the side & rear setbacks shall be 10 feet.

602. Lot Area Requirements.

602.1. Lot Area Requirements, by Zoning District.

Zoning District	Minimum Area Requirement*
Agricultural A-1	30,000 sq. ft.
Rural Residential R-1	30,000 sq. ft. OR 25,000 sq. ft. with public water
Medium Density Residential R-2M	15,000 sq. ft.
High Density Residential R-2	7,500 sq. ft.
Rural Commercial C-1	**
General Commercial C-2	**
Industrial I-1	43,560 sq. ft. (1 acre) with Health Dept. approval

* Where more stringent standards apply from any other regulations, it shall apply.

** All lots shall be adequately sized to accommodate necessary parking requirements, setbacks, buffering, and soil requirements for any on-site septic disposal. However, minimum lot area required within this zoning district is subject to the utility restrictions found in Section 602.2.

602.2. Lot Area Requirements, by Utility Availability for C-1 and C-2 Districts.

For purposes of this zoning code, a lot must be at least 7,500 square feet in area if provided with public water and sewer, or 25,000 square feet in area if served by one public utility. Lots that are without public water and public sewer service shall be a minimum of 30,000 square feet in area, except where greater area is required by the Environmental Health Department or the subdivision regulations of the proper jurisdiction.

603. Lot Frontage Requirements.

Zoning District	Minimum Frontage Requirement*
Agricultural A-1	50 feet **
Rural Residential R-1	50 feet & lot must be at least 75 feet wide at the setback line **
Medium Density Residential R-2M	50 feet & lot must be at least 75 feet wide at the setback line.
High Density Residential R-2	50 feet & lot must be at least 75 feet wide at the setback line.
Rural Commercial C-1	50 feet
General Commercial C-2	50 feet
Industrial I-1	50 feet

* Where more stringent standards apply from any other regulations, it shall apply.

** Footnote: Property in A-1 and R-1 zoning districts which have no public water supply shall require a minimum lot width of one- hundred (100) feet at the building setback line.

604. Height Restrictions.

604.1. Exceptions to Height Restrictions. Telecommunications towers, utility facilities, and agricultural buildings shall be exempt from the standards contained in Section 604.2.

604.2. Building Height Restrictions, by Zoning District.

Zoning District	Building Height Maximum (ft)
Agricultural A-1	35
Rural Residential R-1	35
<i>Medium Density Residential R-2M</i>	35
<i>High Density Residential R-2</i>	48
Rural Commercial C-1	35
General Commercial C-2	48
Industrial I-1	55

ARTICLE VII – ADMINISTRATION AND ENFORCEMENT

- 701. **Zoning Compliance/Building Permits**
- 702. **Enforcement Officer**
- 703. **Permit Denial**
- 704. **Stop Work Orders**
- 705. **Time Limits**
- 706. **Penalties**

701. Zoning Compliance/Building Permits. It shall be unlawful to start construction of a principal building or accessory building unless a permit is obtained. It shall also be unlawful to construct additions to any existing commercial or industrial building unless a permit is obtained. Per T.C.A. 13-7-114, any agricultural or farm related structure proposed to be located in an A-1 zoning district shall not require a building permit. Any residential structure is required to get a permit.

702. Enforcement Officer. A zoning official shall be appointed to issue all permits, maintain records, and forward materials to the Board of Zoning Appeals and the planning commission. The zoning official shall routinely attend meetings of these two public bodies. Current zoning maps and map amendments shall be maintained by the zoning official and he shall conduct inspections as prescribed by the ordinance.

703. Permit Denial. A zoning compliance building permit shall be denied when the proposed construction is a type of land use which is not allowed in that zoning district, when the setbacks cannot be met, or any other type of violation of the regulations in this zoning resolution. The applicant is required to submit relevant details of construction and certify on the permit that the details are correct.

704. Stop Work Orders. A stop work order may be issued on construction or land usage when the zoning official notices a zoning violation. All work must therein desist until the problem is corrected.

705. Time Limits. The zoning compliance/building permit is valid for six (6) months after which time it is invalid if construction on the project site is not progressing.

706. Penalties. Any person found violating the provisions of this resolution shall be found guilty of a misdemeanor, and upon conviction shall be fined not less than five (5) dollars per day not more than fifty (50) dollars per day.

ARTICLE VIII – BOARD OF ZONING APPEALS

801. **Creation**

802. **Appeals**

803. **Powers of the Board**

804. **Special Exception and Variance Hearing**

801. Creation. The Board of Zoning Appeals shall be created and appointed in accordance with Tennessee Code Annotated, Sections 13-7-106 and 13-7-107. The Sevier County Board of Zoning Appeals shall consist of five (5) members as appointed by the Sevier County Board of Commissioners.

802. Appeals. Any person, adjacent property owner, or governmental unit may appeal to the Board of Zoning Appeals for special exceptions, variances, or administrative review of the actions of the zoning official.

803. Powers of the Board. The Board of Zoning Appeals can hear an aggrieved person who is contesting an action of the zoning official, is requesting which is of a similar character permitted for interpretation as a special exception in the zoning district, or has a variance request by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning resolution or by reason of exceptional topographic conditions as per *Tennessee Code Annotated* Section 13-7-109.

804. Special Exception and Variance Hearing. Within thirty (30) days after a request for a hearing before the Board of Zoning Appeals, a public meeting shall be held. The Board's decision on the issue must be contained in the minutes of the meeting.

ARTICLE IX – AMENDMENTS AND INTERPRETATION

- 901. **Amendments**
- 902. **Interpretation**
- 903. **Severability**
- 904. **Effective Date**

901. **Amendments.** This resolution may be amended by first submitting a proposed amendment to the text or map to the planning commission and then to the Sevier County Board of Commissioners. The amendment shall be effective upon the super majority (two-thirds) vote of approval by the Sevier County Board of Commissioners. A public hearing must be called at least thirty (30) days prior to the date of the hearing on any amendment by the County Commissioners, and this public hearing must be published in a local newspaper of general circulation in Sevier County.

902. **Interpretation.** Where other state or local laws are in conflict, the more stringent standards shall prevail.

903. **Severability.** Should a section, clause, or provision of this resolution be declared invalid by a court of competent jurisdiction, or unconstitutional, the judgment shall not affect the validity of this resolution as a whole or any part other than the part judged to be invalid.

904. **Effective Date.** This resolution shall take effect from and after Friday, September 1, 2006, the public welfare requiring it.

APPENDIX A

Sections 2.5.6 - 2.5.9 of the Preferred Directions Report by Saratoga Associates

Appendix A

Sections 2.5.6 - 2.5.9

Preferred Direction Report

Sevier County and Municipalities Hillside and Ridges Study

By Saratoga Associates, Dated August 31, 2007

2.5.6 Mitigation Measures – What if 75 percent screening cannot be achieved or more than ¼ acre of a site is cleared?

If necessary to *create* a view from the proposed structure or for safe construction, then vegetation may be removed that results in a clearing that exceeds ¼ acre or results in exposure in excess of 25 percent of a proposed structure. The need for such clearing must be demonstrated and certified by a Tennessee Licensed Civil Engineer, Landscape Architect, or Architect. In such cases, the Applicant will be required to utilize any combination of the following mitigation measures as deemed necessary by the Planning Commission to mitigate to the maximum extent practicable adverse visual impact(s) to SLRS. In addition to the following standards, the Planning Commission is to encourage applicants to design aesthetically compatible projects that incorporate environmentally friendly design principles and components, as may be employed from the mitigation menu below.

Professional Design and Siting

A properly sited and designed project is the best way to mitigate potential impacts. Under optimum circumstances, a project should be sited to avoid visual impacts to unique aesthetic resource within its viewshed. Sometimes economic, engineering, or site-specific constraints preclude optimum design treatments. Under these circumstances, other mitigation strategies should be considered.

Screening

Screens are objects that conceal other objects from view. They may be constructed of soil, rocks, bricks, or anything opaque. Vegetation can, despite its visual porosity, function as a screen when there is sufficient visual mass. Screens may be natural (vegetation) or artificial (fences and walls). If used, screens will appear natural (wood, stone). Screens constructed from soil are called berms. When used, berms should appear natural e.g. blend with nearby topography, and *not* appear artificial e.g. geometrical or symmetrical shape.

Rationale:

When sized and placed properly screens may completely conceal an object, while improperly sized and placed screens may fail to conceal. Screens may block desirable views when improperly placed. Screens are not necessarily buffers and buffers are not necessarily screens. A buffer may attenuate noise, soften a landscape or provide other functions that may or may not include screening.

Screens possess line, form, texture, planes and color, and therefore, have their own aesthetic qualities. At times, they may be more impacting than the object to be concealed. Screens may draw attention to the object to be concealed. Screens may physically connect two similar or dissimilar areas.

Relocation

A facility component may be relocated to another place within the site to take advantage of the mitigating effects of topography and vegetation.

Camouflage/Disguise

Colors and patterns of color may conceal an object or its identity. Disguise may take many forms, and is limited only by the imagination of the project designers. As an example, communication towers can be disguised as trees, flagpoles, barn silos, church steeples, or any other “in-character” structure depending upon circumstances.

Low Profile

Reducing the height of an object reduces its viewshed visibility.

Downsizing

Reducing the number, area or density of objects may reduce impacts.

Non-Specular Materials.

Using building materials that do not shine may reduce visual impacts.

Lighting

With respect to regional issues, such as a tall combustion exhaust stack or radio tower, the Federal Aviation Administration (FAA) requires certain lighting for public transportation safety. These impacts may be considered unavoidable unless lower profiles can be achieved. Applicants should also document that they have consulted with and met all applicable lighting standards under local jurisdiction. Consideration should be given to light pollution considerations such as off-site light migration, glare, and “sky glow.” Lighting requirements, through best engineering practices, should not exceed the *functional* requirements of the project.

Maintenance

How a landscape and structures in the landscape are maintained has aesthetic implications. “Eyesores” result from neglect. This should be part of any mitigation strategy.

Decommissioning

Removing an object from the landscape after its useful life is over reduces the duration of a visual impact.

Rationale:

Decommissioning takes many forms. However, from the perspective of aesthetics, three are of most significance: 1) the total removal from the site of all Project components and restoration to an acceptable condition, usually with attendant revegetation; 2) partial removal of Project components, such as elimination of visually impacting structures; and 3) conditions designed to maintain an abandoned facility/development and site in an acceptable condition that precludes “eyesores” or structural deterioration. Applicants should provide such plans when deemed necessary.

2.5.7 Vegetative Screening Procedures

When the existing vegetation does not achieve 75 percent screening, a mix of native species matching the kinds and density of vegetation indigenous to the area are to be planted. Such screening will be expected to provide 75 percent screening within 2 years. All planted vegetation will not be smaller than four (4) inches DBH and no less than ten (10) feet in height at the time of planting. All vegetation will be planted in a manner representative of surrounding conditions and will not have the appearance of a suburban style hedgerow.

2.5.8 Additional Design and Mitigation Measures

Applicants proposing development visible from a SLRS will be required to incorporate the following standards in addition to other applicable standards:

Setdowns from Ridgelines

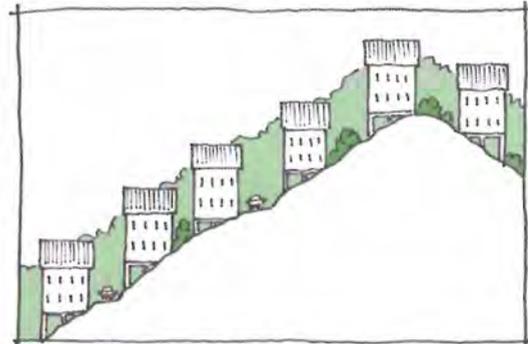
Units should not project above significant ridgelines. No units should be built on ridges or within 50 lateral feet of a ridgeline. Pre-development forest canopies on ridgelines will remain thick, natural, and unbroken during and after construction.

Set into hillside

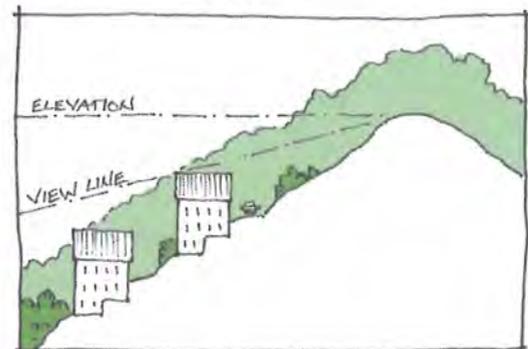
Buildings should be stepped into the side of the hill and not pushed up, out, away from the hillsides as is prevalent in the region. Buildings should also not be perched on highpoints, outcroppings or prominent knolls. Split development pads, “stair-stepping” should be encouraged, and structures should be oriented along and not across the topography.

Rationale:

Building into slopes, keeping structures off ridgelines and not permitting them to be perched out and over ridges will greatly increase the chances that the structure will blend with the surroundings and be screened by existing or planted vegetation. The structures depicted to the right have been constructed into the slopes, which allow the natural



Avoid



Promote

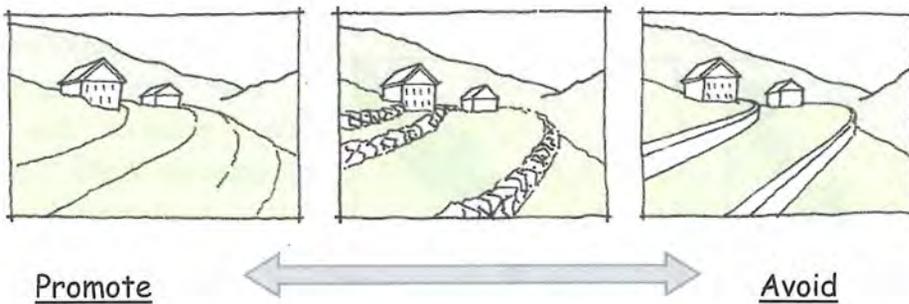


and planted vegetation to provide adequate screening.

Retaining walls

Retaining walls should be designed and constructed parallel to pre-disturbance slopes. Landscaping should be required to the greatest extent practical. Contour grading results in rounded edges and slopes, both vertically and laterally, and allows for the gradual blending of artificial and natural surfaces which may help to reduce the visual impacts of hillside grading.

Retaining Walls



The image on the left illustrates an ideal landforming design for hillside grading. The image on the right illustrates how inappropriate grading practices can exaggerate visual impacts.

Setbacks

The yard setbacks from the property line should be no less than 1.5 times the height of the proposed structure or the setback requirement of the existing zoning regulations, whichever is greater.

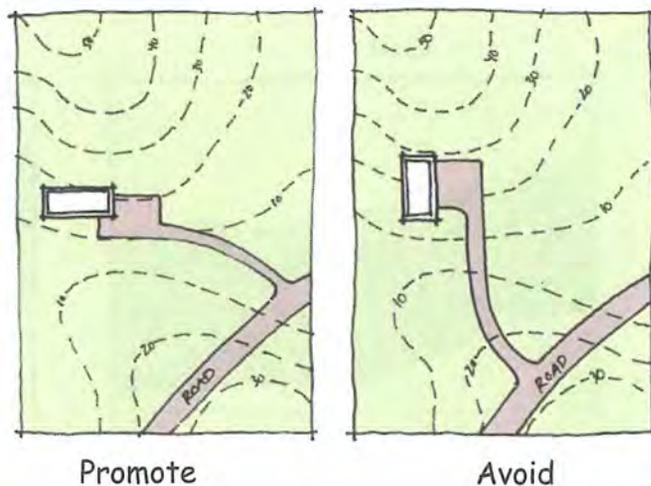
Signage

No signage should be permitted which will be visible above the existing tree canopy.

Roads and Driveways

Roadways and driveways should be constructed following the natural topography and not across. The footprint of roads should be limited to the maximum extent practical.

Driveways



Lighting

Requiring shielded, downcast (45 degrees) lighting only in functional areas should be considered. Floodlights should be motion activated. No lighting should be permitted above the eaves or parapets. No landscape lighting or continuous lighting over 75 watts should be permitted. Subdivision street lighting should be concentrated at intersections.

Color

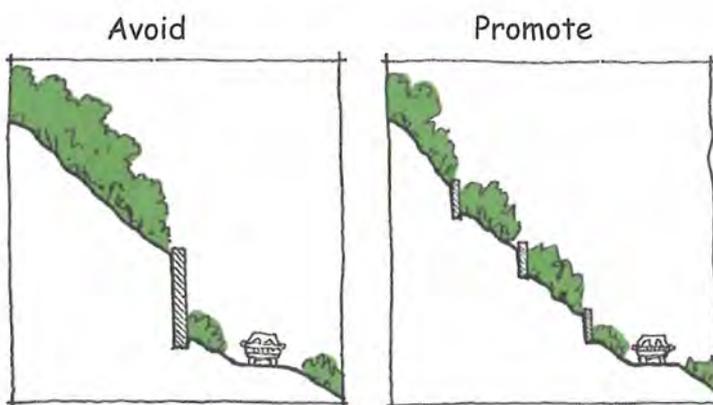
On building faces visible from SLRS – exterior (roofing, siding, fascia, window treatments) building materials with muted, dark earth tones are strongly encouraged and white should be avoided.

Building and Retaining Walls

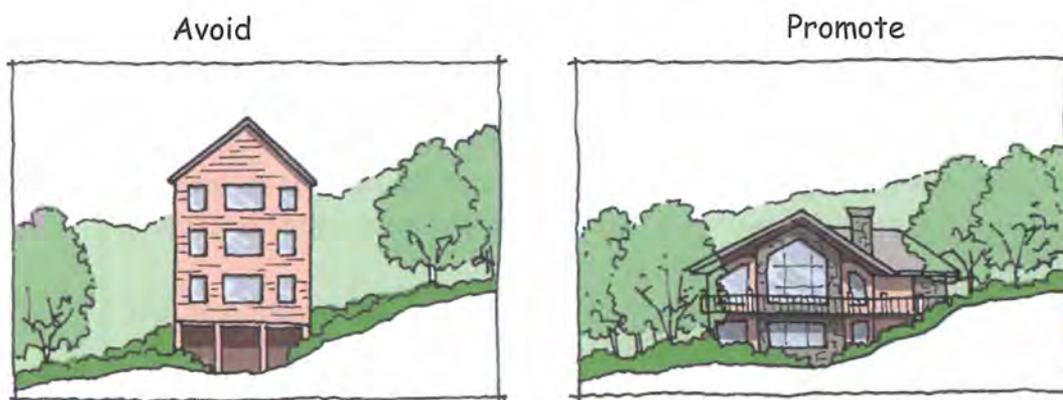
To reduce the visual scale of buildings and retaining walls, uniform and blank massing or surfaces should be avoided.

Terrace retaining walls/constructed slopes

Retaining walls should be finished using materials of a color and texture that are similar to local natural conditions. Shorter walls should be staggered/terraced to the maximum extent practical in place of one larger wall to allow for the planting of vegetation that will provide screening of the slope cuts.



Building Materials, Design and Orientation



Reflectivity – Windows

Non-mirrored, tinted, and low-reflectivity glass should be used where practical for all windows visible from a SLRS. Avoid uninterrupted expanses of windows, use overhangs, eaves, porches and patios to shade windows. Reflective material for roofing, fascia, and soffits should also be avoided.

Walls/Rooflines

Continuous rooflines over 40 feet in length should be avoided, and the use of smaller roof components that imitate the natural slope of the terrain should be encouraged. In addition, major rooflines should parallel the topography of the hillside.

2.5.9 Building Height

The height of proposed structures will not extend more than twenty-five (25) feet above ground level, if 75 percent screening cannot be achieved after allowable vegetative clearing for site assessments and construction. Vegetation around the structure and suitable for screening are not to include shrubs and saplings less than 1 inch DBH. If 75 percent screening can be achieved, then the proposed structures will not extend more than thirty (30) feet above ground level. The height of the structure will be calculated as the mean height. The height of the structure is to be measured from the lowest natural grade to the uppermost roofline.

Proposed structures will not exceed the ridgeline elevation as seen from a SLRS. Fixtures such as chimneys or cable satellite dishes are to be exempted from this requirement, although care is to be taken to ensure that building features do not unwarranted attention to the landscape. Ridgeline vegetation and tree canopies are to remain unbroken and provide a backdrop to new development.

Rationale:

The design of the structure is just as important as the location in which it is placed. Excessive highly reflective glass, large expanses of “blank” walls without windows or architectural details, bright colors and inappropriate height are more likely to result in adverse visual impacts.

The first picture in this series depicts well-placed buildings and good use of vegetation. If more appropriate darken earth tone colors were used, the visual presence of these structures



would be greatly reduced.

The second picture in this series (to the right) is taller than it should be, uses inappropriate earth tone colors and contains excessive “blank” walls that increase the structures visual presence.



Comparatively, the third picture in this series depicts a structure (under construction) that is more appropriately sized for its hillside location, avoids blank walls, uses roof overhangs to avoid window glare and break up the buildings façade, has a variety of roof peaks and angles that blends well with its surroundings and uses darker earth tone colors, all of which decreases its visual presences and avoid aesthetic impacts.



APPENDIX B

Public Chapter No. 340 which expanded TCA, Title 63-1-301 through 311



State of Tennessee
PUBLIC CHAPTER NO. 340
(Revised – June 16, 2011)
SENATE BILL NO. 1258

By Yager, Tracy, Bell, Southerland, Campfield, Henry, Tate, Overbey, Burks, Johnson

Substituted for: House Bill No. 1040

By Ramsey, Campbell, Powers, Hensley, Evans, Dunn, Harry Brooks, Faison, Todd, Don Miller, Butt, Montgomery, Shipley, Weaver, Maggart, Halford, Haynes, Hall, Favors, Brown

AN ACT to amend Tennessee Code Annotated, Title 63, relative to the regulation of pain management clinics.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, is amended by adding a new part, as follows:

63-1-301. For purposes of this part, unless the context requires otherwise:

(1) "Advanced practice nurse" means any person licensed under Title 63, Chapter 7, who meets the requirements of § 63-7-126.

(2) "Department" means the Department of Health.

(3) "Medical doctor" means any person licensed under Title 63, Chapter 6.

(4) "Osteopathic physician" means any person licensed under Title 63, Chapter 9.

(5) "Pain management clinic" means a privately-owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than ninety (90) days in a twelve-month period; and

(6) "Physician assistant" means any person licensed under Title 63, Chapter 19.

63-1-302. This part does not apply to:

(1) A medical or dental school, an osteopathic medical school, a nursing school, a physician assistant program or an outpatient clinic associated with any of the foregoing schools or programs.

(2) A hospital as defined in § 68-11-201, including any outpatient facility or clinic of a hospital;

(3) Hospice services as defined in § 68-11-201;

(4) A nursing home as defined in § 68-11-201;

(5) A facility maintained or operated by this state; or

(6) A hospital or clinic maintained or operated by the federal government.

63-1-303.

(a) Each licensed healthcare practitioner who provides services at a pain management clinic shall continue to be regulated only by the board which has issued a license to that practitioner.

(b) On or before October 1, 2011, the Commissioner of Health, in consultation with the board of medical examiners, the board of osteopathic examination, the board of nursing, and the committee on physician assistants, shall promulgate rules necessary to implement this part, in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(c) The rules adopted pursuant to subsection (b) may address the following topics, among others:

- (1) The operation of the clinic;
- (2) Personnel requirements for the clinic;
- (3) Training requirements for clinic providers who are regulated by that board;
- (4) Patient records;
- (5) Standards to ensure quality of patient care;
- (6) Infection control;
- (7) Health and safety requirements;
- (8) Certificate application and renewal procedures and requirements;
- (9) Data collection and reporting requirements;
- (10) Inspections and complaint investigations; and
- (11) Patient billing procedures.

63-1-304. Each board shall have the authority to inspect a pain management clinic which utilizes the services of a practitioner licensed by that board. During such inspections, the authorized representatives of the board may inspect all necessary documents and medical records to ensure compliance with this part and all other applicable laws and rules.

63-1-305. Each board shall have the authority to investigate a complaint alleging a violation of this part, or a rule adopted under this part, by a pain management clinic utilizing the services of a healthcare practitioner licensed by that board. Each board shall also have the authority to investigate a complaint alleging that a facility utilizing the services of a healthcare practitioner licensed by that board is not properly certified by the department as required by this part.

63-1-306.

(a) A pain management clinic, as defined in this part, must have a medical director who is a physician that practices in this state under an unrestricted and unencumbered license issued pursuant to § 63-6-201 or § 63-9-104.

(b) In the event that the medical director, for whatever reason, no longer meets the requirements of this part, the pain management clinic must notify the department, within ten (10) business days, of the identity of another physician who meets the requirements of this part and will act as medical director. A change of majority ownership of a certified pain management clinic requires the submission of a new application for a certificate. Failure to notify the department within ten (10) business days may be the basis for a summary suspension of the clinic's certification.

(c) Every pain management clinic shall submit an application to the department, on a form prescribed by the department, for a certificate to operate the clinic.

(d) Each clinic location shall be certified separately regardless of whether the clinic is operated under the same business name, ownership or management as another clinic.

(e) The department shall issue a certificate if the department finds that the pain management clinic meets the requirements of this part and that the fee required by the department has been paid.

(f)(1) If the department finds that a pain management clinic which was issued a certificate no longer meets any requirement of this part, including, but not limited to, any violation of any rule promulgated by the department pursuant to this part, the department may impose lawful disciplinary action against the pain management clinic, including, but not limited to, the revocation or suspension of its certificate, and the imposition of a civil penalty of up to one thousand dollars (\$1,000) per day for each day of continued violation. The pain management clinic shall be entitled to a hearing pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. Further, the department has the discretion to lift the suspension of a certificate when the clinic demonstrates compliance to the department.

(2) Any board which assesses any discipline or penalty against a provider that it licenses for a violation of rules promulgated under this part shall inform the department of any penalty or discipline imposed on such a provider for a violation of rules promulgated under this part within thirty (30) days of imposing the discipline or penalty, and the department may consider such discipline or penalty as a basis for disciplinary action against the pain management clinic pursuant to this subsection (f).

(g) The clinic shall post the certificate in a conspicuous location so as to be clearly visible to patients.

(h) The department is authorized to charge a fee for the issuance of a certificate.

(i) The department and each board identified in § 63-1-303(b) shall post on its Web site an announcement of the requirement that a pain management clinic obtain a certificate from the department, and each board identified in § 63-1-303(b) shall include information about such requirement in a routine communication sent by each board to its licensees.

(j) A pain management clinic operating on or before the effective date of this act may continue to operate as long as an application for certification is timely filed within thirty (30) days after the department has published the application form.

(k) The department shall have the authority to adopt rules, including emergency rules if deemed necessary, to implement the provisions of this part for which the department has responsibility.

63-1-307.

(a) A certificate issued under this part expires on the second anniversary of the date it is issued.

(b) The department may grant to a pain management clinic a ninety-day grace period from the expiration date of its certificate to renew the certificate.

(c) No pain management clinic whose certificate has expired may continue to operate or provide pain management services following the expiration of the grace period.

63-1-308.

(a) A pain management clinic may apply to renew its certificate by:

(1) Submitting a renewal application to the department on the form and in a time frame prescribed by the department; and

(2) Complying with any other requirements of the department.

(b) If a certificate is not renewed before the expiration of the grace period, the clinic must reapply for a new certificate to operate the clinic and is not authorized to operate while such new certificate application is pending.

63-1-309.

(a)(1) In the application for a certificate or within ten (10) days of the occurrence of any of the events listed in (A) – (C) below, a pain management clinic shall disclose whether any person who owns, co-owns or operates, or

otherwise provides services in the clinic, an employee of the clinic, or a person with whom the clinic contracts for services:

(A) Has ever been denied, by any jurisdiction, a license under which the person may prescribe, dispense, administer, supply or sell a controlled substance;

(B) Has ever held a license issued by any jurisdiction, under which the person may prescribe, dispense, administer, supply or sell a controlled substance that has been restricted; or

(C) Has ever been subject to disciplinary action by any licensing entity for conduct that was the result of inappropriately prescribing, dispensing, administering, supplying or selling a controlled substance.

(2) The department may deny a certificate or renewal of a certificate to a pain management clinic under any of the circumstances listed in subdivision (a)(1).

(b) A pain management clinic may not be owned wholly or partly by a person who has been convicted of, pled nolo contendere to, or received deferred adjudication for:

(1) An offense that constitutes a felony; or

(2) An offense that constitutes a misdemeanor, the facts of which relate to the distribution of illegal prescription drugs or a controlled substance as defined in § 39-17-402.

(c) If any practitioner providing services at a pain management clinic dispenses or prescribes more than a seventy-two hour dose of controlled substances for the treatment of chronic nonmalignant pain, the practitioner must document in the patient's record the reason for prescribing or dispensing that quantity.

(d) A medical director shall be on-site at least twenty percent (20%) of the clinic's weekly total number of operating hours.

63-1-310.

(a) A pain management clinic may accept only a check, credit card or money order in payment for services provided at the clinic, except as provided in § 63-1-310(b).

(b) A payment may be made in cash for a co-pay, coinsurance or deductible when the remainder of the charge for the services will be submitted to the patient's insurance plan for reimbursement.

63-1-311.

(a) A violation of this part, or a rule adopted under this part, is grounds for disciplinary action against a practitioner providing services at a pain management clinic certified under this part by the board which licensed that practitioner.

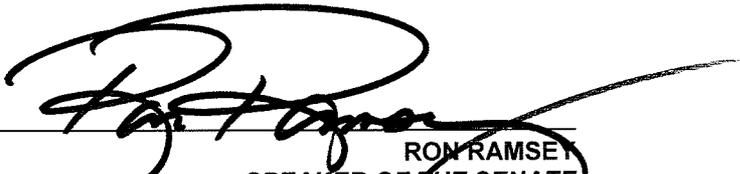
(b) A practitioner who provides pain management services at an uncertified pain management clinic is subject to an administrative penalty of one thousand dollars (\$1,000) per day, imposed by the board which licensed that practitioner, in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. Before such a penalty may be assessed by the board, the board shall give at least thirty (30) days notice to the practitioner of the alleged violation of this part.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 3. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on January 1, 2012.

SENATE BILL NO. 1258

PASSED: May 19, 2011



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 16 day of June 2011



BILL HASLAM, GOVERNOR