

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 830 OF THE CITY OF GATLINBURG, BEING THE ZONING ORDINANCE, BY ADDING ADDITIONAL DISTRICTS THERETO AND AMENDING THE TABLE OF CONTENTS, ARTICLE VI, ARTICLE VII, AND ARTICLE VIII THEREOF.

WHEREAS, the City of Gatlinburg, along with other cities and the county, commissioned a study by Saratoga Associates, Inc. to make recommendations with regard to hillside and ridge view matters; and

WHEREAS, the City of Gatlinburg duly created a Hillside and Ridges Task Force for the study and recommendation of changes to implement recommendations made by Saratoga Associates, Inc. to change and improve the manner in which hillside and ridgeview development could take place within the City and that said Task Force met and deliberated on numerous occasions; and

WHEREAS, joint workshops took place between the Board of Commissioners, the Gatlinburg Municipal Planning Commission, and the Hillside and Ridges Task Force to direct implementation of ordinances to carry out recommendations from the Task Force and Saratoga Associates, Inc.; and

WHEREAS, the Gatlinburg Municipal Planning Commission has reviewed and recommended to the Board of Commissioners that certain ordinance changes be adopted; and

WHEREAS, implementation of these additional requirements will improve environmental and water quality standards in Gatlinburg as well as improve construction safety and will otherwise be in the best interests of the citizens and residents of the City of Gatlinburg.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GATLINBURG, TENNESSEE:

Section 1. The Table of Contents for Ordinance No. 830, being the Zoning Ordinance of the City of Gatlinburg, is amended to add the following two new sections under Article VII as follows:

- “714. CSFZ (Critical Slope Floating Zone)
- 715. HOD (Hillside Overlay District)”

Section 2. Article VI of Ordinance No. 830 is hereby repealed in its entirety and a new Article VI substituted in lieu thereof, as follows:

“ARTICLE VI. ESTABLISHMENT OF DISTRICTS

For the purpose of this ordinance, the City of Gatlinburg, Tennessee, is hereby divided into zoning districts as follows:

Zoning.

- | | |
|---------------|---------------------------------|
| R-1 District | Low Density Residential |
| R-1A District | Low Density Residential |
| R-2 District | Medium Density Residential |
| R-2A District | Medium Density Residential |
| R-3 District | High Density Residential |
| C-1 District | Tourist Commercial |
| C-2 District | General Business |
| C-3 District | Neighborhood Commercial |
| C-4 District | Recreation Commercial |
| C-5 District | Crafts Commercial |
| C-6 District | Planned Golf Resort Development |

In addition to the above, the following districts are hereby established as overlay districts which place an additional layer of requirements upon the underlying zoning district:

Overlay.

- | | |
|---------------|------------------------------|
| FP-1 District | Floodplain |
| C-A District | Commercial Aesthetic |
| CSFZ District | Critical Slope Floating Zone |
| HOD District | Hillside Overlay” |

Section 3. Ordinance No. 830 is hereby further amended by adding the following paragraph, following Section 711.4.1 and prior to Section 712, as following:

“OVERLAY DISTRICTS:

The following districts are hereby established as overlay districts. For the purpose of this ordinance, these overlay districts are established to prescribe additional requirements upon the underlying zoning districts as identified in the preceding sections of Article VII. Where the standards of the overlay districts and the underlying zoning districts are conflicting, the more restrictive standard shall apply.”

Section 4. Ordinance No. 830 is hereby further amended by adding an additional section to said ordinance, being Section 714, as follows:

“714. Critical Slope Floating Zone (CSFZ): The intent of this overlay district is to provide additional standards of design and construction to avoid any undue adverse impacts of hillside development on steep slopes, and to provide protection from uses and activities which would be detrimental to the public’s health, safety, and welfare. For the purposes of this ordinance, a critical slope shall be defined as an area consisting of a natural thirty (30) percent slope and greater. The slope of the property shall be determined by a licensed, registered engineer or surveyor by the use of an industry accepted computer aided design software or by the following slope formula:

$$S = \frac{(.0023) (I) (L)}{A}$$

S=slope; I= contour interval in feet; L= contour length in feet; A=area in acres

The following provisions of 714 shall apply to all developments within the CSFZ.

714.1 Artificial Slope: Grades & Benching.

- 714.1.1.** No artificial slope shall exceed a two horizontal to one vertical maximum slope unless certified by an approved licensed professional.
- 714.1.2.** The maximum height for un-terraced slopes shall not exceed 15 feet.
- 714.1.3.** All artificial terraced slopes shall be landscaped in accordance with an approved landscape plan.
- 714.1.4.** The maximum height for all artificial, terraced slope and engineered wall sections shall be 15 feet from the finished grade immediately adjoining the toe of slope or wall. The minimum horizontal distance between any two terraced slope or wall

sections shall be five feet.

714.2 Artificial Slope, Materials, Compaction, & Dewatering.

714.2.1. A certification by a registered, professional engineer of artificial slope construction shall be provided for all slopes in excess of a two horizontal to one vertical slope.

714.3 Artificial Slope: Disposal of fill and borrow.

714.3.1 No fill or borrow shall be placed within 25' of a permanent and/or intermittent stream.

714.4 Artificial Slopes: Mass Grading.

714.4.1. Mass grading shall be prohibited prior to construction.

714.4.2. A planting schedule and a cashier's check for 100 percent of the amount for replanting of all artificial slopes shall be required prior to construction. Upon completion of the planting or replanting, the funds shall be refunded to the property owner by the City of Gatlinburg. Any such amounts shall be deposited into an escrow account. Interest earned, if any, on said account shall accrue to the City to cover its cost of administration.

714.5 Roadways.

714.5.1. Road grades whether public or private, shall not exceed a 15% maximum grade.

714.5.2. If deemed necessary and approved by the Municipal Planning Commission, road grades may be permitted up to a maximum grade of 18% provided the length of said section of road grade is less than 200 feet and adequate access is provided for fire and rescue vehicles.

714.5.3 Roadways should be constructed with property topography rather than across topography to reduce land disturbance areas.

714.6 Driveways.

714.6.1. Driveways shall be constructed per the adopted Municipal Code Requirements.

714.6.2 Driveways should be constructed with property topography rather than across topography to reduce land disturbance areas.

714.7 Roadway Switchbacks.

714.7.1 The use of roadway switchbacks should be avoided where possible but when necessary, designed and constructed in accordance with the City of Gatlinburg Subdivision Regulation Standards.

714.8 Stream Buffers.

714.8.1 The stream buffer shall be a minimum of 25' setback from all streams but no less than the adopted Storm Water Ordinance of the City.

714.8.2 The applicability of stream buffers shall be determined using resources such as TDEC, Army Corp of Engineers, and adopted FEMA and TVA maps.”

714.9 Utilities

714.9.1 The local utility authorities and building codes should govern construction and placement of utilities.

714.10 Storm Water & Erosion: Impervious Surfaces.

714.10.1. The use of pervious surfaces in development is encouraged.

714.10.2. Impervious surfaces shall be limited to a maximum of 20% for lots < ½ acre, 15% for lots > ½ acre, and a maximum of 15% for the entire subdivision and/or planned development area.

714.11 Storm Water & Erosion: Sheet Flow.

714.11.1. The use of sheet flow techniques versus a central discharge point is the preferred method of discharge.

714.11.2. Long-term central detention structures should be avoided.

714.11.3. Alternative, lower discharge rates are preferred.

714.12 Storm Water & Erosion: Runoff and Artificial Slopes.

714.12.1. Avoid and/or limit upslope runoff over artificial slopes.

714.12.2. Artificial slopes are to be stabilized with vegetation or geotextiles and pervious engineered surfaces.

714.12.3. The use of floating bark/mulch as a soil stabilizer should be avoided.

714.12.4. Trees should be utilized for long term soil stabilization.

714.13 Storm Water & Erosion: Acid Rock Drainage.

714.13.1. The exposure of acid soils and rock

formations should be avoided where possible.

714.13.2. If acid soils and rock formations are exposed, said soils and rock formation should be properly sealed as recommended by a soils engineer.

714.14 Storm Water & Erosion: Post Construction Peak Flow Rates.

714.14.1. All storm water systems shall be designed so that post construction peak flow rates do not exceed pre-construction peak flow rates as required by the Storm Water Ordinance.

714.15 Grading and Clearing: Commencement.

714.15.1. Grading commencement shall be limited to 15 days prior to the initiation of construction and building of sites.

714.15.2. All disturbances shall be stabilized within 7 days from the initial disturbance per Title 12, Chapter 6 of the Gatlinburg Municipal Code.

714.16 Enhanced site plan requirements for CSFZ District.

In addition to other applicable site plan, PUD and subdivision application requirements, the following enhanced land disturbance information shall be required for development permits within a CSFZ district to identify any potential adverse impacts:

- Slope/topography maps at two (2) foot contours for areas of disturbance and five (5) foot contours for areas outside the disturbance area;
- Site plan showing all existing structures on the site;
- Locations and design of septic or community sewage treatment systems;
- Existing and proposed driveways, including the length, grade, and surface type;
- Perennial and intermittent waterways, springs, seeps, and wetlands;
- Soil type by erosion susceptibility and naturally acidifying properties;
- All applicable setbacks from ridgelines, watercourses, and property lines;
- Delineation of protected sensitive habitats for flora and fauna;
- Written narrative and maps identifying potential sources and kinds of water pollution during and after development of the project, inclusive of non-point sources of water pollution;
- Proposed final ground cover, by type;
- A geotechnical report which includes:
 1. A narrative of conditions and hazards identified on the site. The narrative should address the scope of

the site inspection, the suitability of the site for development, the foundation types for site improvements, retaining systems, grading, drainage considerations, stability of cut-slopes and constructed embankments, settlement of the site and adjacent sites due to existing conditions, proposed construction, and proposed surface and subsurface drainage facilities;

2. A soils map derived from a soil survey on the site and using Unified Soil Classifications;
3. Subsurface conditions- Depth(s) to bedrock; Strike and dip of bedrock; Orientations of any identified joints, faults, and slip planes within the bedrock that are considered to be indicative of prevailing site conditions; Bedrock by type identified on the site; Strength and load bearing capacity of bedrock by type and whereon structural foundations are proposed; Any structural cross-section illustrative of conditions at the site; The mapped locations and logs of any drilling or core samples;
4. Grading- Location of cut and fill locations; angle of back slopes and fill slopes; Cut material suitability as fill material, including calculations and assumptions; Water content; Weathering; Densities; Expansion or consolidation potential; Optimal moisture conditions of fill material;
5. Foundations- Foundation designs, footing depth, footing widths, assumptions for foundation materials; tested bearing values, settlement- total, differential, and rate;
6. Water- The location of perennial and intermittent waterways; The location of seeps, springs, and wetlands; Natural surface drainage patterns and a characterization of near surface hydrology;
7. Natural Slope Failure- Locations of colluvial deposits or other features that exhibit evidence of mass wasting, landslides, soil creep, or rock creep within 100 feet laterally and 500 feet vertically of proposed area of disturbance; description of cause(s) and recent activity;
8. Prior activity- Location of excavations, cave entrances, sinkholes, and active or abandoned mine entrances, wells, pits, or quarries;
9. Slope aspects;
10. Signed and certified by professional geotechnical engineer.”

Section 5. Ordinance No. 830 is hereby further amended by adding an additional section to said ordinance, being Section 715, as follows:

“715. Hillside Overlay District (HOD): The intent of this overlay district is to provide additional standards of design and construction to protect significant aesthetic and scenic

resources of Gatlinburg and the Great Smoky Mountains region from inappropriate hillside and ridges development. Due to the fact that Gatlinburg's economy is solely driven by the tourist industry, which is dependent upon the natural resources and beauty of the area, it is vital that said resources and beauty are preserved and protected for continued economic growth. For the purposes of this section, development shall mean any land altering activity to improved or unimproved property including but not limited to buildings and other structures, grading, excavation, filling and clearing activities. The following public Scenic and Landscape Resources of Significance (SLRS's) have been identified as publicly accessible places from which views of hillside and ridges are enjoyed. Therefore, the elevations above the SLRS's as established below, and as measured along any given point of the SLRS, should be protected from potential adverse impacts of hillside and ridge development:

<u>SLRS's</u>	<u>Elevation Above SLRS's</u>
1. River Road	60 feet
2. East Parkway - U.S. Highway 321	60 feet
3. Parkway - U.S. Highway 441	60 feet
4. Historic Nature Trail/Airport Road	60 feet
5. Glades Road	36 feet
6. Buckhorn Road	36 feet
7. Bird's Creek road	36 feet

For the purpose of determining the applicability of the heightened development review standards of this section, two factors must exist: 1) the development must be located above the established SLRS elevation and 2) the development must be visible from a SLRS. To determine if the development is visible, a licensed architect, landscape architect, or engineer shall provide visual documentation and/or an on-site demonstration that will illustrate the view of the proposed development from all of the above listed SLRS's as seen during May 15th through October 15th.

715.1 General Requirements and Standards of Design and Construction for Achieving Visually Subordinate Development.

No building permit for any development within an HOD area shall be issued without the prior approval of the Gatlinburg Municipal Planning Commission, in accordance with the following procedures and standards in addition to all other applicable codes and ordinances of the City, except for a single family residential dwelling and its accessory structures that are located on a single lot. In the case of a single family residential dwelling, the Building Official may issue a permit without previous approval of the Gatlinburg Municipal Planning Commission provided the permit application complies with Sections 715.1 through 715.2.12 of this ordinance. Where the standards of the overlay districts and the underlying zoning districts are conflicting, the more restrictive standard shall apply. Exceptions to the HOD

provisions may be considered by the Building Official for telecommunications towers and public utility structures.

In order to achieve visually subordinate developments, all developments within the designated Hillside Overlay District must contain sufficient vegetation to accomplish a minimum of 75% screening as viewed from a SLRS, or obtain approval of an acceptable mitigation plan.

Sections 715.1.1 through 715.1.5 shall apply to developments that contain 75% screening and those which do not.

715.1.1. Vegetation clearing for preliminary site survey and analysis activities. The following standards shall apply to the site pre-construction activities such as site surveying, soils testing, and other site analysis activities:

- Path access clearing for site surveying activities shall be limited to a maximum path width of eight (8) feet.
- Site clearing shall be limited to areas only needed to conduct the survey boundary.
- Site analysis and testing activities shall be limited to selective patches with a minimum of 100 feet separation between patches.
- Clearing activities associated with access paths or pioneer roads to testing sites shall be limited to a maximum width of 8 to 10 feet.
- The removal of vegetation of 4" dbh and greater in diameter and of $\geq 40'$ in height shall be prohibited during surveying and soils testing activities. All tree removal activities shall be done in accordance with Title 14 of the Gatlinburg Municipal Code.

715.1.2. Vegetation Clearing for Construction: Roadway & Utility, Perimeter Buffer Area, and Building Envelope.

- Clearing for roadways, utilities, parking, and related internal traffic circulation areas shall be to the minimum extent possible, to limit land disturbance activities.
- Clearing exceptions for onsite water & wastewater utilities shall be permitted provided said clearing shall be limited to the minimum extent possible as determined by the Building Official.
- Clearing allowances for specific building types shall be permitted as follows: Principal building - not to exceed 40' beyond; detached accessory buildings not to exceed 20' beyond; and buildings of ≤ 100 sq.ft. not to exceed 5' beyond the perimeter of buildings.
- It is recommended that the "Fire Wise" construction standards as established by the National Forestry Division be the basis for a perimeter buffer clearing techniques and shall consist of primarily underbrush clearing.

715.1.3 Additional Clearing for Construction and Views.

- **Additional clearing for safe construction and on-site utilities may be permitted provided a clearing plan prepared by a licensed professional shall be provided that designates additional areas of clearing.**
- **Clearing for a view from an existing structure may be permitted by an individual landowner(s).**

The above clearing practices shall be permitted provided these specific standards and requirements are followed:

1. Clearing must not exceed 25% and must result in a minimum of 75% screening of all structures as viewed from a SLRS;
2. Clearing must not result in ¼ acre or more in size on any one lot or development as viewed from an SLRS;
3. A plan identifying location, type, and DBH of every four (4) or more inches of DBH that will be affected by the proposed clearing, will be required;
4. An inventory of all vegetation to be removed and protected from removal shall be provided;
5. All vegetation for removal shall be identified and marked in the field;
6. Establish trimming methods that allows for a filtered view from the property towards a SLRS, not resulting in views of more than 25% of the structure as seen from the SLRS, and that assures the continued health of each remaining tree.

715.1.4 Tree Fencing.

- **Tree fencing around areas to remain undisturbed shall be required for all developments in an HOD.**
- **The covering/filling of tree root areas above the natural grade is prohibited.**

715.1.5. Forestry and Timber Harvesting.

- **A vegetation removal permit for all timber harvesting activities shall be required in HOD areas in accordance with Title 12 of the Gatlinburg Municipal Code.**
- **A harvesting and reforestation plan shall be required by a registered architect, landscape architect, and/or engineer that depict no impact from an SLRS.**
- **Harvested areas shall be restricted from development for 5 years.**
- **Areas proposed for development on previously harvested sites that do not contain sufficient vegetation to accomplish a minimum of 75% screening, planting shall be required to achieve a minimum of 75% screening.**

715.2 Additional Design and Construction Standards.

The following provisions shall apply for areas of development with existing vegetation which achieves 75% screening.

715.2.1 Setdowns from Ridgelines:

For the purposes of this section, Ridgeline shall be defined as a line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.

- Setdowns from Ridgelines - House/structures shall not be permitted to extend above the tree line on a ridge in the HOD viewshed areas.
- Ridgeline forest canopies shall remain undisturbed during construction so that the pre and post development conditions do not change.

715.2.2 Set Into Hillside:

- Buildings should be built into or stepped into the hillside and not pushed out, up, and/or away from topography.
- Buildings should not be perched on highpoints, outcroppings, or prominent knolls.
- Structures should be designed and oriented along topography rather than across topography.

715.2.3 Retaining Walls:

- Retaining walls should be designed and constructed parallel to pre-disturbed slopes to the maximum extent practicable;
- Landscaping to the maximum extent practicable should be required;
- Grading with the natural contours of the property is preferred to reduce visual impacts of grading.

715.2.4 Setbacks:

- Setbacks shall be based on zoning district requirements as established in Article VIII, being the Area, Yard, and Height Requirements of this ordinance.

715.2.5 Signage:

- No signage shall be permitted above the existing tree canopy or 25' height limit.

715.2.6 Roads and Driveways:

- All roads and driveways should be constructed with the natural contour of the property and not across the contour.
- The grading of roadways and driveways should be done in a manner to limit the area of disturbance to the minimum extent practicable.

715.2.7 Lighting:

- Required lighting in functional areas should be shielded and downcast at 45 degrees;
- Lighting should be restricted to areas below roof eaves and parapets;
- Landscape and continuous lighting should be restricted to no more than 75 watts;
- Subdivision and Planned Unit Development street lighting should be restricted to intersections only.

715.2.8 Color:

- Colors for building exteriors shall be limited to muted, dark earth tones.
- The use of white on building exteriors shall be avoided.

715.2.9 Buildings & Retaining Walls:

- Uniform and blank massing shall be avoided for buildings and retaining walls

715.2.10 Terrace Retaining Walls and Constructed Slopes:

- All retaining wall surfaces shall be finished with a color and texture, similar to natural surrounding conditions.

715.2.11 Reflectivity:

- Non-mirrored, tinted, and low-reflectivity glass shall be used.

715.2.12 Walls/Rooflines:

- Continuous rooflines in excess of 40 feet in length shall be avoided;
- Smaller roof sections and components shall be used that imitate the natural terrain;
- Major rooflines of structures shall parallel the hillside topography.

715.3. Mitigation Measures - When 75% screening cannot be achieved or more than ¼ acre is disturbed. The following mitigation measures must be submitted to the Municipal Planning Commission for their review and approval if the required screening cannot be achieved for the proposed or existing development. For the purposes of Sections 715.3 and 715.4, the provisions of 715.2 through 715.2.12 shall apply and the requirements therein shall be mandatory, not discretionary. Where the word 'should' appears in said sections, the word 'shall', shall be substituted.

- 715.3.1** The applicant must provide certified information from a Tennessee Licensed Civil Engineer, Landscape Architect, or Architect, demonstrating the need to exceed limits;
- 715.3.2** Professional Design & Siting - Professional siting of all buildings and land improvements are to be utilized to avoid visual impacts to unique aesthetic resources within view sheds;
- 715.3.3** Screening - Screens consisting of natural or artificial materials may be used to conceal objects from view; Screens shall appear natural and harmonious (such as wood or stone); Berms can be used provided they are developed harmoniously with the adjacent topography and do not appear artificial;
- 715.3.4** Profile - The height of screens should be minimized to reduce visual effects.
- 715.3.5** Relocation - Relocation of a facility to mitigate visual impact is recommended.
- 715.3.6** Camouflaging - Screening objects should be camouflaged or disguised with the use of colors and patterns;
- 715.3.7** Downsizing - Reducing the number of objects and density of objects is recommended.
- 715.3.8** Non-Specular Materials - the use of material that are non-reflective or do not shine is recommended;
- 715.3.9** Lighting - Efforts to minimize or prohibit glare and sky glow is recommended; Lighting design and engineering practices should not exceed the necessary functional requirements of the project;
- 715.3.10** Maintenance - Project maintenance i.e. landscaping and buildings, should be emphasized as a mitigation strategy.
- 715.3.11** Decommissioning - Objects or structures that are no longer in use and have a negative visual impact should be removed from the site.
- 715.3.12** Building Height.

- A maximum building height of 30 feet above ground level shall be used if 75 percent screening cannot be achieved.
- Shrubs and saplings less than 1 inch DBH shall not be permitted for screening if 75 percent screening does not exist at the site.
- The "mean" height as the method for calculating building height and shall be determined by measuring from the lowest natural grade to the uppermost roofline.
- No structure shall be permitted to extend above the ridgeline elevation.
- Chimneys and satellite systems shall be exempted from height requirements.
- Existing ridgeline vegetation and tree canopies are to be unbroken and used as a backdrop for new development.

715.4 Vegetative Screening Procedures.

- 715.4.1.** Must provide vegetation when existing vegetation does not provide for 75% screening;
- 715.4.2.** Native species matching the kinds and density of vegetation that is indigenous to the area is to be planted;
- 715.4.3.** Plantings shall be provided to achieve 75% screening within a 2-year period;
- 715.4.4.** Planted vegetation shall be of a 4" dbh and no less than 10 feet in height at the time of planting;
- 715.4.5.** Plantings shall be in harmony with surrounding area conditions and should avoid suburban style hedgegrow."

Section 6. Article VIII of Ordinance No. 830, being the Area, Yard and Height requirements, is hereby repealed in its entirety and a new Article VIII is adopted in lieu thereof, as shown on the attached chart identified as Exhibit "A" and incorporated herein by reference.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

MAYOR

ATTEST:

CITY RECORDER

Approved by Gatlinburg
Planning Commission _____

Passed first reading _____

Passed second reading and
public hearing _____

APPROVED AS TO FORM:

RONALD E. SHARP, CITY ATTORNEY

DRAFT