

Example Codes

City of Brentwood, Tennessee

Brentwood Hillside Protection Overlay District

Summary

The City of Brentwood in July 2007 adopted a “Hillside Protection (HP) Overlay District” to address the problems related to development on steep slopes. The HP overlay district applies to all properties within the corporate limits of the city with an elevation of 850 feet and greater, exempting areas with an elevation less than 930 feet and with grades of less than 15 percent. The City notes that these properties are clearly the most scenic, visible hillside locations in Brentwood.

Intent

“To encourage prudent land disturbance and development activities that maintain the natural, topographic character of the land...technical and development standards within the primary zoning district alone are inadequate to preserve and protect the natural environment and scenic beauty of the city's steep hillside areas....standards set forth in this division serve to protect the health, safety, aesthetics, quality of life and general welfare of the community....directed at minimizing the impact of building construction and land disturbance activities in steep hillside areas including, but not limited to, unsafe geologic disturbance; soil erosion and surface water runoff from excessive removal of trees and other vegetative cover; and severe cutting, physical scarring and visual modification of the natural terrain.”

Technical/design standards

Technical standards shall apply to the approval of any new platted lot; the construction or erection of any residential dwelling or any other climate controlled structure suitable for human occupancy; and/or any land disturbance activity affecting more than 10,000 square feet. The technical design standards, speak to following constraints; minimum lot areas of 3 acres, maximum allowable areas of disturbance, location of buildings, street standards, cut and fill standards, retaining wall material and color, driveways grade, material and color, land disturbance and revegetation, geotechnical studies, visual impact of the structure, tree protection/landscaping around the structure and fire protection.

Exemptions

Nonconforming lots and structures. Any lot established on a preliminary plan or final plat and any existing structure that was lawfully constructed prior to July 31, 2007 may be developed, improved or continued in use, to the extent that the existing structure is not enlarged by more than a 50 percent or expanded 2,000 square feet of finishable floor space. Exceptions to the standards may be approved by the planning commission. *Areas with conventional grades.* Elevation less than 930 feet and with grades of less than 15 percent shall be exempted from the requirements of this division. When construction activities are proposed for any area with an elevation of at least 850 feet but less than 930 feet, the planning department may require a field run, topographical survey to verify compliance.

Planning commission approval

Activities requiring approval. Planning commission approval shall be required prior to, issuance of a permit for construction of any structure suitable for human occupancy, any alteration of the exterior elevation of any structure approved under this section, issuance of a grading permit.

Information required. The applicant shall provide a development plan to the planning department staff for review and recommendations prior to consideration by the planning commission. *Time limitation.* A development plan approved by the planning commission shall be valid for a period not to exceed 24 months. *Certificate of occupancy.* An inspection and CO are required.

City of Brentwood, Tennessee
Brentwood Hillside Protection Overlay District

DIVISION 14. HP HILLSIDE PROTECTION

Sec. 78-341. Hillside protection overlay district established.

The HP hillside protection overlay district is hereby established to more adequately meet the challenges of development in the higher elevation areas of the city. The district shall include all areas within the corporate limits of the city with an elevation of 850 feet and greater. The district shall be depicted on the official zoning map of the city; provided, however, that the provisions set forth in this division shall apply to all areas with elevations and grades identified in this division, regardless of whether such areas are depicted on the zoning map. As an "overlay" district, any development or land disturbance within this area shall comply with the technical and development standards in this division in addition to the requirements associated with the primary zoning district. In cases where the technical and development standards and requirements may conflict between the primary district and the overlay district, the more stringent standards and requirements shall apply.

(Ord. No. 2007-18, § 1, 7-23-2007)

Sec. 78-342. Intent.

It is the intent of the HP hillside protection overlay district to encourage prudent land disturbance and development activities that maintain the natural, topographic character of the land. It is understood that the technical and development standards within the primary zoning district alone are inadequate to preserve and protect the natural environment and scenic beauty of the city's steep hillside areas. The additional standards set forth in this division serve to protect the health, safety, aesthetics, quality of life and general welfare of the community. These standards are directed at minimizing the impact of building construction and land disturbance activities in steep hillside areas including, but not limited to, unsafe geologic disturbance; soil erosion and surface water runoff from excessive removal of trees and other vegetative cover; and severe cutting, physical scarring and visual modification of the natural terrain.

(Ord. No. 2007-18, § 1, 7-23-2007)

Sec. 78-343. Technical/design standards.

For all property located within the HP hillside protection overlay district, except for areas with an elevation less than 930 feet and with grades of less than 15 percent, the following additional technical standards shall apply to the approval of any new platted lot; the construction or erection of any residential dwelling or any other climate controlled structure suitable for human occupancy; and/or any land disturbance activity affecting more than 10,000 square feet:

- (1) *Minimum lot area.* Three acres.
- (2) *Maximum allowable area of disturbance.* Within the total acreage of the tract or lot, one acre for the first three acres and one-fifth acre for each additional one acre in the tract or lot.
- (3) *Location of buildings.* No dwelling or other building shall be permitted in areas with steep grades (as defined in section 78-3 of this Code.) The building envelope shall be located in areas with natural grades classified as conventional or transitional grades. In addition, the building envelope shall be at least 50 feet away from any areas classified as steep grades and visible from properties and roadways in lower elevations.
- (4) *Streets.* Public streets or private streets built to city standards shall not exceed the maximum permitted grades specified in the city's subdivision regulations. In addition, retaining walls in excess of ten feet in height as measured from final grade and cut and fill sections exceeding 20 feet in the natural topography shall be prohibited. Retaining walls shall be constructed of structurally sound and durable materials in colors that blend into the natural terrain.

(5) *Driveways.* Individual driveways and shared driveways with joint user and maintenance easements shall not exceed the maximum permitted grades specified in the city's subdivision regulations. In addition, any retaining wall required for construction of a driveway shall be no more than six feet as measured from final grade and constructed of structurally sound and durable materials in colors that blend into the natural terrain. Multiple retaining walls that are terraced with adequate separation to allow for the planting of suitable landscaping material for screening the walls shall be permitted. The maximum allowable cut and fill sections for any driveway shall be 12 feet. All driveway surfaces shall be constructed of materials and colors that blend into the natural terrain to the greatest extent feasible and practical.

(6) *Land disturbance within steep grade areas.* With the exception of permitted driveways that comply with the technical/design standards of this division and are configured to minimize land disturbance to the greatest extent feasible, no additional disturbance or removal of natural vegetation shall be permitted within the steep grade areas of the tract or lot. In addition, the construction of a driveway, utilities or other improvements shall not disturb more than 20 percent of the area between a structure and the public street or authorized private street providing access to the structure. Upon completion of a permitted driveway, suitable fill and soil material shall be installed on the disturbed slopes and the area shall be replanted or landscaped with suitable plant material based on a plan prepared by a Tennessee licensed landscape architect and approved by the planning commission.

(7) *Geotechnical studies.* When soil disturbance activities take place in areas with steep slopes or in other areas with potentially unstable soil conditions, the applicant shall provide geotechnical studies prepared by a qualified professional engineer licensed by the State of Tennessee to evaluate site characteristics and recommend design and construction methods that ensure proper and structurally sound soil conditions during and after land disturbance activities. The city's engineering department may require additional or special studies where warranted.

(8) *Visual impact of structure.* To the greatest extent feasible and practical, structures in the HP overlay district shall be designed and constructed to blend into the natural terrain. Lower profile homes shall be encouraged, with rooflines that do not extend above the natural tree line and built of materials and colors that blend into the natural tree line. In locations with limited vegetation and open visibility to properties and roadways at lower elevations, additional trees and shrubs may be required to screen the structure.

(9) *Tree protection/landscaping around structure.* Existing natural vegetation around a proposed structure in the HP overlay district, particularly if located in areas of potential high visibility from properties and roadways at lower elevations, shall be preserved to the greatest extent feasible and practical. A tree survey shall be prepared to identify all existing trees with calipers of four inches or greater within the proposed areas for disturbance, and extending 50 feet beyond the disturbed areas. The tree survey shall identify all trees proposed for removal. Additional evergreen trees and shrubs may be required to effectively screen the structure. The proposed landscape plan shall identify planting elements by type, caliper, height (at planting and at maturity) and location for planting. Limited removal and trimming of vegetation and trees to partially open up the view of the lower areas from the structure may be permitted, provided 75 percent of the structure is not visible during the winter season from properties and public streets at lower elevations. All tree protection, new plantings and tree removal shall be subject to a detailed plan prepared by a Tennessee licensed landscape architect and approved by the planning commission.

(10) *Fire protection.* All structures designed for human use and occupancy, including residential dwelling units and garages, shall be protected through an automatic sprinkler system installed in accordance with National Fire Protection Association (NFPA) standards and requirements and approved by the fire chief or his designee.

(Ord. No. 2007-18, § 1, 7-23-2007)

Sec. 78-344. Exemptions.

(a) *Nonconforming lots and structures.* Within the HP hillside protection overlay district, any lot established on an unexpired, approved preliminary plan or executed final plat and/or any existing structure that was lawfully constructed prior to July 31, 2007 may be developed, improved or continued in use; provided, however, when such property is developed or when an existing structure is enlarged by more than a 50 percent expansion in total square footage or 2,000 square feet of finishable floor space, whichever is less, the site shall be brought into conformance with the technical/design standards of this division to the greatest extent feasible. Exceptions to the standards may be approved by the planning commission when it determines that the proposed plan will more adequately achieve the intent of this division and/or full compliance will pose an undue burden on the property owner.

(b) *Areas with conventional grades.* Areas with an elevation less than 930 feet and with grades of less than 15 percent shall be exempted from the requirements of this division. When construction or development activities are proposed for any area with an elevation of at least 850 feet but less than 930 feet, the planning department may require a field run, topographical survey to verify compliance within the maximum grade standard permitted for the exemption.

(Ord. No. 2007-18, § 1, 7-23-2007; Ord. No. 2007-29, § 1, 11-26-2007)

Sec. 78-345. Planning commission approval.

(a) *Activities requiring approval.* Within the HP overlay district, except for exempted areas with conventional grades, planning commission approval shall be required prior to:

- (1) Issuance of a permit for construction of any dwelling or structure suitable for human occupancy, or alteration of a lawful nonconforming structure which will expand the total square footage by more than 50 percent or 2,000 square feet of finishable floor space, whichever is less.
- (2) Any alteration of the exterior elevation of any structure approved under this section.
- (3) Issuance of a grading permit for a non-public land disturbance.

(b) *Information required.* For all activities requiring approval by the planning commission under this subsection, the property owner and/or applicant shall provide a development plan to the planning department staff for review and recommendations prior to consideration by the planning commission. The plan shall be prepared by a qualified professional engineer or landscape architect licensed to practice in the State of Tennessee, and shall include sufficient technical information as may be needed to determine compliance with the requirements in this division. At minimum, the application shall include the following information:

- (1) Name, address, phone number and electronic mailing address of the owner, developer and applicant;
- (2) Small scale location map of the proposed site;
- (3) Primary zoning district classification of the site and acreage involved;
- (4) All structures and street/driveway access to adjacent properties within 1,000 feet;
- (5) Topographic contours at two-foot intervals, including highlighted identification of all areas with an elevation of 850 feet and greater and designation of areas on the property between conventional, transitional and steep grades;
- (6) Geotechnical study that evaluates site characteristics and provides recommendations for design and construction, if required;
- (7) Detailed site plans showing the locations of driveways and access points to the street; grades of the driveways, including cut and fill sections; retaining walls, with lengths and dimensions identified; location and size of utilities, storm drainage improvements and associated easements; landscaping; and overall site grading plan with erosion and sediment control measures;
- (8) The location of required tree protection areas and legal restrictions and provisions satisfactory to the city attorney to ensure permanent preservation of trees within such areas;

(9) Structure footprints on the site, applicable building setbacks, and color elevation drawings showing height of buildings and exterior treatment; along with a visual simulation of the proposed structure placed on photographs of the existing hillside area to show how the structure will appear from various locations, properties and roadways at the lower elevation areas;

(10) A written statement from the property owner, if other than the applicant, stating the applicant is acting on his behalf in the submission of the development plan; and

(11) Any additional information that the planning commission may require for the purpose of promoting the intent of this division.

(c) *Time limitation.* A development plan approved by the planning commission for property within the HP overlay district shall be valid for a period not to exceed 24 months. If substantial construction on the structure, including but not limited to, foundations, walls, and roofs, has not begun and proceeded in continual progress within 24 months, the approval shall expire and the applicant shall be required to resubmit plans to the planning commission for approval based on the latest technical/design standards in the zoning ordinance.

(d) *Certificate of occupancy.* Prior to completion of a structure within the HP overlay district and issuance of a certificate of occupancy, an inspection shall be conducted by responsible city departments to determine if the improvements have been completed according to the approved plan. If at any time during construction it is determined that the work being performed is not in compliance with the requirements of this division and the approved development plan, a stop work order shall be issued immediately. The order shall remain in effect until the work is brought into compliance with this Code.

(Ord. No. 2007-18, § 1, 7-23-2007)

Development of the Ordinance (proposed ordinance)

http://www.brentwood-tn.org/Departments/plannings/proposed_hillside_protection.htm