

The Model Zoning Ordinance for Kenton County Part 1

February 2009



**THE 2020 SOURCEBOOK:
MODEL ZONING PROVISIONS FOR KENTON COUNTY**

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ARTICLE I

INTRODUCTION / LEGAL FRAMEWORK

SECTION 1.0 INTRODUCTION: An ordinance dividing the (City/County) of (insert name of city/county), Commonwealth of Kentucky, into zones. Zones of such shapes and areas as are deemed best suited to carry out these regulations: Regulating the location, height, number of stories and size of buildings and others structures; regulating the size of yards and other open spaces and the density and distribution of population and the uses of building, structures and land use and other purposes; prescribing penalties for the violations; providing for enforcement; a board of adjustment and repealing all regulations, resolutions, orders, ordinances and/or codes in conflict with this ordinance.

Be it ordained by the (City/County) of (insert name of city/county) Commonwealth of Kentucky, as follows:

SECTION 1.1 AUTHORITY: The (City/County) of (insert name of city/county) pursuant to the authority of Kentucky Revised Statutes (KRS 100.201-100.991) hereby ordains and enacts into law the following articles and sections.

SECTION 1.2 SHORT TITLE: This ordinance shall be effective throughout the (City/County) of (insert name of city/county), Kentucky and shall be known, referred to, and recited to as the "OFFICIAL ZONING ORDINANCE OF THE (CITY/COUNTY) OF (insert name of city/county)".

SECTION 1.3 GREATER RESTRICTION: The provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Where this ordinance imposes a greater restriction upon the buildings, structures, or premises; upon heights of buildings or structures; or requires larger open spaces than are imposed or required by any other ordinances, rules, codes, permits or regulations, or by easements, covenants, deed restrictions, or agreements, the provisions of this ordinance shall govern.

SECTION 1.4 PERMIT OR LICENSE IN VIOLATION: If any permit or license is issued in violation of any provision of this ordinance, or purports to authorize the doing of any act not permitted by any provision of the ordinance, said permit or license shall be void.

SECTION 1.5 SEVERABILITY CLAUSE: That should any article, section, subsection, sentence, clause, or phrase of this ordinance, for any reason, be held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions hereof. It being the intent of the (City/County) of (insert name of city/county) to enact each section and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force and effect regardless of the determined invalidity of any other section or provision.

SECTION 1.6 SCHEDULE OF FEES: Fees shall be as provided by the legislative body.

ARTICLE II

USE GROUPS AND DEFINITIONS

SECTION 2.0 WORDS AND PHRASES: For the purposes of this ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows:

Words used in the future tense include the present;
Words used in the present tense include the future;
Words used in the singular include the plural;
Words used in the plural include the singular;
Words used in the masculine include the feminine;
Words used in the feminine include the masculine;
The word "shall" is mandatory;
The word "may" shall be deemed as permissive.

SECTION 2.1 MEANINGS: Words and terms defined in this article have the specific meaning assigned, unless the context expressly indicates another meaning. Words and terms that are not defined in this article have the meaning given in the latest edition of Merriam Webster's Collegiate Dictionary.

SECTION 2.2 USE GROUPS AND CATEGORIES:

- A. Use Groups: This zoning ordinance classifies land uses into 5 major groupings, which are referred to as "use groups". The use groups are:
1. Residential
 2. Public and Civic
 3. Commercial
 4. Industrial; and
 5. Other
- B. Use Categories: Each use group is further divided into "Use Categories," which divide the use groups into classes of land uses, based on similarity of functional characteristics, such as "Office," "Retail" or "Vehicle Sales and Service."
- C. Specific Use Types: Some use categories include specific use types. A use that fits within the definition of a specific use type is subject to the regulations for that specific use type, not the regulations that apply to the general use category.
- D. Determination of Appropriate Use Category: When a specific use type cannot be readily classified into a defined-use category or specific-use type definition or appears to fit into 2 or more use categories or types, the Zoning Administrator is authorized to determine the most appropriate similar use category or type, or to determine that the most appropriate similar use category or type, or to determine that the specific use type does not fit within any of the defined use categories or types. If a similar use determination cannot be made, the use will be deemed to be prohibited.

SECTION 2.3 RESIDENTIAL USE GROUP: The residential use group includes uses that provide living accommodations to one or more persons. The residential use group includes 2 use categories: Group Living and Household Living.

A. Group Living

Residential occupancy of a dwelling by other than a “Household,” typically providing communal kitchen/dining facilities.

1. Addiction Treatment Facility

Any building, structure, or space whose principal or primary function is the reception, housing, and/or care of chemically dependent adults and/or their minor children, and by which distribution of synthetic narcotics or any other method attempts to control, suppress, and/or eliminate a person’s mental or physical dependence on any illegal or harmful substance. Any permitted or accessory uses allowed in any zone will not be interpreted to include addiction treatment facilities unless such use is specifically stated to include addiction treatment facilities. No general use descriptions set out elsewhere may be deemed or construed to include such use.

2. Residential Care Facility

Definitions per KRS 100.982 to 100.984. (1) “Person with a disability” means a person with a physical, emotional, or mental disability but not limited to mental retardation, cerebral palsy, epilepsy, autism, deafness or hard of hearing, sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanors on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime. “Person with a disability” does not include persons with current, illegal use of or addiction to alcohol or any controlled substance as regulated under KRS Chapter 218A; (2) “Residential care facility” means a residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disabilities; (3) “Services” means, but is not limited to, supervision, shelter, protection, rehabilitation, personal development and attendant care.

3. Youth Shelter

A building, facility, or residence used for the reception and temporary care of persons under the age of 18 years who, by some circumstances, are without safe and proper shelter. “Temporary care” means a maximum of 30 days’ residence. Such use may include a dwelling unit for a resident manager.

B. Household Living Category

Residential occupancy of a dwelling unit by a household with tenancy arranged on a monthly or longer basis.

1. Manufactured Home (For Flood Plain Regulations, See General Terminology)

A single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities, and which includes the plumbing, heating, air conditioning, and electrical systems contained therein and installed in accordance with KRS 227.570 by a Kentucky certified installer.

2. Mobile Home

A structure manufactured prior to June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction in Safety Standards Act, that is transportable in one or more sections that is 8 feet or more in width and 40 feet or more in length in the traveling mode, or when erected on site, 400 or more square feet in floor area, and is built on a permanent chassis and designed to be used as a dwelling on a temporary or permanent foundation, when connected with the permanent required utilities, including plumbing, heating, air conditioning, and electrical systems.

3. Mobile Home Park

Any lot, parcel, or premises, subdivided, designed, maintained, intended, or used to accommodate 10 or more mobile homes, and meets the requirements as specified in this zoning ordinance. For the purpose of this zoning ordinance, any lot or premises used for the wholesale or retail sale of the mobile homes will not be included in this definition. Double width mobile structures that are fabricated on individual chassis with wheels and are designed to be joined will be considered a mobile home for purposes of this zoning ordinance.

4. Modular Home

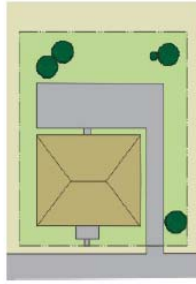
An industrialized building system which is designed to be used as a residence which is not a manufactured or mobile home.

5. Mixed-Use Building

A building containing both residential dwelling units and nonresidential uses.

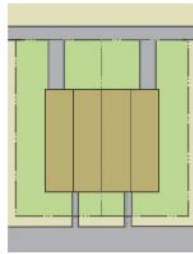
6. Multi-Family Residential Dwelling

A building that contains 3 or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure may or may not be divided into separate lots. Multi-unit buildings include structures commonly referred to as “apartments” and “condominiums.”



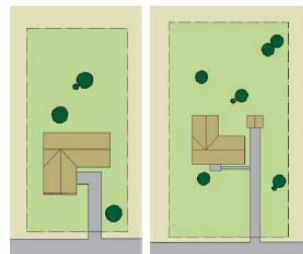
7. Single-Family Residential Dwelling (Attached)

A single dwelling unit located on its own lot that shares one or more common or adjacent walls with one or more dwelling units. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a “townhouse” or a “rowhouse.”



8. Single-Family Residential Dwelling (Detached)

A detached house is a building containing a single dwelling unit (other than a mobile home or manufactured housing unit) that is located on its own lot and that is not attached to any other dwelling unit. Detached houses are surrounded on all sides by open yards and setback areas.



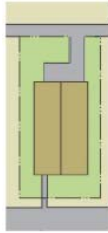
9. Single-Family Residential Dwelling (Lot-Line)

A building containing a single dwelling unit (other than a mobile home or manufactured housing unit) that is located on its own lot and that is not attached to any other dwelling unit. Lot line houses are shifted to one side of lot on which they are located, in accordance with the standards of Sec. 2.03.02.



10. Two-Family Residential Dwelling

A single building that contains 2 dwelling units located on a single lot. The units may share common walls or common floor/ceilings.



11. Qualified Manufactured Housing Unit

A manufactured housing unit that meets all of the following criteria:

- a. was manufactured on or after July 15, 2002;
- b. is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
- c. has a width of at least 20 feet or is at least 2 stories in height and oriented on the lot or parcel so that its main entrance door faces the street;
- d. has at least 900 square feet of total living area;
- e. is not located in a manufactured housing land-lease community;
- f. complies with the compatibility standards of Section 6.21.

SECTION 2.4 PUBLIC AND CIVIC USE GROUP: The public and civic use group includes uses that provide public or quasi-public services. The public and civic use group includes the following use categories:

A. Colleges and Universities

Colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the state or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, conservatories, and seminaries.

B. Convention Center / Training Facility

A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.

C. Cultural Exhibits and Libraries

Museum-like preservation and exhibition of objects in one or more of the arts and sciences, gallery exhibition of works of art, or library collection of books, manuscripts, etc., for study and reading.

D. Day Care or Day Care Center

Licensed uses providing care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day. There are types of Day Care uses:

1. Babysitting Service

A day-care facility within a residential dwelling unit that provides care to up to 3 children, in addition to any children related to the day-care provider.

2. Day Care, Type 1

A facility that is licensed by the state to care for 13 or more children or adults.

3. Day Care, Type 2

A facility that is licensed by the state to care for 7 to 12 children or adults.

4. Family Day-Care Home

A day-care facility within a residential dwelling unit that is certified by the state to provide care for 4 to 6 children or adults, in addition to any children related to the day care provider.

E. Hospital

Uses providing medical or surgical care to patients and offering inpatient (overnight) care.

F. Lodge or Private Club

An association of persons for some common objective usually jointly supported and meeting periodically.

G. Recreation and Open Space

Recreational, social, or multi-purpose uses typically associated with parks, open spaces, play fields, golf courses, country clubs, or community recreation areas.

1. High-Intensity

Areas used or designed for participant-oriented, group sports, and recreation activities, including spectator areas associated with such facilities. Typical uses include:

- a. golf courses and country clubs;
 - b. athletic fields, play grounds, and children's play apparatus areas, court games with outdoor lighting;
 - c. public and community recreation buildings, including enclosed and semi-enclosed buildings providing public assembly and activity areas, such as gymnasiums, meeting rooms, game rooms, arts and crafts, dancing and dining.
 - d. band shells and outdoor theaters; and
 - e. facilities incidental to the operation of public recreational uses, such as refreshment stands and small concessionaire shops dispensing sporting goods.
2. Low-Intensity
Areas used or designed for individual sports and recreation uses of a passive or low-intensity nature. Typical uses include:
- a. athletic fields, play grounds, and children's play apparatus areas, court games without outdoor lighting;
 - b. hiking, bicycle, and equestrian trails; greens and commons;
 - c. sitting areas;
 - d. picnic areas;
 - e. botanical gardens;
 - f. arboretums;
 - g. conservatories; and
 - h. natural wildlife or plant habitat areas.
- H. Postal Service
Consumer-oriented service facilities (e.g., mail pick-up and drop-off) operated by the U.S. Postal Service.
- I. Religious Assembly
Religious services involving public assembly such as customarily occurs in synagogues, temples, mosques, and churches.
- J. Safety Services
Public safety services that provide fire, police, or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations, and public and private ambulance services.
- K. Schools
Public and private schools at the primary, elementary, junior-high, or high-school level that provide state-mandated basic education.
- L. Social Service Agency
A facility operated by an organization which provides assistance to persons with limited ability for self-care, but for whom medical care is not a major element. Services may

include training, counseling, health services or the distribution of food or clothing. This term does not include a rescue mission or homeless shelter.

M. Utilities

1. Essential Services

The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety, or general welfare.

2. Major

Services and utilities that have the potential for substantial land impacts on surrounding areas. Typical uses include but are not limited to water and waste water treatment facilities, major water storage facilities, and transit stations.

SECTION 2.5 COMMERCIAL USE GROUP

A. Animal Services

1. Kennels and Shelters

Animal shelters and kennel services for dogs, cats, and small animals. Typical uses include boarding kennels, dog training centers, and animal rescue shelters.

2. Sales and Grooming

Sales and grooming of dogs, cats, and similar small animals. Typical uses include pet stores, dog bathing and clipping salons, and pet grooming shops.

3. Veterinary Hospitals

Pet clinics, dog and cat hospitals, and animal hospitals.

B. Body-Art Services

Provision of any of the following procedures: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Commonwealth of Kentucky, which may not be performed in a body-art services establishment.

C. Building Maintenance Services

Provision of maintenance and custodial services to commercial and industrial establishments. Typical uses include janitorial, landscape maintenance, and window-cleaning services. Also includes exterminator services for residential, commercial, or industrial applications.

D. Business Equipment Sales and Service

Sale, rental, or repair of office, professional, and service equipment and supplies to the firms themselves rather than to individuals. Excludes automotive, construction, and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops, and hotel and restaurant equipment and supply firms.

E. Business Support Services

Provision of clerical, employment, protective, or minor processing services to firms rather than individuals. Storage of goods other than samples is prohibited. Typical uses include employment agencies, secretarial services, telephone answering services, limousine services and blueprint services. Also includes business or trade schools that do not involve any outdoor storage or manufacturing processes. Business or trades schools that do involve outdoor storage or manufacturing processes are classified as “Manufacturing and Production, General”

F. Communication Service Establishments

Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Excludes services classified as “Major Utilities and Services” and “Minor Utilities.” Typical uses include recording studios, television and radio studios, and telecommunication service centers.

G. Construction Sales and Services

Construction activities and incidental storage on lots other than construction sites. Also includes the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures, and hardware, but excludes those uses classified as “Vehicle Sales and Service” use types. Typical uses include building materials stores, tool and equipment rental or sales, and building contracting/construction offices.

H. Eating/Drinking Establishment

Sale of prepared food and beverages for on- and off-premises consumption. Typical uses include microbreweries, restaurants and taverns.

1. Microbrewery

Establishments engaged in on-site brewing of beer and sales of beer by the glass for on-premise consumption.

2. Restaurant

Establishments primarily engaged in the retail sale of prepared food for consumption on or off the premises. Establishments that serve beer, ale, wine, or liquor in addition to prepared food will be classified as “restaurants” only if the kitchen is equipped with a range hood and exhaust with a fire suppression system meeting the minimum requirements of the Kentucky Building Code; otherwise, such establishments will be classified as “taverns.” Restaurants shall include the following:

- a. Carry-out - A restaurant primarily designed for consumption of food off the premises. Incidental indoor seating for consumption of food on the premises may be provided.
 - b. Drive-in - A restaurant where consumption of food is encouraged in a vehicle on the premises, where food is provided by "car-hop" or self-service, with or without incidental sit-down and carry-out facilities.
 - c. Sit-Down - A restaurant which provides indoor seating arrangements designed primarily for consumption of food on the premises, with or without incidental carry-out service.
 - d. Combination - A restaurant which provides any combination of sit-down, carry-out, drive-in, or drive-thru services.
 - e. Dining Room/Cafeteria and/or Supper Club - A restaurant which provides indoor sit-down seating arrangements as the principal use of the establishment.
3. Tavern
Establishments primarily engaged in the retail sale of alcoholic drinks such as beer, ale, wine, and liquor for consumption on the premises. Such establishments may or may not sell or serve food.
- I. Entertainment
Provision of cultural, entertainment, athletic, and other events to spectators. The following are spectator sports and entertainment use types:
 1. Small
Entertainment and spectator sports establishments conducted within an enclosed building with a capacity of no more than 149 persons. Typical uses include theaters and meeting or banquet halls.
 2. Medium
Entertainment and spectator sports establishments conducted within an enclosed building with a capacity of more than 149 and fewer than 1,000 persons. Typical uses include theaters and meeting or banquet halls.
 3. Large
Entertainment and spectator sports establishments with a capacity of 1,000 persons or more. Typical uses include theaters, arenas, stadiums, and meeting or banquet halls.
 4. Bingo Hall
A facility used exclusively or primarily for conducting bingo and other similar games that are open to the public.
- J. Financial Services
Financial or securities brokerage services. Typical uses include banks, savings and loans, credit unions, and the following specific-use types:

1. **Currency Exchange (Check Cashing Facility)**
A person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check cashing facility" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check cashing facility" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issue money orders for minimum flat fee not exceeding 2 dollars as a service that is incidental to its main purpose or business. The term "currency exchange" expressly includes businesses known as "check cashing" facilities.
2. **Pawn Shop**
An establishment or person (pawnbroker) engaged in the business of receiving property in pledge or as security for money or other things advanced to the pawnor or pledger.
3. **Payday Loan**
An establishment that engages in the business of offering payday loans. A "payday loan" is a loan transaction where a post-dated check or other check that the parties agree will be held for a period of time before presentment for payment or deposit is accepted as collateral for the loan.
4. **Tax Preparation Service**
An establishment that provides income tax preparation assistance as the exclusive or primary function of business.
- K. **Food and Beverage Sales, Retail**
Retail sale of food and beverages for home preparation and consumption. Typical uses include groceries, liquor stores, and wine stores.
- L. **Fortune Telling Service**
An establishment engaged in or that professes to foretell future or past events or that is engaged in the practice of palmistry (the art or practice of reading a person's character or future from the lines on the palms of hands).
- M. **Funeral and Internment Services**
Provision of services involving the care, preparation, or disposition of human dead. The following are funeral and interment services use types:
 1. **Cemetery/Mausoleum/Columbarium**
Land or facilities used for burial of the dead.
 2. **Cremating**
Crematory services involving the purification and reduction of the human body by fire. Typical uses include crematories and crematoriums.

3. Undertaking
Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries.
- N. Gasoline Stations
Retail sales to the public of fuels, oils, and accessories for motor vehicles, where repair service and automobile washing is incidental, where no storage or parking space is offered for rent, and where no motor vehicles or boats are offered for sale or rent.
- O. Greenhouse/Nursery
An enterprise that conducts the retail and/or wholesale of plants grown on the premises, as well as accessory items (but not power equipment, such as gas or electric lawn mowers and farm implements) directly related to their care and maintenance.
- P. Lodging
Provision of lodging services on a temporary basis with incidental food, drink, and other sales and services intended for the convenience of guests. The following are lodging use types:
1. Bed and Breakfast
A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.
2. Boarding House
A residential building, other than a hotel, motel, or tourist cabin where lodging and meals for persons are served for compensation, and by prearrangement for definite periods.
3. Hotel/Motel
An establishment, other than a detached house, in which shortterm lodging is offered for compensation and which may or may not include the service of one or more meals to guests. Typical uses include hotels, motels, and transient boarding houses.
- Q. Medical Service
Personal health services, including prevention, diagnosis, and treatment, rehabilitation services provided by physicians, dentists, nurses, and other health personnel and medical testing and analysis services. Typical uses include medical and dental offices, medical/dental laboratories, health maintenance organizations, and health centers. Excludes use types more specifically classified, such as hospitals.
- R. Office
Professional, governmental, executive, management, research or administrative offices of private organizations or government agencies. Typical uses include government offices, administrative offices, legal offices, technology businesses, research facilities and architectural firms.

- S. **Personal Improvement Service**
Informational, instructional, personal improvement, and similar services of a nonprofessional nature. Typical uses include barber shops, beauty shops, health clubs, yoga or dance studios, driving schools, and martial arts studios. A massage establishment operated by a licensed massage therapist is also included within the “personal improvement service” use category.
- T. **Residential Storage Warehouse**
Storage or warehousing service within a building for individuals to store personal effects and for businesses to store materials for operation of an industrial or commercial enterprise elsewhere. Incidental uses in a mini-warehouse may include the repair and maintenance of stored materials by the tenant; but in no case may storage spaces in a mini-warehouse facility function as an independent retail, wholesale, business, or service use. Spaces may not be used for workshops, hobby shops, manufacturing, or similar uses. Human occupancy is limited to that required to transport, arrange, and maintain stored materials.
- U. **Retail Sales and Service**
Businesses involved in the sale, lease, or rent of new or used products or merchandise to the general public. Typical uses include drug stores, grocery stores, department stores, and apparel stores.
1. **Antique Shop**
Any premises used for the sale or trading of articles of which 80 percent or more are more than 50 years old or have collectible value. “Antique shop” does not include “secondhand store.”
2. **Flea Market**
An occasional or periodic market usually held in an open area, but which may be held indoors, where individual stalls or spaces are provided on a short-term basis for vendors to display, buy, sell, exchange, or deal in new or used goods. Typically, no long-term leases are held between the sellers and flea market operators.
3. **Furniture Rental, Consumer**
Rental of household furniture to consumers. Typical uses include rent-to-own stores. Office furniture rental to businesses is classified as a “business support service.”
4. **Secondhand Store**
Retail sales of previously used merchandise, such as clothing, household furnishings or appliances, and sports/recreational equipment. The term secondhand store expressly includes businesses otherwise known as “thrift shops” and “consignment stores.” “Secondhand store” does not include “antique shop.”
- V. **Vehicle Sales and Service**
Sales of motor vehicles or services related to motor vehicles.

1. **Auto Supply/Accessory Sales**
Businesses involved in the sale, lease, or rental of new or used automobile supplies or accessories to the general public. Typical uses include auto parts stores.
2. **Car Wash**
A building or site containing facilities for washing automobiles. It may use automatic production line methods—a chain conveyor, blower, steam-cleaning device, or other mechanical device—or it may provide space, water, and equipment for hand washing, cleaning, or detailing of automobiles, whether by the customer or the operator.
3. **New Vehicle/Equipment Sales, Light**
Sales of new autos, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. gross cargo weight, motorhomes, and boats, together with incidental maintenance. Typical uses include automobile and boat dealers, car rental agencies, and recreational vehicle sales and rental agencies. Car rental agencies are included in this category as are vehicle dealerships that include the sale of used vehicles as an accessory use to the sale of new vehicles. Facilities that exclusively deal in the sales of previously owned or used vehicles are classified in the “used vehicle/light equipment sales, light” category.
4. **Used Vehicle/Equipment Sales, Light**
Sales of previously owned or used autos, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. gross cargo weight, motorhomes, and boats, together with incidental maintenance.
5. **Vehicle/Equipment Sales, Heavy**
Sale, retail or wholesale, and/or rental from the premises of heavy construction equipment, trucks, and aircraft, together with incidental maintenance. Typical uses include heavy construction equipment dealers, farm equipment and tractor trailer sales.
6. **Vehicle Repair**
An establishment primarily engaged in maintenance, repair, servicing, or painting of motor vehicles.
 - a. **Minor Vehicle Servicing**
A vehicle repair establishment that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle. Customers generally wait in the car or at the establishment while the service is performed. Examples include quick lube services.
 - b. **Minor Vehicle Repair**
A vehicle repair establishment that provides replacement of any passenger vehicle part or repair of any passenger vehicle part that does not involve

body work or painting or require removal of the engine head or pan, engine transmission or differential. Examples include tire, muffler and transmission shops.

c. Major Vehicle Repair

Any vehicle repair activity other than “minor vehicle servicing” or “minor vehicle repair.” Examples include repair or servicing of commercial vehicles or heavy equipment or body work, painting, or major repairs to passenger vehicles.

SECTION 2.6 INDUSTRIAL USE GROUP

A. Junk/Salvage Yard

An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A “junk or salvage yard” includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings. A “junk yard” does not include “recycling facilities.”

B. Manufacturing, Production, and Industrial Service

1. General

- a. Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; and fabricated metal product manufacturing.
- b. Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as “Consumer Repair Services.”

2. Intensive

Manufacturing of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic, and synthetic resins and radioactive materials. This group also includes smelting, animal slaughtering, and oil refining.

3. Limited

Manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include printing and related support activities; machinery manufacturing; food manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties.

C. Mining/Excavation

Mining or extraction of mineral or aggregate resources from the ground for off-site use. Examples include quarrying or dredging for sand, gravel, or other aggregate materials; mining; and oil and gas drilling.

D. Recycling Facilities

Any building or portion of building or area in which recyclable material is collected, stored, or processed for the purpose of marketing the material for use as raw material in the manufacturing process of new, reused, or reconstituted products.

1. Recycling Facility, Class I

A recycling facility where recyclable materials are temporarily stored or collected or processed by manual separation. (Note: consumer-oriented collection boxes for newspapers, cans, and glass items are considered an accessory use and may be allowed in any zone.)

2. Recycling Facility, Class II

A recycling facility that in addition to any activity permitted in a Class I Recycling Facility, engages in processing of recyclable materials such as cleaning, bundling, compacting, or packing of recyclable materials.

3. Recycling Facility, Class III

A recycling facility that, in addition to any activity permitted in a Class II Recycling Facility, performs composting.

E. Warehouse and Freight Movement

Storage and distribution of materials and equipment. Typical uses include storage warehouses and moving and storage firms

F. Waste-Related Service

Includes all of the following:

1. Reprocessable Construction/Demolition Material Facility

A site used for purposes of receiving, storing, reprocessing, and transport of Reprocessable construction/demolition material. Such facility may not include any operation used for hot mixed asphalt processing.

2. Resource Recovery Facilities

A facility that uses non-hazardous solid waste as fuel in a process specifically designed for the purpose of waste disposal or volume reduction and that produces thermal energy or electricity as a by-product.

3. Sanitary Landfills

A facility that uses planned methods of disposing of solid waste by utilizing principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of compacted earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

4. Transfer Stations

A facility for the transfer and packing of solid waste from smaller collecting vehicles to larger transport vehicles.

SECTION 2.7 OTHER USE GROUP

A. Marine-Related Use

Uses, facilities, and activities that can only be conducted in or abutting water. Examples include temporary passenger watercraft loading, boat-docking facilities and barge-docking and -loading facilities.

B. Parking, Non-accessory

Facilities that provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Non-accessory Parking use.

C. Agriculture

Pursuant to KRS 100.111 "agriculture" means:

1. The use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public.
2. Regardless of the size of the tract of land used, this use also includes small wineries licensed under KRS 243.155 and farm wineries licensed under the provisions of KRS 243.156.
3. A tract of at least five contiguous acres used for the following activities involving horses:
 - a. riding lessons;

- b. rides;
 - c. training;
 - d. projects for educational purposes;
 - e. boarding and related care; or
 - f. shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving 70 or fewer participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than 70 participants is subject to local zoning regulations.
4. Any tract of land used for the following activities involving horses, provided that this paragraph only applies to acreage that was being used for these activities before July 13, 2004:
- a. riding lessons;
 - b. rides;
 - c. training;
 - d. projects for educational purposes;
 - e. boarding and related care; or
 - f. shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving 70 or fewer participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than 70 participants is subject to applicable zoning regulations.

SECTION 2.8 GENERAL TERMINOLOGY

ABANDONMENT: To stop the use of property intentionally. When the use of a property has ceased and the property has been vacant for more than 12 months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use.

ACCESS POINT: The point at which the centerline of an alley, driveway, street or other vehicular connection intersects another street system.

ACCESSORY STRUCTURE OR USE, CUSTOMARY: A customary accessory structure or use is one which:

- 1. is subordinate to and serves the principal structure or principal use;
- 2. is subordinate in area, extent, or purpose to the principal structure or principal use served;
- 3. contributes to the comfort, convenience, or necessity of occupants of the principal structure or principal use served; and

4. is located on the same lot as the principal structure or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot with the structure or use served.

ACRE, GROSS: The acreage within the perimeter of a lot or building site, plus one-half the right-of-way of all adjoining streets and alleys.

ACRE, NET: The total area of a lot or building site, exclusive of streets, expressed in acres.

ACTIVE ADULT COMMUNITY: A community or living facility designed specifically for the interests of persons age fifty-five (55) years of age and older, which typically contains recreational amenities and support services for older adults who are healthy, active, and capable of completely independent living.

ADDICTION TREATMENT FACILITY: See Section 2.3., A., 1.

ADDITION: any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load - bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load - bearing walls is new construction.

AGRICULTURE: See Section 2.7., D.

AIR RIGHTS: The ownership or control of that area of space at and above a horizontal plane over the ground surface of land. This horizontal plane shall be at a height above the existing or proposed development (depending on the individual property in question) which is reasonably necessary or legally required for the full and free use of the ground surface.

ALLEY: Public rights-of-way which normally afford a secondary means of access to abutting property.

ANIMAL SERVICES, KENNELS AND SHELTERS: See Section 2.5., A., 1.

ANIMAL SERVICES, SALES AND GROOMING: See Section 2.5., A., 2

ANIMAL SERVICES, VETERINARY HOSPITALS: See Section 2.5., A., 3.

ANTIQUE SHOP: See Section 2.5., U., 1

AREA OF SHALLOW FLOODING: A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from 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.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

ART: Work, objects, or thought that displays form, beauty or unusual perception, including painting, drawing, sculpture, pottery, jewelry, literature, music, drama or dance.

AUTO SUPPLY/ACCESSORY SALES: See Section 2.5., W., 1.

AUTOMOBILE, MANUFACTURED HOME, TRUCK, AND TRAILER SALES AREAS: Any area used for the display, sale, or rental of new or used automobiles, manufactured homes, trucks, or trailers, and where only minor incidental repair of such automobiles or trailers may take place.

BABYSITTING SERVICE: See Section 2.4., D., 1.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeding in any given year.

BASEMENT: That portion of a building having its floor subgrade (below ground level) on all sides.

BATHHOUSE: A freestanding structure which is primarily designed, intended, and used as a dressing room in conjunction with the use of a private swimming pool.

BED AND BREAKFAST: See Section 2.5., P., 1.

BEST MANAGEMENT PRACTICES: Conservation practices or management measures which control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxins, sediment and runoff.

BILLBOARD: a sign, having an area greater than twenty-five (25) square feet, and which meets any one or more of the following criteria:

1. a permanent structure sign which is used for the display of offsite commercial messages;
2. a permanent structure sign which constitutes a principal, separate or secondary use, as opposed to an accessory use, of the parcel on which it is located; or
3. an outdoor sign used as advertising for hire, i.e., on which display space is made available to parties, other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel as the sign), in exchange for a rent, fee or other consideration.

BLOCK: An area of land bounded by a street, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, exterior boundaries of a subdivision, shorelines of waterways, or corporate boundaries.

BLOCK FACE: All lots fronting on one side of a street between the nearest two intersecting streets.

BOARDING HOUSE: See Section 2.5., P., 2.

BOARD OF ADJUSTMENT: Board of Adjustment of the legislative body, pursuant to KRS Chapter 100.

BODY ART SERVICES: See Section 2.5., B.

BREAKAWAY WALL: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUFFER AREA: A landscaped area of land intended to separate two (2) or more uses or structures which are incompatible with each other, due to design, function, use, or operation.

BUILDING: Any structure built for support, shelter, or enclosure for any occupancy or storage.

BUILDING, ALTERATION OF: Any change or rearrangement in the supporting members (such as bearing walls, beams, columns, or girders) of a building, any addition to a building, any movement of a building from one location to another, or any change of occupancy of a building.

BUILDING AREA: That portion of a lot or building site that can be legally occupied by the ground floor of the principal structure or use and all permitted accessory structures or uses.

BUILDING, COMPLETELY ENCLOSED: A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

BUILDING, DETACHED: A building surrounded by open space on the same lot as a principal structure.

BUILDING, ELEVATED: A non - basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts or piers), shear walls, or breakaway walls.

BUILDING, HEIGHT OF: The vertical distance measured from average elevation of the finished grade adjoining the building at the front building line to the highest point of the roof surface of a flat roof; to the deck line of a mansard roof; or to the average height level between eaves and ridge for gable, hip, and gambrel roofs.

BUILDING INSPECTOR: The official or officials appointed by the legislative body to administer and enforce the applicable building codes.

BUILDING MAINTENANCE SERVICES: See Section 2.5., C.

BUILDING PERMIT: An official document issued by the authority having jurisdiction, which authorizes performance of a specified activity.

BUILDING, MINIMUM SETBACK LINE: A line parallel to the front, side, and/or rear lot line and set back from the lot line a distance to provide the required minimum yard space, as specified in this ordinance.

BUILDING SITE: One contiguous piece of land that meets all of the provisions of the legislative body's ordinances, regulations, and codes for construction of a building on said site.

BUSINESS: A commercial or industrial establishment selling commodities and/or providing a service. For the purpose of this ordinance, businesses located within the same building and tenant space shall be considered one (1) business.

BUSINESS EQUIPMENT SALES AND SERVICE: See Section 2.5., D.

BUSINESS SUPPORT SERVICES: See Section 2.5., E.

BY-RIGHT: A use permitted or allowed in the district involved, with no public hearing required, and complies with the provisions of the zoning regulations and other applicable ordinances and regulations.

CALIPER: Diameter of a tree at breast height as determined by a wooden or metal device consisting of an arm and two prongs, one of which is free to slide along a graduated scale on the arm. The prongs are placed against opposite sides of a tree to read its diameter on the scale.

CAMPING/VACATION MOBILE UNIT: Any coach, cabin, house trailer, house car or other vehicle or structure intended for, designed for, and used for temporary human habitation or sleeping purposes, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle.

CANOPY (MARQUEE): A roof-like structure, projecting from a building facade, open on three (3) sides, serving the purpose of protecting pedestrians from rain, snow, sun, or hail.

CARPORT: See GARAGE, PRIVATE.

CAR WASH: See Section 2.5., W., 2.

CERTIFICATE OF OCCUPANCY: A certificate which shall be obtained prior to occupancy of any premises.

CHANGEABLE COPY SIGN, AUTOMATIC: “Automatic changeable copy sign” means a type of sign on which the copy changes automatically through the use of electronic or electro-mechanical technology. All changeable copy shall be included within the allotted face of sign square footage.

CHANGEABLE COPY SIGN, MANUAL: “Manual changeable copy sign” means any sign on which copy for all or a portion of the sign can be changed by a human being removing or

rearranging letters, symbols or numerals. All changeable copy shall be included within the allotted face of sign square footage.

CITIZEN MEMBER: Any member of the Planning Commission or Board of Adjustments who is not an elected or appointed official or employee of the legislative body.

CLUB: A building, or portion thereof, used by an association of persons for some common objective, usually jointly supported and meeting periodically.

COLLEGES AND UNIVERSITIES: See Section 2.4., A.

CONSERVATION SUBDIVISION: A development in which attached and/or detached single-family residential dwellings are clustered together in order to preserve open space, natural resources, or other natural characteristics of the site. Conservation subdivisions are subject to the regulations contained within Section 11.3 of this ordinance.

COMMERCIAL MESSAGE: Words, symbols, logos, pictures or any combination thereof that identify which directs attention to a business, commodity, service or entertainment sold or offered for sale or a fee.

COMMISSION (PLANNING COMMISSION OR PLANNING AND ZONING COMMISSION): The Kenton County Planning Commission, Kenton County, Commonwealth of Kentucky.

COMMUNICATION SERVICE ESTABLISHMENTS: See Section 2.5., F.

COMMUNITY SPACE: A gathering space with outdoor amenities or landscaped areas around transit stops.

COMPATIBILITY STANDARDS: Standards that have been enacted by a local government under the authority of this section for the purpose of protecting and preserving the monetary value of real property located within the local government's jurisdiction.

COMPLEX (COMMERCIAL): Multiple sites that do not meet the definition of "Center, integrated) but that meet all of the following criteria: the sites are cumulatively contiguous; the sites form a defined geographic area, typically extending to public streets, highways, waterways or other natural or human-built geographic boundaries; the owners or agents for the owners of the sites have common interests in promoting business and other activity in the defined geographic area.

COMPREHENSIVE PLAN: A guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. It shall contain, as a minimum, the following elements:

1. A statement of goals and objectives, principles, policies, and standards;
2. A land use plan element;
3. A transportation plan element;

4. A community facilities plan element;
5. May include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation, and others.

CONCEALED LIGHTING: An artificial light source intended to illuminate the face of a sign, shielded from public view and surrounding properties.

CONVENTION CENTER/TRAINING FACILITY: See Section 2.4., B.

CULTURAL EXHIBITS AND LIBRARIES: See Section 2.4., C.

CURB CUT: Any interruption, or break in the line of a street curb intended to provide vehicular access to a street. In the case of streets without curbs, curb cuts shall represent construction of any vehicular access which connects to said street.

CURRENCY EXCHANGE (Check Cashing Facility): See Section 2.5., J. 1.

DAY CARE OR DAY CARE CENTER: See Section 2.5., D.

DAY CARE, TYPE 1: See Section 2.4., D., 2.

DAY CARE, TYPE 2: See Section 2.4., D., 3.

DECIBEL: A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".

DENSITY: The number of dwelling units per net acre of land.

DEVELOPMENT: 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 permanent storage of equipment or materials.

DEVELOPMENT PLAN: Written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant.

DISTRICT: For purposes of this ordinance, synonymous with "ZONE".

DOMESTIC ANIMALS: Animals that are customarily kept for personal use or enjoyment within a residence. Domestic animals shall include, but not be limited to, dogs, cats, birds, fish, and similar animals.

DORMITORY: A building, or portion thereof, providing residence for individuals or groups as an associated use to a college, university, boarding school, orphanage, convent, or other similar use.

DRIVE-IN FACILITY: A facility which, by its design (e.g., window, counter, microphone/speaker, etc.), allows people to receive goods and/or services while remaining in or on their vehicle, for consumption/use on the premises.

DRIVE-THRU FACILITY: A facility which, by its design (e.g., window, counter, microphone/speaker, etc.) allows people to receive goods and/or services while remaining in their automobile, for consumption/use elsewhere than on the premises.

DRIVEWAY: A privately owned vehicular way which affords access to no more than four lots or individually owned dwelling units.

DWELLING: A building, or portion thereof, which is intended for, designed for, and used for residential purposes, but for the purposes of this ordinance, shall not include a hotel, motel, nursing home, tourist cabins, dormitories, or military barracks.

DWELLING, ATTACHED, SINGLE-FAMILY: See Section 2.3., B., 6.

DWELLING, DETACHED, SINGLE-FAMILY: See Section 2.3., B., 7.

DWELLING, LOT-LINE, SINGLE FAMILY: See Section 2.3., B. 8.

DWELLING, MULTI-FAMILY: See Section 2.3., B., 5.

DWELLING, TRAILER: See MANUFACTURED HOME.

DWELLING, TWO-FAMILY: See Section 2.3., B., 9.

DWELLING UNIT: A building, or portion thereof, providing complete independent living facilities, such as permanent provisions for living, eating, sleeping, cooking, and sanitation exclusively for one (1) person or one (1) family.

DWELLING UNIT, ACCESSORY: An accessory dwelling unit is a residential dwelling unit, but not a mobile home, established in conjunction with and clearly subordinate to a principal dwelling unit. An accessory dwelling is a detached dwelling unit on the same lot as a principal dwelling unit, and shall have a separate entrance and contain full independent living facilities, including provisions for cooking, eating, sanitation, and sleeping.

EASEMENT: An interest in real property, distinct from the fee ownership of the land, granting the legal right to cross property with facilities such as, but not limited to, sewer lines, water lines, and transmission lines, or the right, distinct from the fee ownership of the land, to reserve and hold an area for drainage or access purposes.

EATING/DRINKING ESTABLISHMENT: See Section 2.5., H.

ELDERLY: Persons age 62 and older, as defined in federal regulations.

ENTERTAINMENT: See Section 2.5., I.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service ~~or~~ for the public health, safety, or general welfare.

EXISTING CONSTRUCTION: Is any structure for which the 'start of construction' commenced before the effective date of the first flood protection development control ordinance.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: 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 before the effective date of the Flood Protection Development Controls adopted by the legislative body.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by 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).

FACADE: Any exterior wall of a building which is exposed to public view or any wall which is viewed by persons not within the building.

FAMILY: Shall consist of one individual, or any number of individuals related by genetics, adoption, marriage, or personal affinity, or any number of unrelated individuals occupying a dwelling unit as a single housekeeping unit. The term shall include individuals residing in a residential care facility as defined in KRS 100.984, state licensed adult family homes, homes for the disabled, and foster homes. The term shall not include group homes licensed for juvenile offenders, or other facilities, whether or not licensed by the state, where individuals are incarcerated or otherwise required to reside pursuant to court order under the supervision of paid staff and personnel.

FAMILY DAY CARE HOME: See Section 2.4., H., 3.

FARMER'S MARKET: The seasonal selling, or offering for sale, home-grown fresh vegetables, fruit, or produce, annuals, perennials, bedding plants, or honey, at an open air market, where the vendors are generally individuals who have grown the vegetables, fruits or produce.

FENCE: A structure made of wire, wood, metal, masonry, or other material, erected to enclose or screen areas of land.

FILLING STATION: See SERVICE STATION.

FINANCIAL SERVICES: See Section 2.5., J.

FLEA MARKET: See Section 2.5., U., 2.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

FLOOD - 100 YEAR FREQUENCY: The highest level of flooding that, on the average, is likely to occur once every 100 years.

FLOOD HAZARD BOUNDARY MAP (FHBM): An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been identified as Zone A.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD PRONE AREA: Any normally dry land area that is susceptible to being inundated by water from any source.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of floodways on the official zoning map.

FLOOR: The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FLOOR AREA, GROSS: The sum of the gross horizontal area of the several floors of a dwelling unit or units exclusive of porches, balconies, and garages, measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating dwelling units. For uses other than residential, the gross floor area shall be measured from the exterior faces of the exterior walls or from the centerlines of walls or partitions separating such uses and shall

include all floors, lofts, balconies, mezzanines, cellars, basements, and similar areas devoted to such uses. The gross floor area shall not include floors used for parking space when such parking pertains to a residential, commercial, or office used in the same structure.

FLOOR AREA RATIO: Determined by dividing the gross floor area of all buildings on a lot by the gross area of that lot.

FOOD AND BEVERAGE SALES, RETAIL: See Section 2.5., K.

FORTUNE TELLING SERVICE: See Section 2.5., L.

FRATERNITY OR SORORITY: A club or social activity officially associated with and recognized and/or supervised by an institution for higher education whose membership is limited exclusively to students of the said institution.

FRATERNITY/SORORITY HOUSE: A building, or portion thereof, used by a fraternity or sorority to provide living quarters for some or all members, as well as to provide study, meeting, recreational and other facilities.

FRONTAGE: All the property abutting one (1) side of the right-of-way of a street, measured along the right-of-way line of the street between the intersecting lot lines. In no case shall the line along an alley be considered as acceptable frontage. For purposes of this definition, frontage for a building wall shall be measured for the wall that is most nearly parallel to that street. In no case shall the same building wall be considered to have more than one frontage.

FUNCTIONALLY DEPENDENT FACILITY: A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long - term storage, manufacture, sales, or service facilities.

FUNERAL AND INTERNMENT SERVICES: See Section 2.5., M.

FURNITURE RENTAL, CONSUMER: See Section 2.5., U., 3.

GARAGE, ATTACHED: A portion of a building, used as a private garage, that is attached by one or more common walls, to the principal use of the lot. Such structure shall be completely enclosed and have a complete roof.

GARAGE, PRIVATE: A building used for the storage of motor vehicles and clearly accessory to the principal permitted use. Said accessory private garage may contain additional rooms for family recreational purposes, or storage, without facilities for the preparation of food (i.e., kitchen). This definition shall not include a public garage.

GASOLINE PUMP: A single gasoline dispensing unit designed and intended to serve no more than two motor vehicles simultaneously.

GASOLINE STATIONS: See Section 2.5., N.

GREENHOUSE/NURSERY: See Section 2.5., O.

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

HISTORIC STRUCTURE: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the 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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

HOLIDAY DECORATIONS: Decorative elements of a temporary nature intended for the acknowledgement of a holiday or holiday season, exclusive of decorations, which contain business, product sales, or service advertising content. Holiday decorations shall not be considered “signs.”

HOME OCCUPATION: An accessory use customarily conducted entirely within a dwelling, as permitted herein and further meeting all requirements of this ordinance.

HOMELIKE: For purposes of this ordinance, and in application of KRS 100.982 to KRS 100.984, this term shall consist of a living arrangement shared by members of a family.

HOSPITAL: See Section 2.4., E.

HOSPITAL (ANIMAL): See VETERINARY HOSPITALS.

HOTEL/MOTEL: See Section 2.5., P., 3.

HOUSING, SENIOR: A building, or portion thereof, containing dwelling units which are restricted to persons fifty-five (55) years or older. This use does not include developments which contain convalescent or nursing facilities.

IMPERVIOUS SURFACE: Any material that substantially reduces or prevents the infiltration of stormwater. Impervious surface includes compacted surfaces, streets, roofs, sidewalks, parking areas, and other similar structures.

IMPERVIOUS SURFACE RATIO: The amount of impervious surface, identified in square feet, divided by the lot area, identified in square feet, expressed as a percent.

INDEPENDENT LIVING FACILITIES: Housing that groups seniors for the purpose of social interaction and mutual support in a common interest community. Group facilities may be provided on premises for recreation and social interaction, but only limited support services are typically provided.

JUNK/SALVAGE YARD: See Section 2.6., A.

KENNELS AND SHELTERS: See Section 2.5., A., 1.

LABORATORY, MEDICAL OR DENTAL: A building, or a portion thereof, used for providing bacteriological, biological, medical, x-ray, pathological, and similar analytical or diagnostic services to doctors or dentists.

LARGE RETAIL ESTABLISHMENT: An establishment whose principal building's square footage is equal to or greater than 60,000 as a single retail establishment.

LAUNDROMAT: A building, or portion thereof, used by a business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

LEASABLE AREA, GROSS: The total floor area of a building designed and intended for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

LEGIBLE: A sign or message is "Legible" when it can be understood by a person with an eighth-grade education (or more). Where this Article requires a determination of "visibility" or "legibility," the standard shall be based on the eyesight of an adult eligible to receive a Kentucky driver's license (wearing any corrective lenses required by such license). Where the height of the person is material to the determination, the person shall be presumed to be more than five feet and less than six feet tall.

LEGISLATIVE BODY: The (City/County) of (insert city/county name).

LIVESTOCK: Animals of types customarily raised or kept on farms for profit or other productive purposes.

LOADING AND/OR UNLOADING SPACE: A space used for the temporary standing, loading and/or unloading of vehicles.

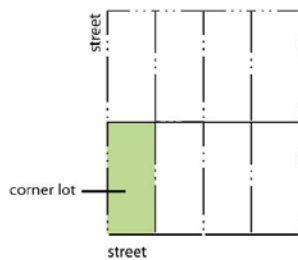
LODGE OR PRIVATE CLUB: See Section 2.4., F.

LODGING: See Section 2.5., P.

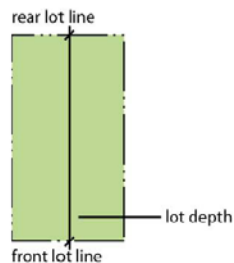
LOT: A parcel of land or any combination of several lots of record, occupied or intended to be occupied by a principal building or group of buildings, as permitted herein, together with their accessory buildings or uses and such access, yards, and open spaces required under this ordinance.

LOT AREA: The total area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by rights-of-way.

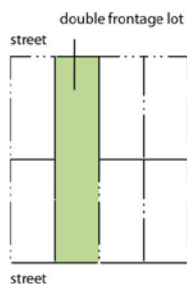
LOT, CORNER: A lot situated at the intersection of two (2) streets or on a curved street in which the interior angle of such intersection or curved streets does not exceed one hundred thirty-five (135) degrees.



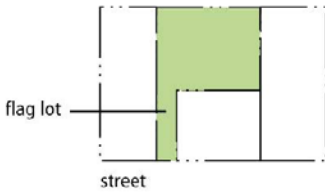
LOT, DEPTH OF: The distance measured in the mean direction of the side lot lines from the midpoint of the front lot lines to the midpoint of the rear lot line.



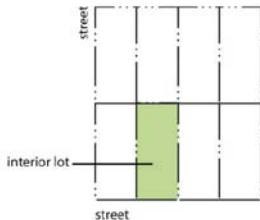
LOT, DOUBLE FRONTAGE: A lot, other than a corner lot, that has frontage on more than one (1) street.



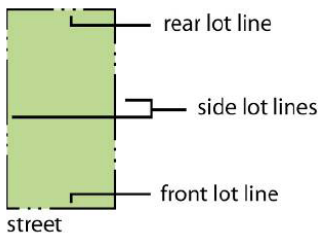
LOT, FLAG: Any lot which does not contain the minimum lot width at the front yard setback line.



LOT, INTERIOR: A lot, other than a corner lot, with only one (1) frontage on a deeded public right-of-way.



LOT LINE, FRONT: The common boundary line of a lot and a street right-of-way line. In the case of a corner lot or a double frontage lot, the common boundary line and that street right-of-way line toward which the principal or usual entrance to the principal building faces. In the case of a flag lot, the interior line most parallel to and nearest the street right-of-way line.

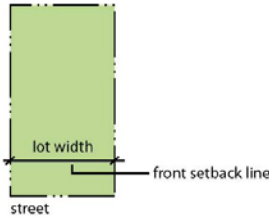


LOT LINE, REAR: The boundary line of a lot which is most nearly opposite the front lot line of such lot. In the case of a triangular or wedge shaped lot, for measurement purposes only, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE: Any boundary line of a lot, other than a front lot line or rear lot line.

LOT OF RECORD: A designated fractional part or subdivision of a block, according to a specific recorded plat or survey, the map of which has been officially accepted and recorded in the office of the appropriate county clerk, Commonwealth of Kentucky.

LOT WIDTH: The horizontal distance of a lot, as measured between the side lot lines along the building front setback line.



LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable 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 an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section of the ordinance.

MANUFACTURED HOME: See Section 2.3., B., 1.

MANUFACTURED HOME (FLOOD PLAIN REGULATIONS): 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: A parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURING, PRODUCTION AND INDUSTRIAL SERVICE: See Section 2.6., B.

MARINE-RELATED SERVICE: See Section 2.7., A.

MEAN SEA LEVEL: 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 purpose of this section of the ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

MEDICAL SERVICE: See Section 2.5., Q.

MICROBREWERY: See Section 2.5., H., 1.

MINING/EXCAVATION: See Section 2.6., C.

MIXED USE BUILDING: See Section 2.3., B., 4.

MOBILE HOME: See Section 2.3., B. 2.

MOBILE HOME PARK: See Section 2.3., B., 3.

MODULAR HOUSING: Housing which is manufactured off-site, often mass-produced, and designed so that sections are interchangeable. For purposes of this ordinance, this definition shall not include manufactured homes.

MOTOR VEHICLE: See VEHICLE.

N/A: Where used in the sign regulations, the particular requirement is “not applicable.”

NATIONAL GEODETIC VERTICAL DATUM (NGVD) AS CORRECTED IN 1929: A vertical control used as a reference for establishing varying elevations within the floodplain.

NEIGHBORHOOD: A geographical area containing residences or a combination of residences and businesses, which geographical area meets all of the following criteria:

1. The area shall consist of at least 20 acres that are geographically contiguous;
2. The area shall have direct access from local streets to one or more collector and/or arterial streets;
3. The area shall not be part of another designated neighborhood for which permits for which permanent entrance signs have been issued; and
4. The area shall either have been developed as one planned complex, subdivision or center, or it shall have established its identity as a neighborhood through activities of a community association, neighborhood festivals or other continuing activities separate from the desire for an entrance sign.

NEIGHBORHOOD CONCEPT PLAN: Written and graphic materials providing guidelines for development or redevelopment of a defined area that would provide for the further detailing and implementation of the Adopted Comprehensive Plan. Such plan may include approximate delineation of such features as public ways (vehicular and pedestrian traffic flow), parking facilities, utilities, density of development, and generalized land use.

NEW CONSTRUCTION: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the Flood Protection Development Controls adopted by the legislative body and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: 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 the Flood Protection Development Controls adopted by the legislative body.

NEW VEHICLE/EQUIPMENT SALES, LIGHT: See Section 2.5., W., 3.

NIT: A measure of luminance. One nit is equal to one candela per square meter (1cd/m²). Ten thousand nits are equal to one stilb. A candela, on which the definition is based, is a unit of measurement of the intensity of light. Part of the SI system of measurement, one candela (cd) is

the monochromatic radiation of 540THz with a radiant intensity of 1/683 watt per steradian in the same direction. Another way of putting it is that an ordinary wax candle generates approximately one candela.

NKAPC: Northern Kentucky Area Planning Commission, organized pursuant to KRS Chapter 147.

NONCONFORMING LOT: A lot which was lawfully created, but which does not conform to the minimum area or dimensional requirements specified for the zone in which it is located.

NONCONFORMING USE OR STRUCTURE: An activity or a structure, or a portion thereof, which lawfully existed before the adoption or amendment of this ordinance, but which does not conform to all of the regulations contained in this ordinance, or amendments thereto, which pertain to the zone in which it is located.

NOXIOUS MATTER OR MATERIALS: Matter or material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals as determined by the appropriate health department.

NURSERY: Any building or lot, or portion thereof, used for the cultivation or growing of plants, trees, shrubs, or flowers.

NURSERY SCHOOL: See DAY CARE OR DAY CARE CENTER.

OCTAVE BAND: A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

OCTAVE BAND FILTER: An electrical frequency analyzer designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.

ODOROUS MATTER: Any matter or material that yields an odor which is offensive in any way to a person with reasonable sensitivity.

OFFICE: See Section 2.5., R.

OFFICE PARK: A development on a tract of land that contains more than one building, or other improvement dedicated to permitted, accessory or conditional uses and open space, designed, planned and constructed in a manner that permits, encourages, or necessitates interaction of the various users of the development for support.

OUTDOOR AMENITIES: Private or public improvements that encourage outdoor activities and public interaction. Outdoor amenities may include outdoor dining areas, water features, public gardens, plazas, civic greens, parklets and landscaped areas around transit stops.

PARAPET: A low protective wall along the edge of a raised structure such as a roof or balcony.

PARKING AREA, OFF-STREET: An open, surfaced area, other than the right-of-way of a street or alley, used for temporary parking of motor vehicles.

PARKING BUILDING OR GARAGE: A building, or portion thereof, designed, intended, and used exclusively for the temporary parking of motor vehicles which may be publicly or privately owned and/or operated.

PARKING, NON-ACCESSORY: See Section 2.7., B.

PARTICULATE MATTER: Any material, except uncombined water, which exists in a finely divided, suspended form as a liquid or solid at standard conditions.

PAWN SHOP: See Section 2.5., J. 2.

PAYDAY LOAN: See Section 2.5., J. 3.

PERFORMANCE STANDARDS: Criteria established to control building enclosure, landscaping, noise, odorous matter, exterior lighting, vibration, smoke, particulate matter, gasses, radiation, storage, fire, and explosive hazards, and humidity, heat, or glare generated by or inherent in, uses of land or buildings.

PERMANENT FOUNDATION: A system of supports that is: (1) capable of transferring, without failure, into soil or bedrock, the maximum design load imposed by or upon the structure; (2) constructed of concrete; and (3) placed at a depth below grade adequate to prevent frost damage.

PERSONAL IMPROVEMENT SERVICE: See Section 2.5., S.

PLANNED UNIT DEVELOPMENT (PUD): A unified land development which permits a mixture of land uses, clustering of residential units of varying types, and common recreation/open spaces, through flexible regulations which encourage creative design to preserve the natural features and foliage of the site. PUDs are subject to the regulations contained within Section 9.1 of this ordinance.

POSTAL SERVICE: See Section 2.4., H.

QUALIFIED MANUFACTURED HOME: See Section 2.3., B., 10.

RAILROAD RIGHT-OF-WAY: A strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

RECREATION AND OPEN SPACE: See Section 2.4., G.

RECREATIONAL VEHICLE: 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; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

RECYCLING FACILITIES: See Section 2.6., D.

RELIGIOUS ASSEMBLY: See Section 2.4., I.

REPROCESSABLE CONSTRUCTION/DEMOLITION MATERIAL FACILITY: See Section 2.6., F., 1.

RESEARCH AND DEVELOPMENT FACILITY: A use engaged in research and development, testing, assembly, repair, and manufacturing in the following industries: biotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation, and computer hardware and software.

RESIDENTIAL CARE FACILITY: See Section 2.3., A., 2.

RESIDENTIAL STORAGE WAREHOUSE: See Section 2.5., T.

RESOURCE RECOVERY FACILITY: See Section 2.6., F., 2.

RETAIL SALES AND SERVICE: See Section 2.5., I., 2

RETAIL ESTABLISHMENT, LARGE: These establishments are defined as those whose principal building's square footage is equal to or greater than 60,000 as a single retail establishment.

RETIREMENT COMMUNITY: A residential neighborhood designed specifically for active adults age fifty-five (55) years and older and elderly persons living independently designed specifically for their needs and equipped with the appropriate amenities and located within reasonable proximity to public transportation services. Retirement communities are subject to the regulations contained within Section 11.2 of this ordinance.

RIPARIAN BUFFER: A vegetated area that includes trees, shrubs and herbaceous vegetation and exists or is established to protect a stream system.

ROOFTOP PARAPET: A low protective wall along the edge of a raised structure such as a roof or balcony. [Insert graphic]

SAFETY SERVICES: See Section 2.4., J.

SALES AND GROOMING (ANIMAL): See Section 2.5., A., 2.

SANITARY LANDFILLS: See Section 2.6., F., 3.

SCHOOLS: See Section 2.4., K.

SECONDHAND STORE: See Section 2.5., U., 4.

SENIOR: Persons age fifty-five (55) and older.

SENIOR HOUSING: A variety of housing types designed specifically to meet the varied needs of persons age fifty-five (55) and older. Such housing may include, active adult facilities and independent living facilities.

SEPARATE (LIGHTING OR ILLUMINATION): A prohibition on separate illumination for a sign does not prohibit indirect, incidental illumination that spills over from a light serving another lawful purpose.

SERVICE FACILITIES, PUBLIC UTILITIES: All facilities of public utilities operating under the jurisdiction of the Public Service Commission, or the Department of Motor Transportation, or Federal Power Commission, and common carriers by rail, other than office space, garage and warehouse space and include office space, garage space, garage space and warehouse space when such place is incidental to a service facility.

SERVICE STATION: See GASOLINE STATIONS

SEWER, ON SITE: A septic tank or similar installation on an individual lot that uses an aerobic bacteriological process or equally satisfactory process for the elimination of raw sewage. Subject to the approval of the Northern Kentucky Independent Health District.

SIGN: Any device, fixture, placard or structure, including its component parts, which by display of a visual image draws attention to an object, product, place, activity, opinion, idea, person, institution, organization or place of business, or which identifies or promotes the interests of any person, and which is visible from any public street, road, highway, right-of-way or parking area.

SIGN, ANIMATED: a sign which uses movement or change of lighting to simulate action or motion.

SIGN, AWNING, CANOPY, OR MARQUEE: Any sign which is painted, stamped, perforated, or stitched, or otherwise applied on the valance of an awning.

SIGN, DETACHED: Any sign erected on a freestanding frame, foundation, mast or pole and not attached in any way to any building. Every face of a freestanding sign shall be considered as a separate sign for purposes of computing the sign area.

SIGN, DIRECTORY: Any sign providing way-finding information by identifying occupants of specific buildings or units within a building and, where necessary, providing directions for finding such building or unit

SIGN, PORTABLE: Any sign that is not permanently affixed to a building, other unmovable structure, or the ground.

SIGN, PRINCIPAL: The main freestanding sign on a site. The term is used to distinguish such a sign from other freestanding signs that may be allowed on multi-tenant or large sites.

SIGN, TEMPORARY: A sign which is not permanently affixed. This definition is intended to include all devices such as banners, pennants, flags, searchlights, twirling or sandwich type signs, sidewalk or curb signs and balloons or other air or gas filled figures.

SIGN, WINDOW: A sign affixed to or installed inside a window and clearly legible to persons outside the building. Note that signs that are installed behind windows but that are legible from other private property or from driving lanes of adjacent streets will be subject to limitations on window signs but will also be regulated as wall signs.

SITE: One or more lots or parcels of land that, for purposes of the Zoning Ordinance, are used as a single unit. As an example, but not by way of limitation, a site may include more than one “lot” as shown on a subdivision plat, but, for zoning purposes, the permissible use, setbacks and yard requirements are determined for the larger “site” and not for the individual “lots.”

SOCIAL SERVICE AGENCY: See Section 2.4., L.

SOUND LEVEL METER: An instrument standardized by the American Standards Association for measurement of intensity of sound.

SPOT ZONING: A change in district boundaries, variances, and other amendments to the zoning code and use and area maps that violate sound principles of zoning and are characterized by the following: (a) individuals seek to have property rezoned for their private use; (b) usually the amount of land involved is small and limited to one or two ownerships. (c) The proposed rezoning would give privileges not generally extended to property similarly located in the area. (d) Applications usually show little or no evidence of, or interest in, consideration of the general welfare of the public, the effect on surrounding property (including adequate buffers, whether all uses permitted in the classification sought are appropriate in the locations proposed, or conformity to the comprehensive plan or to comprehensive planning principles (including alterations to the population density patterns and increase of load on utilities, schools, and traffic).

STABLE: A building in which horses are sheltered, may be accessory to a residential or other use or a freestanding principal use.

START OF CONSTRUCTION (FOR OTHER THAN NEW CONSTRUCTION OR SUBSTANTIAL IMPROVEMENTS UNDER THE COASTAL BARRIER RESOURCES ACT (P. L. 97-348): Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond

the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include 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.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. For purposes of this ordinance, a basement shall not be counted as a story.

STORY, HALF: A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story.

STREAM, INTERMITTENT: A body of water flowing in a natural or man-made channel that contains water only part of the year, depicted as a dotted blue line on a USGS topographic map.

STREAM, PERENNIAL: A body of water flowing in a natural or man-made channel year-round except during periods of drought, depicted as a solid blue line on a USGS topographic map.

STREET, PRIVATE: A paved private thoroughfare which affords access to abutting property for users of such property. For the purposes of density calculations, a private street shall constitute the areas of its paved surface and sidewalks or the private right-of-way if designated on the recorded plat.

STREET, PUBLIC: A public thoroughfare, constructed, or intended to be constructed, within the boundaries of an officially deeded and accepted public right-of-way, which affords principal means of access to abutting property. For purposes of density calculations, a public street shall constitute all of the area within the public right-of-way, which includes sidewalks.

STREET, ARTERIAL: Public thoroughfares which serve the major movements of traffic within and through the community, as identified in the adopted comprehensive plan.

STREET, COLLECTOR: Public thoroughfares which serve to collect and distribute traffic, primarily from local to arterial streets, as identified in the adopted comprehensive plan.

STREET, EXPRESSWAY: A divided arterial street with full or partial control of access, and generally with grade separations at major intersections.

STREET, FREEWAY: A divided multi-lane street for through traffic with all crossroads separated in grades and with full control of access.

STREET, FRONTAGE ROAD (SERVICE OR ACCESS ROAD): A street adjacent to a freeway, expressway, or arterial, separated therefrom by a dividing strip and providing access to abutting properties.

STREET, LOCAL: Roadways which are designed to be used primarily for direct access to abutting properties and feeding into the collector street system.

STRUCTURAL ALTERATION (SIGNS): As it applies to signs, any change in supporting members of a building or structure, such as foundation, bearing walls, columns, beams or girders. For a sign, any change in or replacement of supporting members of a sign structure, such as foundation, columns, beams or girders shall be considered a structural alteration.

STRUCTURE: Anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs.

STRUCTURE (FLOOD PLAIN): A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

STRUCTURE, PRINCIPAL: The structure on a lot used to accommodate the primary use to which the premise is devoted.

SUBDIVISION: The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this ordinance.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. This 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 identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: Where the repair, reconstruction, rehabilitation or improvement of streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

SWIMMING POOL, OUTDOOR: Any structure or device of any kind that is intended for swimming purposes, including but not limited to: any pool or tank of any material or type of construction; any depression or excavation in any natural or constructed material; any dike or berm of any material or type of construction; including all appurtenance to such structure or device and all appliances used in connection therewith; which structure or device is intended to cause, or would cause, if completely filled, the retaining of water to a greater depth than eighteen (18) inches at any point. Any such structure or device shall be deemed to be included within the meaning of the term "structure" as used in this ordinance.

Swimming pools shall be deemed to consist of the following classes:

1. Commercial: a swimming pool operated for profit, open to the public upon payment of a fee.
2. Private: when consisting of an accessory structure appurtenant to a one-family or a two-family dwelling and used only as such by persons residing on the same lot and their private guests.
3. Public: a swimming pool operated by a unit of government for the general public.
4. Semi-public: when consisting of an accessory structure appurtenant to a multiple dwelling, hotel, motel, church, school, club, etc., and used only as such by persons who reside or are housed on the same lot or who are regular members of such organizations.

TAVERN: See Section 2.5., H., 3.

TAX PREPARATION SERVICE: See Section 2.5., J., 4.

TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND): Drawn from planning and design movements such as Smart Growth and New Urbanism which are intended to support and promote development at a human scale with livable streets, neighborhoods and communities. Characteristics of TND include the following:

1. Compact urban form with integrated land uses (i.e. employment, shopping, and residential).
2. Building entries that front directly onto the street without parking between entries and the public right-of-way.

3. Architectural and urban design detail of buildings and landscapes with size and design appreciated by persons who are traveling slowly and observing from the street level.
4. Interconnected networks of streets and blocks designed to encourage walking, reduce the number and length of automobile trips, and conserve energy.
5. Thoroughfares and other public spaces that contribute to “placemaking” – the creation of unique locations that are compact, mixed-use and pedestrian and transit oriented and have a strong civic character with lasting economic value.
6. Public gathering places that reinforce community identity.
7. Preservation and renewal of historic buildings, districts, and landscapes affirm the continuity and evolution of urban society.

TRANSFER STATIONS: See Section 2.6., F., 4.

TREE CANOPY: The proportion of area on the ground or water covered by the spread of the outermost perimeter of foliage and commonly expressed as a percentage of the total ground area of the site

TREE PROTECTION THRESHOLD: The percentage of the total area of a development which must remain as tree canopy.

USE: An interest in real estate which is circumscribed in this ordinance.

USE, CONDITIONAL: A use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed within this ordinance.

USE, CONFORMING: Any lawful use of a building, structure, lot, sign, or fence, which complies with the provisions of this ordinance.

USE, PERMITTED: A use which may be lawfully established in a particular zone, provided it conforms with all requirements of such zone.

USE PERMIT, CONDITIONAL: Legal authorization to undertake a conditional use, issued by the zoning administrator, pursuant to authorization by the board of adjustments, consisting of two parts:

1. A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
2. A statement of the specific conditions which must be met in order for the use to be permitted.

USED VEHICLE/EQUIPMENT SALES, LIGHT: See Section 2.5., W., 4.

UTILITIES: See Section 2.4., M.

VARIANCE: A departure from dimensional terms of this ordinance pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

VEHICLE: Any device meeting the definition of “motor vehicle” under KRS 186.010.

VEHICLE/EQUIPMENT SALES, HEAVY: See Section 2.5., W., 5.

VEHICLE, SALES AND SERVICE: See Section 2.5., W.

VEHICLE REPAIR: See Section 2.5., W., 6.

VEHICLE WEIGHT, GROSS: The actual weight of any vehicle and the heaviest load that the vehicles is designed and intended to carry.

VEHICULAR USE AREA: Any area of the lot not located within an enclosed or partially enclosed structure and that is devoted to a use by or for motor vehicles, including parking (accessory or non-accessory); storage of automobiles, trucks, or other vehicles; gasoline stations; car washes; motor vehicle repair shops; loading areas; service areas and drives; and access drives and driveways.

VETERINARY HOSPITALS: See Section 2.5., A., 3.

WALL LINE OF HOUSE: The main structural exterior wall excluding functional or decorative protrusions, such as unenclosed porches, chimneys, steps, bay windows, condensing units, etc.

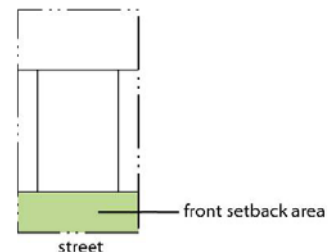
WAREHOUSE AND FREIGHT MOVEMENT: See Section 2.6., E.

WASTE RELATED SERVICE: See Section 2.6., F.

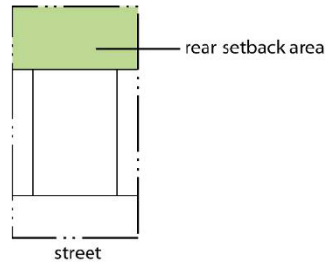
WEEDS: The existence of thistles, burdock, Jimson weed, ragweeds, milkweeds, poison ivy, iron weeds, and all other noxious weeds and rank vegetation of whatsoever kind of nature, on improved or unimproved real estate, occupied lots or vacant lots, to accumulate in piles, bundles, or heaps, or to grow or stand to a height in excess of ten (10) inches.

YARD AREA, MINIMUM:

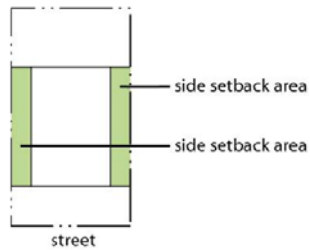
1. **Front:** An area extending the full width of the lot and measured between a line parallel to the street right-of-way line intersecting the foremost point of any building excluding steps and unenclosed porches and the front lot line, as defined herein.



2. **Rear:** An area extending the full width of the lot and measured between a line parallel to the rear lot line, as defined herein, which intersects the rearmost point of any building excluding steps and unenclosed porches and the rear lot line.



3. **Side:** An area between any building and the side lot line, as defined herein, extending from the front to the rear yard or on through lots or building sites from one front lot line to the other front lot line.



YOUTH SHELTER: See Section 2.3., A., 3.

ZONE: An established area within the legislative body for which the provisions of this ordinance are applicable. (Synonymous with the word "DISTRICT".)

ZONING ADMINISTRATOR: The official or officials appointed by the legislative body to administer and enforce the provisions of this ordinance.

ARTICLE III

ESTABLISHMENT OF ZONES

SECTION 3.0 ZONES: For the purpose of this ordinance, the city/county may be divided into the following zones:

A. RESIDENTIAL ZONES

1. SINGLE-FAMILY RESIDENTIAL ZONES

R-RE	(Residential Rural Estate) Zone
R-1A	(Residential One - A) Zone
R-1B	(Residential One - B) Zone
R-1C	(Residential One - C) Zone
R-1D	(Residential One - D) Zone
R-1E	(Residential One - E) Zone
R-1F	(Residential One - F) Zone
R-1G	(Residential One - G) Zone

2. MULTI-FAMILY RESIDENTIAL ZONES

R-2	(Residential Two) Zone
R-3	(Residential Three) Zone
R-4	(Residential Four) Zone

B. SPECIAL DEVELOPMENT ZONES

A-1	(Agricultural One) Zone
MHP	(Manufactured Home Park) Overlay Zone
MLU	(Mixed Land Use) Zone
INST	(Institutional) Zone

C. OFFICE ZONES

PO	(Professional Office Building) Zone
PO-1	(Professional Office Building One) Zone
PO-2	(Professional Office Building Two) Zone
OP	(Office Park) Zone

D. COMMERCIAL ZONES

RC	(Rural Commercial) Zone
NC	(Neighborhood Commercial) Zone
NSC	(Neighborhood Shopping Center) Zone
SC	(Shopping Center) Zone

LHS	(Limited Highway Services) Zone
HC	(Highway Commercial) Zone
RCO	(Riverfront Commercial) Zone
UCO	(Urban Commercial) Overlay Zone

E. INDUSTRIAL ZONES

IP	(Industrial Park) Zone
I-1	(Industrial One) Zone
I-2	(Industrial Two) Zone
I-3	(Industrial Three) Zone

SECTION 3.1 OFFICIAL ZONING MAP: The zones are bounded and defined as shown on the map entitled "OFFICIAL ZONING MAP OF THE (CITY/COUNTY) OF (insert name of city/county), KENTUCKY", and shall so remain on file (in hard copy and/or digital format) in the offices of the Northern Kentucky Area Planning Commission which shall be considered to be the Official Zoning Map. An exact copy shall also be on file in the office as designated by the legislative body.

SECTION 3.2 CHANGES ON ZONING MAP: Where changes are made in zone boundaries, in accordance with the provisions of this ordinance and Kentucky Revised Statutes, such changes shall be made on the Official Zoning Map within thirty (30) days of the date upon which final action approving the amendment is taken by the legislative body. The NKAPC shall be provided a certified copy of the amendment to this ordinance in order that the Official Zoning Map may be changed.

No changes of any nature shall be made on the Official Zoning Map which are not in conformity with the procedures set forth in this ordinance.

SECTION 3.3 REPLACEMENT OF OFFICIAL ZONING MAP:

- A. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or is deemed necessary to be replaced due to the age of the map or corrections/updates in location of base mapping information (i.e., rights-of-way or subdivisions), the planning commission, the NKAPC, or the legislative body may cause to have prepared a reproduction of the Official Zoning Map which shall supersede the prior Official Zoning Map, but no such corrections/updates shall have the effect of amending the original Zoning Map or any subsequent amendment thereto.

SECTION 3.4 RULES FOR INTERPRETATION OF ZONE BOUNDARIES: Rules for interpretation of zone boundaries shown on the Official Zoning Map are as follows:

- A. Boundaries indicated as approximately following the rights-of-way of a street, alley, or other public way, shall be construed to follow such rights-of-way lines and when said rights-of-way are officially vacated, the zones bordering such rights-of-way shall be extended out to the centerline of said vacated rights-of-way.

- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following political boundary lines shall be construed as following such boundary lines.
- D. Boundaries indicated as approximately following the rights-of-ways of railroad lines shall be construed as following such lines.
- E. Boundaries indicated as approximately following the centerlines of streets, streams, rivers, ditches, gullies, ravines, or other bodies of water, shall be construed to follow such centerlines.
- F. Boundaries indicated as approximately following a topographic elevation, determined by the scale of the map, shall be construed as following such ground elevation lines.
- G. Boundaries indicated as approximately parallel to features indicated in Subsections A through F, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map, if an accurate legal description cannot be determined.

ARTICLE IV

GENERAL REGULATIONS

SECTION 4.0 PURPOSE: Except as herein provided, general regulations shall apply to all zones.

SECTION 4.1 REDUCTION IN BUILDING SITE AREA: Except as herein provided, no lot, in any zone, may be reduced in area below the minimum lot area as specified herein for the zone within which said lot is located, except where such reduction has been brought about by the expansion or acquiring of rights-of-way for a street. If, however, by some means (e.g., misinterpretation of law, erroneous lot descriptions, etc.) the lot area is reduced below the minimum required lot area as specified herein for the zone, all of the uses and structures contained on the remaining portion of the area shall be subject to compliance with all other provisions of this ordinance. In the event that the uses and structures cannot comply in such circumstances, the property owner shall seek relief from the Board of Adjustment, as provided for in Article XV of this ordinance.

SECTION 4.2 FRONTAGE ON CORNER LOTS AND DOUBLE FRONTAGE LOTS: On lots having frontage on more than one street, the minimum front yard depth shall be provided on at least one street frontage, with the other frontage having a minimum of one-half the required minimum front yard depth, except that when such lots abut an arterial street, as herein defined, the minimum front yard depth shall be provided for each street frontage.

SECTION 4.3 APPLICATION OF ZONING REGULATIONS

- A. Except as herein provided, no structures or land shall be used for any purpose other than that permitted in the zone in which such structures or land is located or is to be located.
- B. Except as herein provided, every structure hereafter erected shall be located on a lot, as herein defined, and in no case shall there be more than one (1) principal structure on one (1) lot. Within the Urban Service Area, the creation of any proposed flag lots must be submitted as part of a preliminary and final plat. No identification plats shall be permitted to allow the creation of flag lots. Flag lots shall be permitted only within areas proposed for development which are greater than three (3) acres, and only if the creation of the flag lots are necessary because of geometric, topographic, or other natural features.
- C. Except as herein provided, or approved by the Board of Adjustment, accessory structures and uses shall not be permitted within any front yard or minimum required side yard in any zone. Accessory structures and uses may be permitted to extend into the minimum required rear yard, as defined herein, in all zones, provided that such structures are set back from the rear lot line a minimum of ten (10) feet, and minimum required side yard clearances are maintained. Location of off-street parking, loading and/or unloading areas, fences, and signs, shall be governed by their respective sections, as provided for herein. Accessory structures shall be no more than fifty (50) percent of the total gross

floor area of the principal structure or a maximum coverage of ten (10) percent of the available yard area in which said structure is to be located, whichever is greater.

D. Permitted Obstructions in Minimum Required Yards: Except as herein provided, the following shall not be considered to be obstructions when located in the minimum required yards specified:

1. In All Minimum Required Yards - Driveways, providing they are not closer than one (1) foot to the property line to which they run approximately parallel to, except that in the event that a common driveway will be used to serve two (2) or more lots, then driveways may be permitted to abut the property line; steps, four (4) feet or less above grade, projecting not more than four (4) feet into the minimum required yards which are necessary for access to a lot from a street or alley; fire escapes and chimneys, projecting not more than thirty (30) inches into the minimum required yards; arbors and trellises, flag poles, bird baths, trees, plants, shrubberies, ornaments, utility poles and wires, and outdoor furniture.
2. In Minimum Required Front Yards - Bay windows, projecting three (3) feet or less into the minimum required front yard; overhanging eaves and gutters, projecting not more than three (3) feet into the minimum required front yard; air conditioning equipment, awnings, and canopies, extending not more than six (6) feet into the minimum required front yard.
3. In Minimum Required Rear Yards - Bay windows, overhanging eaves, gutters, and air conditioning equipment, projecting not more than six (6) feet into the minimum required rear yard; awnings and canopies, provided they do not extend more than ten (10) feet into the minimum required rear yards; uncovered porches, decks, or patios, provided they are less than three feet above grade.
4. In Minimum Required Side Yards - Air conditioning equipment, excluding compressor for central air conditioning unit, overhanging eaves, gutters, awnings, and canopies, projecting not more than thirty (30) inches into the minimum required side yard, but never closer than three (3) feet to the side lot line; uncovered porches, decks, or patios, provided they are less than three feet above grade.

E. Except as herein provided, there shall not be more than one accessory building constructed or erected on a lot in any residential zone.

SECTION 4.4 EXCEPTIONS AND MODIFICATIONS

A. EXCEPTIONS TO HEIGHT LIMITS

1. The height limitations of this ordinance shall not apply to such things as church spires, various types of towers, smoke stacks, other related structures, and necessary mechanical appurtenances provided their construction is in accordance

with existing or hereafter adopted ordinances of the legislative body, and is acceptable to the Federal Aviation Agency and the Federal Communication Commission.

- B. OTHER EXCEPTIONS: Service stations shall be constructed so that the centerlines of the pumps shall be at least twenty-five (25) feet from any street right-of-way line.

C. FRONT YARD VARIANCE

1. Where the average depth of existing front yards within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front yard depth required by this ordinance, the minimum required front yard depth on such lot shall be modified to be the average depth of said existing front yards.
2. In any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within the same block, when fifty-one (51) percent or more of the lots within that block are improved with residential buildings, provided that in no case shall a front yard depth be less than twelve (12) feet.

- D. SIDE YARD VARIANCE: Where a nonconforming lot of record exists in any residential zone, no side yard shall be required to exceed the average width of existing side yards with the side having the least width, on the same side of the street within the same block, when fifty-one (51) percent or more of the lots within that block are improved with residential buildings; provided that no side yard width shall be less than five (5) feet, except as authorized by the Board of Adjustment.

E. EXCEPTION TO MINIMUM FRONTAGE, AREA AND YARD REGULATIONS

1. In any subdivision of an existing or proposed development, in any multi-family or commercial zones described herein, zoning, building, and occupancy permits may be issued in the following circumstances, for lots which do not abut a minimum frontage along a dedicated right-of-way, or lots with a lot area, yard areas, or yard sizes which are less than the minimums therefore required by the area and height regulations established herein for the zone in which such development is located:
 - a. A development plan conforming to the provisions of Article XV of this ordinance, including all existing and proposed lot and yard areas and sizes in the development, is reviewed and approved by the Planning Commission.
 - b. The area of the total development of which such lot is a part, is not less than the minimum total area required for such a development in the zone in which it is located.

- c. The density of the total development of which such lot is a part, is not greater than the maximum density allowed for such a development in the zone in which it is located.
- d. Such lot abuts upon areas within such development, which are either used or proposed for use in common by, or for the benefit of, the owners or tenants of such lot and other lots or areas abutting upon such common area, hereinafter identified and referred to as "benefited abutting property", according to the provisions of legally enforceable agreements or land use restrictions, approved by the Planning Commission and recorded in the office of the County Clerk of Kenton County, Kentucky, which include provisions that:
 - (1) Specifically identify such common areas by a metes and bounds description thereof.
 - (2) Specifically identify the owners of such common areas by name and address, and which identify and establish the obligation and duty of such owners, jointly and severally, to cause such common areas and all improvements thereon, including, without limitation, all motor vehicle access drives and parking areas, pedestrian walkways, other paved surfaces, signs, recreational facilities and open spaces, and other aesthetic and environmental amenities, to be maintained and repaired at least to the extent required by any and all governmental agencies having jurisdiction thereof, or any use or activity conducted thereon.
 - (3) Specifically identify the owners of the benefited abutting property by name and address, and the joint and several obligation thereof to pay a proportionate part of all costs of the aforescribed maintenance and repair of such common areas and the improvements thereon, secured by a lien therefore in favor of the owners of the common areas upon that portion of the benefited abutting property in which they have an ownership interest.
 - (4) Specifically identify and establish a legally enforceable right of the city and its successors to enter upon such common areas, through officers, agents, servants, employees and independent contractors thereof, and cause to occur thereon the aforescribed maintenance and repair of such common areas and the improvements thereon, at the joint and several cost and expense of the owners of any interest in the benefited abutting property, with the payment thereof secured by a lien in favor of the city upon such common areas benefited abutting property.
 - (5) Identify and establish a legally enforceable right of the owners of each lot or parcel of real estate in such development which does not abut upon a dedicated right-of-way to a paved and unobstructed right-of-way and easement from each of such lots across, over and through such common areas, for motor vehicles and pedestrian access thereto from a dedicated right-of-way.

SECTION 4.5 TRAFFIC STUDY REGULATIONS

A. PURPOSE

The purpose of a Traffic Impact Study (TIS) is to protect the function of the highway system while providing appropriate access to the proposed development. The objectives of a TIS are to:

1. Determine the appropriate location, spacing, and design of access points necessary to serve the proposed development and minimize impact to the public transportation system.
2. Determine the extent of improvements to the adjacent and nearby roadway system necessary to maintain a satisfactory level of service and safety.

B. NEED FOR A TRAFFIC IMPACT STUDY: Traffic impact study shall be required when the full build out potential of the proposed development requesting access meets any or all of the criteria identified below. The full build out potential shall be defined as the complete development of available land for which proposed or future connections are accommodated in the development plan as required in the Kenton County Subdivision Regulations. Future development shall be assumed to be that which is identified and recommended by the comprehensive plan.

1. The proposed development is expected to generate greater than 100 trips per hour during its peak hour of operation based on trip generation estimates according to the most recent edition of the institute of Transportation Engineers (ITE) Trip Generation Manual methodologies.
2. The proposed access location does not meet applicable Access Control Regulations as set forth in Section 11.3.
3. The access plan proposes a change in the traffic control on a public street including:
 - a. Installation, removal or relocation of a stop or yield signs on an existing public street.
 - b. Installation, removal or relocation of a traffic signal installation.
 - c. Changes in the timing and/or phasing of an existing traffic signal or signal system.
4. When a proposed development does not meet the conditions of Sections 4.5, B., 1., 2., or 3, above, but is deemed necessary by staff, a TIS may be required due to congested locations identified in previous studies or plans, the presence of high crash locations identified by the Kentucky Transportation Cabinet (KYTC) or OKI, or proximity to major planned roadway improvements in the area.

5. In the case where a Traffic Impact Study has already been completed as part of the approval process, an addendum to the original report will be required under the following circumstances:
 - a. The original report was completed more than 2 years prior to the initial construction phase of the development.
 - b. A change in the site plan, or proposed land use has caused the generated vehicle trips per hour to increase or modified the proposed road or access configuration.
 - c. There have been major roadway improvements or significant changes in development in the area since the original approval or major changes in traffic flow as determined by Staff. Major roadway improvements involve any improvements that have an effect on the roadway capacity or have caused any changes in traffic flow patterns. This may include construction of new traffic control, change in cross-section of the roadway or significant changes in the roadway network.
- C. **STUDY AREA:** The following sections identify the minimum study area to be addressed by a Traffic Impact Study. Staff may adjust the minimum study area as appropriate to the development size, specific site conditions and/or local and regional issues and policies. The applicant may extend the minimum study areas described below to demonstrate potential benefits of the proposed access plan to the community.
 1. When a development meets the criteria established in Section 4.5, B., 1., due to traffic volumes, the study area for the TIS shall include all proposed access points to the development and shall include the first signalized access points in all directions, on the adjacent roadway network, within a 2 mile radius of the proposed site. Unsignalized access points adjacent to the proposed access points shall also be included.
 2. When a development meets the criteria established in Section 4.5, B., 2., due to access control deviations, the study area for the TIS shall include all proposed access points to the development, and shall include all access points on both sides of the street within the distance specified by the applicable regulation, from the proposed access point, which does not meet the spacing standard.
 3. When a development meets the criteria established in Section 4.5, B., 3., due to modifications to traffic control, the study area for the TIS shall include 1) all access points to the proposed development, 2) all unsignalized access points adjacent to the proposed access points and 3) all controlled access points on the adjacent roadway network in all directions, within a two mile radius of the proposed site.
 4. When Staff determines that the signal modification will affect the operation of a coordinated signal system, the study area shall include all affected signals within the system. A coordinated signal system may be considered to be affected when:

- a. The proposed signal would require a different cycle length than currently in use to attain an acceptable LOS as defined in Subsection E.
 - b. The proposed signal would require adjustment of existing intersection offsets to attain acceptable corridor performance as defined in Section 5.
5. When a TIS is required by staff as outlined in Section 4.5, B., 5., the study area shall be established to address the specific issues for which the study was required.

D. STUDY REQUIREMENTS

1. Analysis Scenarios

- a. The TIS shall examine the before and after conditions within the study area to a degree sufficient to document the operational and safety impacts of the proposed development and access plan. The before and after conditions shall be termed the “No Build” and “Build” conditions.
- b. The No Build condition shall include existing traffic volumes forecasted to the appropriate analysis year, existing roadway geometry and all applicable traffic control devices. The No Build analysis shall include any traffic generated by proposed adjacent developments as well as any planned and funded improvements within the study area. The No Build condition shall also include any Transportation System Management (TSM) improvements, such as signal timing and/or phasing optimization and reconfiguration of existing lane uses that may improve the operation of the transportation system.
- c. The Build condition will include No Build traffic volumes plus site generated traffic and any access improvements proposed with the development.
- d. No Build and Build analysis shall be conducted for the anticipated year of opening and a design year assuming a 10 year horizon. Opening year Build analysis should only include that portion of development which is anticipated to be completed at opening. Design year analysis should include the full build-out potential of the development. In the event that the full build-out of the development is anticipated to extend beyond the 10-year horizon, the design year shall be the anticipated year of full build-out.
- e. All scenarios evaluated should include analysis of the weekday AM and PM peak hours. The applicant should work with staff to determine whether the peak hour of the development or the peak hour of the adjacent street traffic should be analyzed to evaluate the worst-case scenario. When a proposed development is anticipated to generate a high volume of traffic during non-traditional peaks, such as a noon peak, late night or weekend peak period, these periods should also be examined. The need to study additional periods of operation shall be at the discretion of staff.

2. Data Collection

The data collection efforts for the study shall be consistent with the level of analysis required. At a minimum this shall include 2-hour turning movement counts conducted in 15-minute intervals at all study intersections for all peak periods examined. When traffic patterns are affected by the presence of non-traditional peaks such as school trips, the peak hour turning movement count shall be expanded to include both peak periods. The peak hours should be determined by a 24-hour count of the adjacent street traffic on a typical weekday, i.e. Tuesday, Wednesday or Thursday. Previously collected data and traffic volumes may be used in the analysis at the discretion of staff.

3. Future Traffic Volumes

Future traffic volumes used to evaluate the opening year (if different from existing year) and design year conditions shall be determined by applying an appropriate growth rate to reflect anticipated changes in demand on the roadway network. This growth rate shall be determined from comparison of historical traffic volumes in the study area. More intensive methods of forecasting traffic volumes, such as socio-economic analysis and the use of travel demand models may also be used to determine future traffic growth rates.

4. Trip Generation and Distribution

Trips generated by the proposed development shall be calculated using the most current edition of the ITE Trip Generation Manual methodologies. Trips generated by the development should be distributed onto the public roadway network consistent with existing traffic patterns in the area, identified by origin destination studies of adjacent developments or traffic counts of adjacent roadways. This methodology may be replaced with more refined trip distribution approaches derived from market research studies, travel demand models, or other methodologies at the discretion of staff.

5. Operational analysis

Operational analysis shall be conducted for all intersections within the study area for all analysis scenarios identified in Section 4.5, D., 1. At a minimum, operational analysis shall include, but is not limited to:

- a. Intersection level of service (LOS) analysis for all intersections in the study area. LOS analysis should be consistent with Highway Capacity Manual (HCM)/Highway Capacity Software (HCS) methodologies for unsignalized and signalized intersections. Roundabout analysis shall utilize RODEL/ARCADY analytical procedures. Analysis results should be summarized with LOS and delay by lane group and intersection totals. For Roundabout analysis, LOS shall be determined using both signalized and unsignalized HCM thresholds.

Analysis shall be evaluated using the following parameters unless justified by additional study at the discretion of staff.

- (1) Peak Hour Factor (PHF) = 0.90
 - (2) Lost Time = 2.0 sec
 - (3) No right turns on red (RTOR)
 - (4) HCS arrival type = 3
 - (5) Yellow and red clearance intervals shall be calculated based on ITE recommended procedures.
 - (6) Pedestrian phases and minimum clearance times shall be accommodated for all potential pedestrian crossings.
 - (7) Where applicable the minimum green time per phase shall be equal to or greater than the minimum pedestrian clearance time.
 - b. Queuing analysis shall be conducted for all controlled movements in the study area. Queuing analysis should report 95th percentile queues for all scenarios and periods examined, and identify any conflicts between adjacent queues and/or queues and permitted turning movements.
 - c. Turn lane analysis shall be conducted for all unsignalized access points to the proposed development. This analysis shall determine if a right or left-turn lane is warranted at a location to improve operations or safety and shall identify the proper length of turn lane to accommodate any storage or deceleration requirements. Turn lane analysis shall be conducted in accordance with KYTC design and permit standards.
 - d. Signal warrant analysis shall be conducted for all existing and proposed traffic signals providing access to the development. Signal warrant analysis shall also be required before any existing traffic signal is removed. Signal warrant analysis shall be conducted in accordance with most recent version of the Manual on Uniform Traffic Control Devices (MUTCD).
 - e. When a TIS is required under the conditions of Section 4.5, B., 3., corridor level analysis shall also be provided. Corridor analysis shall estimate average travel speed along each contiguous street or street(s) in the study area, and shall include all controlled access points in the study area defined in Section 4.5, B., 3. Corridor analysis shall be conducted using the latest version of Synchro software.
6. Safety Analysis
- When the study area includes a corridor or intersection which has been identified as a high accident location by KYTC or OKI staff, safety analysis shall be conducted and included in the TIS. Safety analysis shall be conducted using the three most recent years of crash data available. Engineering judgment should be used when reviewing and analyzing existing crash patterns in areas where improvements have been implemented within the period of the crash data. At a minimum safety analysis shall include but is not limited to:

- a. Determination of crash rates for the subject location
- b. Statistical analysis of crash data by time, light conditions, day of week, pavement conditions, crash type and contributing factors.
- c. Development of crash diagrams based on crash reports. This should also include analysis of the roadway environment to identify factors which may contribute to significant recurring crashes at the location.
- d. Identification and analysis of potential impacts associated with site traffic and/or the proposed access plan on the existing crash patterns.

E. MITIGATION:

1. When a proposed development and/or access plan is shown to result in an unacceptable Level of Service, or significantly deteriorate the operations of adjacent access points or corridors, the applicant shall identify the extent of mitigation improvements necessary to offset the impact of the development.
2. Mitigation improvements may include, but are not limited to, modification to signal systems, construction of turn lanes or medians, access roads, shared access drives, etc. When mitigation improvements are proposed analysis shall be conducted for the Build condition for the year of opening and the design year with the proposed improvements. This analysis shall be consistent with and in addition to the No Build and Build analysis required in Section 4.5, D.
3. Operational Thresholds: The following provisions shall be used to define thresholds for acceptable operational performance for the Build condition within the study area:
 - a. At existing intersections the intersection LOS shall not be lower than the No Build LOS. Individual turning movements at the intersection shall not operate at LOS E or F. In such cases where individual turning movements are shown to operate at LOS E or F under the No Build condition, the turning movement delay shall not increase.
 - b. Proposed intersections shall operate at intersection LOS C or better. No individual turning movements may operate at LOS E or F.
 - c. On existing corridors, as identified in Section 4.5, D., 5., e., the average travel speed of the corridor shall not be less than 75 percent of the No Build travel speed.
 - d. On proposed corridors, as defined in Section 4.5, D., 5., e., the average travel speed shall not be less than half of the allowable speed limit.
4. Alternative Analysis: In addition to traditional roadway improvements the applicant shall identify other alternatives capable of reducing the impact associated with the proposed development. At a minimum this shall include the following.

- a. At any proposed signalized or four-way stop controlled intersection a modern roundabout shall also be evaluated. This evaluation shall include the determination of the conceptual footprint of the roundabout and operational analysis as identified in Section 4.5, D., 5., a.
- b. Any opportunities for incorporation of transit or alternative modes of transportation into the development or connection to existing modal facilities shall also be identified. At a minimum this shall include identification of the size, type location and frequency of existing or proposed modal facilities.

F. ADMINISTRATION

1. **Responsibility for the Traffic Impact Study**
The completion of the TIS is the responsibility of the developer/applicant of the subject property. The report shall be completed by a Professional Engineer, licensed within the Commonwealth of Kentucky, with previous experience and knowledge in traffic operations and analytical studies. Each report shall contain the stamp, signature and date of the responsible engineer.
2. **Pre-Study Meeting**
 - a. It is required that a pre-study meeting be conducted prior to starting a Traffic Impact Study. The applicant will be required to provide 1) a conceptual layout of the proposed subdivision/development 2) an aerial of the proposed site including proposed access points and 3) a map of the roadway network within a 2 mile radius surrounding the proposed site, to enable meaningful decisions by staff at the meeting. At this meeting the following parameters of the TIS will be determined:
 - (1) Study Area
 - (2) Trip Generation Approval
 - (3) Distribution Percentage Approval
 - (4) Background and Build-out Study Year
 - (5) Adjacent developments
 - (6) Traffic Growth Rates
 - (7) Future Highway Projects in Study Area
 - (8) Operational Analysis Parameters
 - b. Any potential issues regarding the report should be discussed at the pre-study meeting. Following the meeting, staff will prepare a memo of understanding summarizing the conclusions and parameters established in the pre-study meeting that shall be used to complete the study.
 - c. It is the responsibility of the applicant to schedule this meeting prior to submission. Pre-study meetings shall be scheduled with staff at least 1 week in advance.
 - d. If a pre-report meeting is not conducted, the report may not be accepted.

3. Documentation

The results of the Traffic Impact Study shall be documented in the Traffic Impact Study. This report should contain:

- a. Summary of proposed development
- b. Data collection methodologies
- c. Summary of existing traffic conditions
- d. Raw Traffic Data (may be included in appendix)
- e. Trip Generation Calculations and Summary
- f. Trip Generation/Distribution Methodology (shall include graphics showing existing traffic volumes, generated trips and total trips for all scenarios).
- g. Adjacent developments included in the background traffic
- h. Traffic/safety analysis methodologies
- i. Summary of traffic analysis results
- j. Full Output/Calculations from traffic/safety analysis (may be included in appendix)
- k. Summary of recommended improvements
- l. Concept plan showing proposed improvements. Concept plan shall show proposed improvements over aerial (if available) to a measurable scale not greater than 1" = 100'.

SECTION 4.6 LIGHTING REGULATIONS

- A. **PURPOSE:** The purpose of these regulations is to protect and promote the public health, safety and welfare by establishing standards and a process for review of exterior lighting. Lighting regulations are intended to accomplish the following:
1. To provide safe roadways for motorists, cyclists and pedestrians, and ensure that sufficient lighting can be provided where needed to promote safety and security;
 2. To control glare and spillover of outdoor light onto adjacent properties;
 3. To curtail the degradation of the nighttime visual environment;
 4. To bring non-conforming lighting into conformance with this section.
- B. **REQUIREMENT FOR REVIEW OF PROPOSED LIGHTING:** Any application requiring either a Stage I or Stage II Development Plan review and approval shall be accompanied by a master exterior lighting plan. This plan provides the information necessary to determine whether the proposed lighting is in conformance with the purposes and requirements of this section. A master exterior lighting plan submitted under this section shall include:

1. The location and number of all proposed lighting fixtures (including lighting for pedestrian areas and exterior wall packs), to include distances from rights of way, interior drives, and buildings.
 2. The specifications for all proposed lighting fixtures to include photometric data, and designation as Illuminating Engineering Society of North America (IESNA) full cut-off fixtures (i.e. no light output emitted above 90 degrees at any lateral angle around the fixture).
 3. The proposed mounting height and design details of all exterior lighting fixtures.
- C. EXCEPTIONS: No unshielded or clear glass luminaires shall be allowed; all exterior lighting shall use full cut-off luminaires with the light source downcast and fully shielded, with the following exceptions:
1. Floodlights with external shielding shall be angled provided that no light is directed above a thirty (30) degree angle measured from the vertical line from the center of the light extended to the ground, and only if the luminaire does not cause glare or light to shine on adjacent property or public rights-of-way.
 2. Holiday lighting is allowed from November 1st to March 15th.
 3. Sensor activated luminaires, provided:
 - a. It is located in such a manner as to prevent glare and light trespass onto properties of others or into a public right-of-way;
 - b. The luminaire is set to only go on when activated and to go off within five minutes after activation has ceased;
 - c. The luminaire shall not be triggered by activity off the subject property.
 4. All temporary emergency lighting needed by the Fire and Police Departments, or other emergency services.
 5. Lighting for flags provided the flag is a United States of America or State of Kentucky official flag and the maximum lumen output is one thousand three hundred (1,300) lumens. Flags may be taken down at sunset to avoid the need for lighting. The external beam shall minimize light trespass and/ or glare.
 6. Lighting of radio, communication and navigation towers; provided the owner or occupant demonstrates that the Federal Aviation Administration (FAA) regulations can only be met through the use of lighting that does not comply with this Article.
 7. Luminaires used for playing fields and courts provided all other provisions of this section are met and the light is used only while the field or court is in use.

8. Outdoor sales and gas station canopies must utilize canopy lights that are fully recessed into the canopy or are fully shielded by the canopy.

C. **ILLUMINATION LEVELS:** Outdoor lighting shall meet the following standards:

	Maximum permitted illumination at the Property Line (See Note a.)	Maintained Average Illumination at the Site (See Note b.)	Maximum permitted height of Luminaire (See Note c.)
Lighting in commercial /industrial/ institutional zones	0.5 FC (0.2 when adjoining a single or two family residential uses or zone and all roadways)	2.0 FC	20 feet
Lighting in multi-family residential zones	0.2 FC	0.6 FC	12 feet

Notes:

- a. The maximum permitted illumination is calculated in foot candles (FC) at the property line at ground level. Lighting levels must be measured in foot candles with a direct reading, portable light meter.
- b. The maintained average illumination is calculated in foot candles on the pavement area of the site. In no case shall the level of illumination be less than 0.2 foot candles in parking and pedestrian areas.
- c. As measured from ground level to their tallest point. All luminaires utilized shall be full cut-off type fixtures.

SECTION 4.7 REGULATIONS CONCERNING DESIGN AND CONSTRUCTION OF IMPROVEMENTS: Any proposed development requiring the construction of streets (including curb and gutters), sidewalks, sewers (sanitary and storm), water lines, or other public improvements, which does not constitute a subdivision, as herein defined, shall be required to be designed and constructed in accordance with the applicable articles and sections of the Subdivision Regulations, unless specifically waived by the planning commission.

ARTICLE V

RESIDENTIAL ZONES

SECTION 5.0 PERMITTED USES: Uses permitted in each zone are specified within the text of each zone and are summarized within the use tables found within this section. The specific meaning for each use is summarized in Article II.

- A. **PERMITTED USES:** Uses identified with a “P” are permitted in the subject zone, subject to compliance with all other applicable standards of this zoning ordinance.
- B. **CONDITIONAL USES:** Uses identified with a “C” may be allowed if reviewed and approved in accordance with the Conditional Use procedures of Section 9.8, subject to compliance with all other applicable standards of this zoning ordinance.
- C. **PROHIBITED USES:** Uses identified with a hyphen (“-”) are prohibited uses. Uses that are not listed in the table are also prohibited.
- D. **USE SPECIFIC STANDARDS:** The Use-Specific Standards column of the Use Table identifies (by cross-reference) specific standards and conditions that apply to some uses.

TABLE 5.1 USE TABLE - RESIDENTIAL ZONES

	R-RE	R-1A	R-1B	R-1C	R-1D	R-1E	R-1F	R-1G	R-2	R-3	R-4	Use Specific Standards
	P = Permitted Use C = Conditional Use "-" = Not permitted											
RESIDENTIAL USE GROUP												
Household Living												
o Single-family residential dwelling (attached)	-	-	-	-	-	-	-	-	P	-	-	
o Single-family residential dwelling (detached)	P	P	P	P	P	P	P	P	-	-	P	
o Multi-family residential dwelling	-	-	-	-	-	-	-	-	P	P	P	
o Two-family residential dwelling	-	-	-	-	-	-	-	P	P	P	-	
o Planned Unit Development	P	P	P	P	P	P	P	P	P	P	P	
o Retirement Community	P	P	P	P	P	P	P	P	P	P	P	
o Conservation Subdivision	P	P	P	P	P	P	P	P	P	P	P	
o Mobile Home	-	-	-	-	-	-	-	-	-	-	-	
o Manufactured Home	-	-	-	-	-	-	-	-	-	-	-	
o Qualified Manufactured Home	P	P	P	P	P	P	P	P	-	-	-	Section 9.10
PUBLIC AND CIVIC USE GROUP												
§ Colleges and Universities	-	C	C	C	C	C	C	C	C	C	C	Provided they are adjacent to an arterial or collector street
§ Cultural Exhibits and Libraries	C	C	C	C	C	C	C	C	C	C	C	Provided they are adjacent to an arterial or collector street
§ Day Care or Day Care Center												
o Family Day-Care Home	C	C	C	C	C	C	C	C	C	C	C	
o Day Care, Type 2	C	C	C	C	C	C	C	C	C	C	C	
o Day Care, Type 1	C	C	C	C	C	C	C	C	C	C	C	
§ Hospital	-	C	C	C	C	C	C	C	C	C	C	Provided they are adjacent to an arterial or collector street
§ Recreation and Open Space												
o High-Intensity	C	C	C	C	C	C	C	C	C	C	C	
o Low-Intensity	C	C	C	C	C	C	C	C	C	C	C	
§ Religious Assembly	C	C	C	C	C	C	C	C	C	C	C	Provided they are adjacent to an arterial or collector street
§ Safety Services	C	C	C	C	C	C	C	C	C	C	C	Provided they are adjacent to an arterial or collector street
§ Schools	C	C	C	C	C	C	C	C	C	C	C	Provided they are adjacent to an arterial or collector street
COMMERCIAL USE GROUP												
§ Animal Services												
o Sales and Grooming	-	-	-	-	-	-	-	-	-	-	-	
o Veterinary Hospitals	-	-	-	-	-	-	-	-	-	-	-	
o Kennels and Shelters	-	-	-	-	-	-	-	-	-	-	-	
§ Funeral and Internment Services												
o Cemetery / Mausoleum / Columbarium	C	C	C	C	C	C	C	C	C	C	C	
o Undertaking	C	C	C	C	C	C	C	C	C	C	C	Provided they are adjacent to an arterial or collector street
§ Lodging												
o Bed and Breakfast	P	P	C	C	C	C	C	C	C	C	C	Per Section 9.12
OTHER USE GROUP												
§ Agriculture	-	-	-	-	-	-	-	-	-	-	-	

SECTION 5.1 R-RE (RESIDENTIAL RURAL ESTATE) ZONE

- A. **PURPOSE:** This zone is established to provide a low density residential environment whose dwelling types are typically found in the Non Urban Service Area.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Home occupations as regulated by Section 9.8 of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
 5. Accessory Dwelling Units, as regulated by Section 9.7 of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures and uses, subject to the approval of the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Three (3) acres
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front yard depth - Seventy-five (75) feet
 4. Minimum side yard width - Seventy-five (75) feet
 5. Minimum rear yard depth - Fifty (50) feet
 6. Maximum building height - Thirty-five (35) feet
- F. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading shall be provided in accordance with Article XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property.
 4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a minimum ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.
 5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
 6. New streets in this zone shall conform to the Rural Cross Section standards contained within the Kenton County Subdivision Regulations.

SECTION 5.2 R-1A (RESIDENTIAL ONE-A) ZONE

- A. **PURPOSE:** of a suburban character. This zone is established to provide a residential environment to be used as a transition between the Non-Urban Service Area and the Urban Service Area.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Home occupations, as regulated by Section 9.8 of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
 5. Accessory Dwelling Units, as regulated by Section 9.7 of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval of the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**
1. Minimum lot area - One (1) acre
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front yard depth - Forty (40) feet
 4. Minimum side yard width - Total: Thirty-eight (38) feet; One Side: Twelve (12) feet
 5. Minimum rear yard depth - Twenty-five (25) feet
 6. Maximum building height - Thirty-five (35) feet
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yards depths - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.

4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
6. New streets in this zone shall conform to either the Rural or Suburban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.3 R-1B (RESIDENTIAL ONE-B) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment whose dwelling types and densities are typical of a suburban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Home occupations, as regulated by Section 9.8 of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
 5. Accessory Dwelling Units, as regulated by Section 9.7 of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval of the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:**
1. Minimum lot area - One-half (1/2) acre
 2. Minimum lot width at building setback line - One hundred (100) feet
 3. Minimum front yard depth - Forty (40) feet
 4. Minimum side yard width - Total: Twenty-five (25) feet; One Side: Ten (10) feet
 5. Minimum rear yard depth - Twenty-five (25) feet
 6. Maximum building height - Thirty-five (35) feet
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yards - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.

4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
6. New streets in this zone shall conform to the Suburban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.4 R-1C (RESIDENTIAL ONE-C) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment whose dwelling types and densities are typical of a suburban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Home occupations, as regulated by Section 9.8 of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
 5. Accessory Dwelling Units, as regulated by Section 9.7 of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval by the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:**
1. Minimum lot area - Twelve thousand five hundred (12,500) square feet
 2. Minimum lot width at building setback line - Eighty (80) feet
 3. Minimum front yard depth - Thirty-five (35) feet
 4. Minimum side yard width - Total: Twenty (20) feet; One Side: Seven (7) feet
 5. Minimum rear yard depth - Twenty-five (25) feet
 6. Maximum building height - Thirty-five (35) feet
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yards - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.
 4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a minimum ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.

5. All utilities must be underground in a new subdivision or development when transmission lines are extended or altered.
6. New streets in this zone shall conform to the Suburban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.5 R-1D (RESIDENTIAL ONE-D) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment whose dwelling types and densities are typical of an urban or suburban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Home occupations, as regulated by Section 9.8 of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
 5. Accessory Dwelling Units, as regulated by Section 9.7 of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval by the Board of Adjustments, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**
1. Minimum lot area - Nine thousand (9,000) square feet
 2. Minimum lot width at building setback line - Seventy (70) feet
 3. Minimum front yard depth - Thirty (30) feet
 4. Minimum side yard width - Total: Eighteen (18) feet; One Side: Six (6) feet
 5. Minimum rear yard depth - Twenty-five (25) feet
 6. Maximum building height - Thirty-five (35) feet
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yards - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.
 4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a minimum ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.

5. All utilities must be underground in a new subdivision or development when transmission lines are extended or altered.
6. New streets in this zone shall conform to either the Urban or Suburban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.6 R-1E (RESIDENTIAL ONE-E) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment whose dwelling types and densities are typical of an urban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Home occupations, as regulated by Section 9.8 of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
 5. Accessory Dwelling Units, as regulated by Section 9.7 of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval by the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**
1. Minimum lot area - Seven thousand five hundred (7,500) square feet
 2. Minimum lot width at building setback line - Sixty (60) feet
 3. Minimum front yard depth - Thirty (30) feet
 4. Minimum side yard width - Total: Fifteen (15) feet; One Side: Five (5) feet
 5. Minimum rear yard depth - Twenty-five (25) feet
 6. Maximum building height - Thirty-five (35) feet
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yards - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.
 4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a minimum ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.

5. All utilities must be underground in a new subdivision or development when transmission lines are extended or altered.
6. New streets in this zone shall conform to the Urban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.7 R-1F (RESIDENTIAL ONE-F) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment whose dwelling types and densities are typical of an urban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Home occupations, as regulated by Section 9.8 of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
 5. Accessory Dwelling Units, as regulated by Section 9.7 of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval by the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**
1. Minimum lot area - Six thousand (6,000) square feet
 2. Minimum lot width at building setback line - Fifty (50) feet
 3. Minimum front yard depth - Twenty-five (25) feet
 4. Minimum side yard width - Two and one-half (2½) feet
 5. Minimum rear yard depth - Fifteen (15) feet
 6. Maximum building height - Thirty-five (35) feet
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yards - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.
 4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a minimum ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.

5. All utilities must be underground in a new subdivision or development when transmission lines are extended or altered.
6. New streets in this zone shall conform to the Urban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.8 R-1G (RESIDENTIAL ONE-G) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment whose dwelling types and densities are typical of an urban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Home occupations, as regulated by Section 9.8 of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
 5. Accessory Dwelling Units, as regulated by Section 9.7 of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval by the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**
1. Minimum lot area - Six thousand (6,000) square feet
 2. Minimum lot width at building setback line - Fifty (50) feet
 3. Minimum front yard depth - Thirty (30) feet
 4. Minimum side yard width - Five (5) feet
 5. Minimum rear yard depth - Twenty-five (25) feet
 6. Maximum building height - Thirty-five (35) feet
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yard depths - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.
 4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a minimum ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.

5. All utilities must be underground in a new subdivision or development when transmission lines are extended or altered.
6. New streets in this zone shall conform to the Urban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.9 R-2 (RESIDENTIAL TWO) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment of attached dwelling units whose densities are typical of an urban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval of the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:**
1. Minimum lot area - Twenty thousand (20,000) square feet for the first four (4) dwelling units or less; four thousand (4,000) square feet shall be provided for every dwelling unit thereafter.
 2. Minimum lot width at building setback line - One hundred (100) feet
 3. Minimum front yard depth - Forty (40) feet
 4. Minimum side yard width - Fifteen (15) feet
 5. Minimum rear yard depth - Thirty (30) feet
 6. Maximum building height - Forty (40) feet
 7. Maximum density - Ten (10) dwelling units per net acre
 8. In the case of this zone, more than one principal structure, as defined herein, may be permitted on one lot
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yards - Fifty (50) feet
 4. Maximum building height - Forty (40) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.

4. Where any yard of any conditionally permitted use in this zone abuts property in a residential zone, a minimum ten (10) foot screening area, as regulated by Section 10.5 of this ordinance, shall be provided.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
6. A development plan, as regulated by Article XV of this ordinance, shall be required for any use permitted in this zone.
7. New streets in this zone shall conform to the Urban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.10 R-3 (RESIDENTIAL THREE) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment of multiple dwelling units whose densities are typical of an urban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval of the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:**
1. Minimum lot area - Twenty thousand (20,000)
 2. Minimum lot width at building setback line - One hundred (100) feet
 3. Minimum front yard depth - Forty (40) feet
 4. Minimum side yard width - Fifteen (15) feet
 5. Minimum rear yard depth - Thirty (30) feet
 6. Maximum building height - Forty (40) feet
 7. Maximum density - Twenty (20) dwelling units per net acre
 8. In the case of this zone, more than one principal structure, as defined herein, may be permitted on one lot
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side and rear yards - Fifty (50) feet
 4. Maximum building height - Forty (40) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.

4. Where any yard of any use permitted or conditionally permitted use in this zone abuts property in a single-family residential zone, a minimum ten (10) foot screening area, as regulated by Section 10.5 of this ordinance, shall be provided.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
6. A development plan, as regulated by Article XV of this ordinance, shall be required for any use permitted in this zone
7. New streets in this zone shall conform to the Urban Cross Section standards contained within the Kenton County Subdivision Regulations.

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SECTION 5.11 R-4 (RESIDENTIAL FOUR) ZONE

- A. **PURPOSE:** This zone is established to provide a residential environment of multiple dwelling units whose densities are typical of an urban character.
- B. **PERMITTED USES:** See Table 5.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 5.1, or any customary accessory structures or uses, subject to the approval of the Board of Adjustment, as set forth in Article XV of this ordinance
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**
1. Minimum lot area - Five thousand (5,000) square feet
 2. Minimum lot area per dwelling unit
 - a. Two or more bedroom unit - Two thousand (2,000) square feet
 - b. One bedroom unit - One thousand (1,000) square feet
 3. Minimum lot width at building setback line - Fifty (50) feet
 4. Minimum front yard depth - Fifteen (15) feet
 5. Minimum side yard width - Total: Twelve (12) feet; One side - Five (5) feet
 6. Minimum rear yard depth - Fifteen (15) feet
 7. Maximum building height - Floors: Six (6) floors; Feet: Seventy (70) feet
 8. Maximum lot coverage - Interior lot: Forty percent (40%); Corner lot: Forty-five percent (45%)
 9. In the case of this zone, more than one principal structure, as defined herein, may be permitted on one lot
- F. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side, and rear yard depths - Fifty (50) feet
 4. Minimum building height - Forty (40) feet
- G. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI of this ordinance.

2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.
4. Where any yard of any use permitted or conditionally permitted use in this zone abuts property in a single-family residential zone, a minimum ten (10) foot screening area, as regulated by Section 10.5 of this ordinance, shall be provided.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
6. A development plan, as regulated by Article XV of this ordinance, shall be required for any use permitted in this zone.
7. New streets in this zone shall conform to the Urban Cross Section standards contained within the Kenton County Subdivision Regulations.

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ARTICLE VI

COMMERCIAL AND INDUSTRIAL ZONES

SECTION 6.0 PERMITTED USES: Uses permitted in each zone are specified within the text of each zone and are summarized within the use tables found within this section. The specific meaning for each use is summarized in Article VII.

- A. **PERMITTED USES:** Uses identified with a “P” are permitted in the subject zone, subject to compliance with all other applicable standards of this zoning ordinance.
- B. **CONDITIONAL USES:** Uses identified with a “C” may be allowed if reviewed and approved in accordance with the Conditional Use procedures of Section 9.8, subject to compliance with all other applicable standards of this zoning ordinance.
- C. **PROHIBITED USES:** Uses identified with a hyphen (“-“) are prohibited uses. Uses that are not listed in the table are also prohibited.
- D. **USE SPECIFIC STANDARDS:** The Use-Specific Standards column of the Use Table identifies (by cross-reference) specific standards and conditions that apply to some uses.

TABLE 6.1 USE TABLE - COMMERCIAL ZONES

	PO	PO-1	PO-2	OP	RC	NC	NSC	SC	LHS	HC	RCO	Use Specific Standards
	P = Permitted Use C = Conditional Use "N" = Not permitted											
RESIDENTIAL USE GROUP												
§ Household Living												
o Single-family	-	P	-	-	-	-	-	-	-	-	-	
PUBLIC AND CIVIC USE GROUP												
§ Colleges and Universities	-	-	-	-	-	-	-	-	P	-	-	
§ Cultural Exhibits and Libraries	-	-	-	-	-	P	P	P	P	-	-	
§ Day Care or Day Care Center												
o Day Care, Type 2	-	-	-	-	-	-	P	-	P	-	-	
o Day Care, Type 1	-	-	-	P	-	-	P	-	P	-	-	
§ Postal Service	P	-	P		P	P	P	P		-	-	
§ Recreation and Open Space												
o High-Intensity	-	-	-	P	-	-	P	-	P	-	P	
o Low-Intensity	-	-	-	P	-	-	P	-	P	-	P	
§ Religious Assembly	-	-	-	P	-	P	P	P	P	-	P	
§ Safety Services	P	P	P	-	P	P	P	P	P	P	-	
COMMERCIAL USE GROUP												
§ Animal Services												
o Sales and Grooming	-	-	-	-	-	P	P	P	-	-	-	Excluding boarding and outside runs
§ Business Equipment Sales and Service	P	-	P	P	-	-	-	P	-	-	-	
§ Business Support Services	P	-	P	P	-	-	-	P	-	-	-	
§ Convention Center, Training Facility	-	-	-	P	-	-	-	-	P	-	-	
§ Eating/Drinking Establishment												
o Restaurant	-	-	-	-	P	P	P	P	P	P	-	
o Tavern	-	-	-	-	P	P	P	P	P	-	-	
§ Entertainment												
o Small	-	-	-	-	-	P	P	P	P	-	-	
o Medium	-	-	-	-	-	P	P	P	P	-	-	
o Large	-	-	-	-	-	-	-	P	-	-	-	
§ Financial Services	P		P	P	P	P	P	P	P	P	-	
§ Food and Beverage Sales, Retail	-	-	-	-	P	P	P	P	-	-	-	
§ Gasoline Stations	-	-	-	-	-	P	P	P	-	P	-	
§ Lodging												
o Hotel/Motel	-	-	-	-	-	-	-	-	P	P	-	
o Bed and Breakfast	-	P	-	-	-	-	-	-	-	-	-	Section 9.12
§ Medical Service	P	-	P	P								
§ Office	P	P	P	P	P	P	P	P	P	-	-	
§ Personal Improvement Service	-	-	-	-	P	P	P	P	P	-	-	
§ Retail Sales and Service	-	-	-	-	P	P	P	P	-	P	-	
§ Vehicle Sales and Service												
o Auto Supply/Accessory Sales	-	-	-	-	-	-	-	P	-	-	-	
o Car Wash	-	-	-	-	-	-	-	P	P	-	-	
o New Vehicle/Equipment Sales, Light	-	-	-	-	-	-	-	-	-	P	-	
o Used Vehicle/Equipment Sales, Light	-	-	-	-	-	-	-	-	-	P	-	
o Vehicle Repair												
+ Minor Vehicle Servicing	-	-	-	-	-	-	-	-	P	P	-	
+ Minor Vehicle Repair	-	-	-	-	-	-	-	-	-	P	-	
+ Major Vehicle Repair	-	-	-	-	-	-	-	-	-	P	-	
OTHER USE GROUP												
§ Marine Related Use	-	-	-	-	-	-	-	-	-	-	P	
§ Parking, Non-Accessory	P		P		-	P	P	P	-	-	P	

TABLE 6.2 USE TABLE - INDUSTRIAL ZONES

	IP	I-1	I-2	I-3	Use Specific Standards
	P = Permitted Use C = Conditional Use "- " = Not permitted				
PUBLIC AND CIVIC USE GROUP					
§ Safety Services	P	P	-	-	
§ Schools	P	P	-	-	
§ Utilities					
o Essential Services	-	P	P	-	
COMMERCIAL USE GROUP					
§ Office	P	-	-	-	Excluding outside storage
§ Office	-	P	P	-	Including outdoor storage
§ Vehicle Sales and Service					
o Vehicle/Equipment Sales, Heavy	-	-	P	-	Per requirements of Section 9.13
o Vehicle Repair					
+ Minor Vehicle Repair	P	P	-	-	Per requirements of Section 9.13
+Major Vehicle Repair	P	P	-	-	Per requirements of Section 9.13
INDUSTRIAL USE GROUP					
§ Junk/Salvage Yard	-	P	P	-	Per requirements of Section 9.13
§ Manufacturing, Production, and Industrial Service					
o Limited	P	P	-	P	Per requirements of Section 9.13
o General	-	-	P	P	Per requirements of Section 9.13
o Intensive	-	-	P	-	Per requirements of Section 9.13
§ Warehouse, Wholesaling, and Freight Movement	P	P	P	P	Per requirements of Section 9.13
§ Waste-Related Service					Per requirements of Section 9.13
o Sanitary Landfills	-	P	-	-	Per requirements of Section 9.13
OTHER USE GROUP					
§ Agriculture	-	-	-	-	
§ Marine Related Use	-	-	-	P	

SECTION 6.1 PO (PROFESSIONAL OFFICE) ZONE

- A. **PURPOSE:** This zone is established to provide for a low rise office environment accommodating individual office uses or small scale office developments.
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES:**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
 4. Uses as listed below, included within and entered from within, any office building as a convenience to the occupants thereof, their patients, clients, or customers provided that the accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays for any accessory uses shall be visible from outside the building:
 - a. Barber shops
 - b. Beauty shops
 - c. Cleaning services, including laundries and dry cleaning
 - c. Coffee shops or refreshment stands
 - d. Communication facilities and towers
 - d. Day care centers
 - d. Eating establishments and taverns, excluding drive-ins
 - e. Medical or dental laboratories
 - f. News and confectionery stands
 - g. Prescription pharmacies
 - h. Recreational uses, including membership and health clubs
 5. Vehicle repair, maintenance, servicing, refueling, and parking when in connection with a motorized livery (limousine) service, when such service is located within an office park
- D. **AREA AND HEIGHT REGULATIONS:** No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum building site area for Office Park development - 100 acres
 2. Minimum lot area - Twenty two thousand five hundred (22,500) square feet
 3. Minimum lot width at building setback line - One hundred (100) feet
 4. Minimum front yard depth - Thirty (30) feet
 5. Minimum side yard width - Fifteen (15) feet
 6. Minimum rear yard depth - Twenty-five (25) feet
 7. Maximum building height - Forty (40) feet
 8. In the case of this zone, more than one principal structure, as defined herein, may be constructed on one lot

E. OTHER DEVELOPMENT CONTROLS

1. Off - street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No private lighting shall be permitted which would glare from any use located within this zone onto any dedicated street or into any adjacent property.
4. No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.
5. Where any side and/or rear yard of any use permitted within this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
6. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
7. A development plan, as regulated by Section 14.5 of this ordinance shall be required for any use permitted in this zone.
8. Where any office park development permitted in this zone abuts a residential zone, a minimum yard requirement of 100 feet for all yards which abut said zone shall be provided, twenty feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
9. In the case of this zone, more than one principal building, as defined herein, may be permitted to be constructed within the minimum building site area.
10. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

SECTION 6.2 PO-1 (PROFESSIONAL OFFICE BUILDING ONE) ZONE

- A. **PURPOSE:** To allow appropriate non-residential uses to integrate with single-family dwellings, while preserving the residential character of the buildings in the zone, and not interfering with existing dwellings in adjacent zones.
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES**
1. Customary accessory buildings and uses
 2. Fences and walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
- D. **AREA AND HEIGHT REGULATIONS:** No buildings shall be structurally altered or demolished hereafter, in such way that as observed by a reasonable person, it would contrast or conflict with the residential architectural style and accessory uses that now exist in this zone, however, all approved alterations shall be in accord with the following requirements:
1. Minimum Lot Area - Six thousand five hundred (6,500) square feet, except for bed and breakfast establishments which shall have a minimum lot area of ten thousand (10,000) square feet.
 2. Minimum Lot Width At Building Setback Line - Fifty (50) feet, except for bed and breakfast establishments which shall have a minimum lot width at building setback line of ninety (90) feet.
 3. Minimum Front Yard Depth - Thirty (30) feet.
 4. Minimum Side Yard Width - Total: Fifteen (15) feet; One Side: Five (5) feet.
 5. Minimum Rear Yard Depth - Twenty-five (25) feet.
 6. Maximum Building Height - Thirty-five (35) feet.
 7. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot.
- E. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading shall be provided in accordance with Article XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from this zone onto any dedicated street or into any adjacent property.
 4. Screening and landscaping shall be in compliance with Section 10.5 of this ordinance.
 5. A site plan, as regulated by Section 14.5 of this ordinance, shall be required for any use in this zone.

6. No use producing objectionable odors, noise, or dust shall be permitted within this zone.
7. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas.
8. All utilities shall be underground when new development occurs.
9. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

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SECTION 6.3 PO-2 (PROFESSIONAL OFFICE-TWO) ZONE

- A. **PURPOSE:** This zone is established to provide for a high rise office environment accommodating large scale office developments.
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
 4. Except as herein provided, uses as listed below, as a convenience to the occupants thereof, their patients, clients, or customers, provided that the accessory uses shall not exceed ten (10) percent of the gross floor area of the permitted uses in the building(s) and no exterior advertising displays for any accessory uses shall be visible from outside the building:
 - a. Barber shops
 - b. Beauty shops
 - c. Cleaning services, including laundries and dry cleaning
 - d. Coffee shop or refreshment stands
 - e. Communication facilities and towers
 - f. Day care centers
 - g. Eating and drinking places, excluding drive-through and drive-in facilities
 - h. Medical or dental laboratories
 - i. News and confectionery stands
 - j. Prescription pharmacies
 - k. Recreational uses, including membership and health clubs
 5. Sit down restaurants, including drive-through facilities and taverns are permitted to locate outside an office building, within a free standing building, provided all the following conditions, and other applicable sections of this ordinance, are met:
 - a. The total development, including principal and accessory uses, comprises a minimum building site of three (3) acres.
 - b. A pedestrian and vehicular pedestrian plan, is submitted and approved by the zoning administrator. Said plan shall provide for the safe movement of vehicular and pedestrian traffic to and from and within the site
 - c. Such an accessory use shall be developed only in conjunction with a principally permitted use (except off-street parking lots and/or garages) and shall not exceed forty-nine percent (49%) of the gross floor area of the permitted use(s)

6. Vehicle repair, maintenance, servicing, refueling, and parking when in connection with a motorized livery (limousine) service, when such service is located within an office park.

D. AREA AND HEIGHT REGULATIONS

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred (100) feet
3. Minimum front yard depth - Thirty (30) feet for the first two (2) stories, plus ten (10) feet for each additional story up to and including ten (10) stories
4. Minimum side yard width - Fifteen (15) feet
5. Minimum rear yard depth - Twenty-five (25) feet.
6. In the case of this zone, more than one principal structure, as defined herein, may be constructed on one lot

E. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No lighting shall be permitted which would glare from any use located within this zone onto any dedicated street or into any adjacent property.
4. No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.
5. Where any side and/or rear yard of any use permitted within this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance. An additional ten (10) feet of setback shall be provided for each additional story over two (2) stories, up to and including ten (10) stories, an additional five (5) feet of setback shall be provided for each story in excess of ten (10) stories.
6. All utilities must be underground in a new subdivision or development when transmission lines are extended or altered.
7. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking and loading and/or unloading areas.
8. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any use permitted in this zone.
9. Where any office park development permitted in this zone abuts a residential zone, a minimum yard requirement of 100 feet for all yards which abut said zone shall be provided, twenty feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
10. In the case of this zone, more than one principal building, as defined herein, may be permitted to be constructed within the minimum building site area.

11. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

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SECTION 6.4 OP (OFFICE PARK) ZONE

- A. **PURPOSE:** The purposes of the Office Park (OP) Zone are to: allow professional, research, and similar uses within a planned and architecturally unified development, and supplement or serve adjacent areas without having an adverse impact on adjacent areas; but always with the intention of furthering the public health, safety, and general welfare.
- B. **APPLICATION AND PROCESSING:** Applications for development within an Office Park (OP) Zone shall be processed as follows:
1. Applications for a map amendment to zone an area OP shall follow the procedures set forth in Article XIV of this ordinance. In addition to the regulations set forth in Article XIV, of this ordinance, the application shall be accompanied by a development plan, as regulated by Section 14.5, A., of this ordinance, for the entire area under single ownership.
 2. When a site is proposed to be developed within an area which is currently zoned OP, a Stage I Development Plan for the entire area under single ownership, as regulated by Section 14.5, A., of this ordinance, shall be submitted for review by the planning commission. Development shall include: grading of any land; construction of any streets or other improvements; and the demolition, erection, physical expansion, or change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.
 - a. The planning commission shall hold a public hearing on the proposed Stage I Development Plan in accordance with the requirements of KRS Chapter 424, and review said Stage I Development Plan with regard to its compliance with the stated purpose of the Office Park (OP) Zone, the required elements of the Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Upon holding such hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Stage I Development Plan and the bases for their recommendation.
 - b. The legislative body, shall, within ninety (90) days after the planning commission makes its recommendation, process the proposed Stage I Development Plan. Action to approve the Stage I Development Plan may incorporate any conditions imposed by the planning commission. However, should the action impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection B., 1., a., of this section.

A copy of the approved Stage I Development Plan shall be forwarded to the planning commission, or its duly authorized representative, for further processing, in accordance with the requirements for a Stage II Development Plan.

3. Stage II - A Stage II Development Plan, for the area proposed to be developed, shall be developed in conformance with the approved Stage I Development Plan and in accordance with the requirements of Section 14.5, B. of this ordinance, and submitted to the planning commission, or its duly authorized representative, for its review. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 14.5, B. of this ordinance shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.

- a. The planning commission, or its duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 14.5, B. of this ordinance, its conformity with the approved Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this ordinance.

Upon approval of the Stage II Development Plan, by the planning commission, or its duly authorized representation, a copy of said plan shall be forwarded to the zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other regulations as may be required by this ordinance.

C. PERMITTED USES: See Table 6.1

D. ACCESSORY USES:

1. Customary accessory structures and uses.
2. Fences and/or walls, as regulated by Article XII of this ordinance.
3. Signs, as regulated by Article XIII of this ordinance.
4. Uses as listed below, included within and entered from within any office building as a convenience to the occupants thereof, their patients, clients, or customers, providing that the accessory uses shall not exceed ten (10) percent of the gross floor area of the permitted uses in the building and no exterior advertising displays for any of the accessory uses shall be visible from outside the building:

- a. Pharmacies
- b. Barber shops
- c. Beauty shops
- d. Eating and drinking places
- e. Medical or dental laboratories
- f. News stands

E. **AREA AND HEIGHT REGULATIONS:** No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

- 1. Minimum Lot Area - Two (2) acres.
- 2. Minimum Lot Width At Building Setback Line - One hundred fifty (150) feet.
- 3. Maximum Impervious Surface Ratio - Sixty (60) percent.
- 4. Maximum Building Height - Forty (40) feet.
- 5. In the case of this zone, more than one principal structure, as herein defined, may be permitted on one lot.

F. **SETBACK REGULATIONS:** Requirements shall be as approved in the plan.

G. **NATURAL RESOURCE PROTECTION REGULATIONS:** Natural resource protection regulations shall be planned and applied in accordance with Article X of this ordinance.

H. **OTHER DEVELOPMENT CONTROLS:**

- 1. Development shall be consistent with any conceptual development plan/study which has been adopted/approved by the legislative body.
- 2. Off-street parking and loading and/or unloading shall be provided in accordance with Article XI of this ordinance.
- 3. No outdoor storage of any materials, supplies, or products shall be permitted in this zone.
- 4. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property.
- 5. Where any yard of any permitted use in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
- 6. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
- 7. Mechanical equipment, whether ground or roof mounted, shall be screened from view.
- 8. Sidewalks shall be required when any new development occurs.
- 9. Interior landscaping shall be provided as follows:
 - a. A minimum 5% of the vehicular use area shall be landscaped.
 - b. Such landscaped areas shall be a minimum of 65 square feet in area.

- c. Vegetation shall not be located closer than 30 inches to any pavement.
- 10. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

I. CRITERIA: Evaluation of the proposed OP Zone and/or development plan shall be based upon the following criteria:

1. Design

- a. Agreement with the various elements of the Area-Wide Comprehensive Plan, and where applicable, any other adopted plan.
- b. Extent to which the proposed development plan is consistent with the purpose of the Office Park (OP) Zone.
- c. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).
- d. Nature and extent of the proposed uses in relation to the unique characteristics of the site.
- e. Extent to which the design of the proposed development responds to the natural and man - made features of the site.
- f. Building locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and off - street parking areas.
- g. Extent to which the scale of each building relates to the natural environment.
- h. The primary activity area of a building should be oriented toward a natural site amenity.
- i. The location of buildings should be designed to provide for an orderly rhythm by avoiding long, unbroken building facades.
- j. Heights of structures should be compatible with the height of existing structures adjacent to the site.

2. Circulation

- a. Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
- b. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.
- c. The circulation system should follow the natural terrain of the site.
- d. The circulation system should provide for the continuation of existing streets and provide for the connection of proposed streets to adjoining properties.

- e. Extent to which the complete separation of pedestrian and vehicular circulation systems is achieved.
- f. Pedestrian street crossings should provide for safe crossings where there is good sight distance along the street or at a grade separated crossing.

3. Open Space

- a. Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.
- b. Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.
- c. Landscaping should be an integral part in the design of off - street parking areas to soften the impact of hard surfaced areas on adjacent areas.
- d. Open spaces should not be isolated from one another by unrelated physical obstructions, but rather, should be linked together by open space corridors having a reasonable width.
- e. Open spaces and landscaping along the perimeter of the site shall be compatible with adjoining uses and zones.

4. Utilities

- a. Extent to which all necessary public utilities and facilities are available to service the proposed development, including police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.

5. Signage

- a. Signage should be designed to protect and enhance the visual amenities of the site.
- b. A sign package should be developed for the entire development that forms an integral part of the total design of the site.
- c. All signs should be of a complimentary scale and proportion in design and in visual relationship to the site and buildings.
- d. Extent to which signs define and enhance the architectural elements of a building or site.
- e. Extent to which signage is consolidated and coordinated with the overall site design.

- J. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the city's chief administrative official, or his/her duly authorized representative, shall be made in accordance with the procedure required by Subsection B., 2. or B., 3., above, subject to the same limitations and requirements as those under which such plans were originally approved.

- K. EXPIRATION: Development plans within the Office Park (OP) Zone shall be subject to the time constraints noted below. Upon expiration of said time constraints, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining: (1) whether said Office Park (OP) Zone should revert to its original zoning designation; or (2) that the approved Development Plan should be voided. A public hearing may be initiated if the following condition applies:
1. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Development Plan, provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. Substantial construction shall be deemed to mean the placing of footers and/or foundation.

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SECTION 6.5 RC (RURAL COMMERCIAL) ZONE

- A. **PURPOSE:** This zone is established to primarily provide for individual retail uses which are oriented towards serving the needs of the rural community.
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
- D. **AREA AND HEIGHT REGULATIONS:**
1. Minimum lot area - Ten thousand (10,000) square feet
 2. Minimum lot width at building setback line - Seventy (70) feet
 3. Minimum front yard depth - Fifty (50) feet
 4. Minimum side yard width - No restrictions except when adjacent to a street or other deeded right-of-way, then the required width shall be the same as required for a minimum front yard depth in this zone. In the event a side yard is provided, it shall never be less than fifteen (15) feet
 5. Minimum rear yard depth - Fifteen (15) feet
 6. Maximum building height - Forty (40) feet
 7. In the case of this zone, more than one principal structure, as defined herein, may be constructed on one lot.
- E. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any residential zone.
 4. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
 5. Where any side and/or rear yard of any use permitted in this zone abuts a side and/or rear yard which abuts a residential zone, a minimum yard requirement of fifty (50) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
 6. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any use permitted in this zone.
 7. New street construction within this zone shall utilize either the Rural or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

SECTION 6.6 NC (NEIGHBORHOOD COMMERCIAL) ZONE

- A. **PURPOSE:** This zone is established to primarily provide for individual retail, service, automotive, and other uses which are oriented towards serving the daily needs of local residents.
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES**
1. Customary accessory uses
 2. Fences and walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
- D. **AREA AND HEIGHT REGULATIONS:** No building shall be erected or structurally altered hereafter except in accordance with the following regulations:
1. Minimum lot area - Ten thousand (10,000) square feet
 2. Minimum lot width at building setback line - Seventy (70) feet
 3. Minimum front yard depth - Fifty (50) feet
 4. Minimum side yard width - No restrictions, except when adjacent to a street, road, highway, or other right-of-way, when the required width shall be the same as required for a minimum front yard depth in this zone. When buildings abut each other, firewall construction, as required by the building code, shall be required. In the event a side yard is provided, it shall never be less than fifteen (15) feet
 5. Minimum rear yard depth - Fifteen (15) feet
 6. Maximum building height - Forty (40) feet
 7. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot
- E. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading shall be provided in accordance with Article XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
 4. Screening and landscaping shall be provided, as regulated by Section 10.5 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
 5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
 6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas.

7. A site plan, as regulated by Section 14.5 of this ordinance, shall be required for any use permitted in this zone.
8. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

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SECTION 6.7 NSC (NEIGHBORHOOD SHOPPING CENTER) ZONE

- A. **PURPOSE:** This zone is established to provide for retail, service, and other uses, within a planned and coordinated development, which is oriented towards serving the residents of the neighborhood.
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
- D. **AREA AND HEIGHT REGULATIONS**
1. Minimum building site area - Five (5) acres
 2. Maximum building site area - Ten (10) acres
 2. Minimum yard requirements - Fifty (50) feet for each front, side and rear yards
 3. Maximum building height - Forty (40) feet
 4. In the case of this zone, more than one principal structure, as defined herein, may be constructed within the minimum building site area.
- E. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading shall be provided in accordance with Article XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent property.
 4. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
 5. Where any yard of any use permitted in this zone abuts a residential zone, a ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.
 6. All utilities must be underground in a new subdivision of development when transmission lines have to be extended or altered
 7. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas and the outdoor play areas of child care centers.
 8. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any use permitted in this zone. Such site plan shall include the layout of the entire area of the proposed shopping center and shall take into consideration internal and external pedestrian and vehicle access and the functional relationships of uses within the shopping center.

9. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

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SECTION 6.8 SC (SHOPPING CENTER) ZONE

- A. **PURPOSE:** This zone is established to provide for retail, service, and other uses, within a planned and coordinated development, oriented towards serving a regional market
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
 4. Recycling collection centers
- D. **AREA AND HEIGHT REGULATIONS:**
1. Minimum building site area - Ten (10) acres.
 2. Minimum yard requirements - Fifty (50) feet for each front, side, and rear yards
 3. Maximum building height - Forty (40) feet
 4. In the case of this zone, more than one principal structure, as defined herein, may be constructed within the minimum building site area.
- E. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any residential zone.
 4. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
 5. Where any yard of any use permitted in this zone abuts a residential zone, a ten (10) foot wide screening area, as regulated by Section 10.5 of this ordinance, shall be provided.
 6. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
 7. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking and loading and/or unloading areas and the outdoor play areas of day care centers. The display of merchandise is permitted on sidewalks only subject to the following restrictions:
 - a. Only merchandise for sale, including plants and gardening materials is to be displayed

- b. Displays are limited to the area directly in front of a commercial establishment offering the items for sale
 - c. Displays may not be located within six (6) feet of the edge of the sidewalk nearest the curb, and shall allow for six (6) feet of clear width on the sidewalk in any case
 - d. Displays shall not block ingress or egress to any entrances or exits or adjoining buildings or properties
 - e. No stacks of any material or pallets shall be higher than five (5) feet
 - f. No such displays shall engage the use of electricity nor shall such displays be animated or use lights or noise making devices
 - g. Cooking or grilling is not permitted anywhere on sidewalks nor in the parking areas
8. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any use permitted in this zone. Such development plan shall include the layout of the entire area of the proposed shopping center and shall take into consideration internal and external pedestrian and vehicle access and the functional relationship of uses within the shopping center.
9. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

SECTION 6.9 LHS (LIMITED HIGHWAY SERVICE) ZONE

- A. **PURPOSE:** This zone is established to provide for limited retail, service, office and other uses which have a regional market area or which require accessibility to the regional transportation system.
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses:
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
 4. Uses as listed below, included within and entered from within, any motel or hotel, as a convenience to the occupants thereof, and their customers, provided that the accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays for any accessory uses shall be visible from outside the building:
 - a. Barber shops and beauty shops
 - b. Liquor stores
 - c. News and confectionery stands
 - d. Recreational facilities
 5. Convenience food sales, provided in conjunction with a service station and serving primarily as a convenience to the customers thereof. The area utilized for the sale of food items, and the required off-street parking facilities, shall be subordinate in area to the service station. The area for the service station, for comparative purposes, shall be limited to gas pumps, required parking facilities, and storage and circulation areas.
- D. **AREA AND HEIGHT REGULATIONS**
1. Minimum lot area - Ten thousand (10,000) square feet
 2. Minimum lot width at building setback line - Seventy (70) feet
 3. Minimum front yard depth - Fifty (50) feet
 4. Minimum side yard width - No restrictions, except when adjacent to a dedicated street, road, highway, or other right-of-way then the required width shall be the same as required for a minimum front yard depth in this zone. In the event a side yard is provided, it shall never be less than fifteen (15) feet
 5. Minimum rear yard depth - Fifteen (15) feet
 6. Maximum building height - Forty (40) feet
 7. In the case of this zone, more than one principal structure as defined herein, may be constructed on one lot
- E. **OTHER DEVELOPMENT CONTROLS:**

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No lighting shall be permitted which would glare from any use located within this zone onto any dedicated street, or into any adjacent property.
4. No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.
5. Where any side and/or rear yard of any use permitted within this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for shall be provided, ten (10) feet of which shall be maintained by a screening are, as regulated by Section 10.5 of this ordinance.
6. All utilities must be underground in any new subdivision or development when transmission lines have to be extended or altered.
7. A development plan, as regulated by Section 14.5 of this ordinance shall be required for any use permitted in this zone.
8. Off-street parking and loading and/or unloading areas may be located in front and side yard areas in this zone, provided that no off-street parking areas shall be closer than fifteen (15) feet to the street, road, highway, or right-of-way line or boundary line of any adjacent district. This fifteen (15) foot area shall remain open and unobstructed, except by items specifically permitted in yard areas in this ordinance.
9. Eating establishments with a drive-thru facility, are subject to the following conditions:
 - a. The hours of operation of the drive-thru service shall be limited to seven (7:00) A.M. to eleven (11:00) P.M.;
 - b. The sound pressure level from any speaker or order station may not exceed 55 decibels, as provided for in Section 9.13;
 - c. The speaker or order station shall not be located on any wall or in any yard of a building adjacent to any area which is either zoned for or developed in residential use, or located within one hundred (100) feet of such use.
10. Dumpster units and mechanical devices such as air conditioners, heating units, and heat exchanges, shall be screened from residential areas. Noise, which emanates from mechanical devices, shall not exceed 55 decibels, as provided for within Article IX of this ordinance.
11. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

SECTION 6.10 HC (HIGHWAY COMMERCIAL) ZONE

- A. **PURPOSE:** This zone is established to provide for retail, service, and other uses which are oriented towards serving the traveling/transient public or which require immediate access to the regional transportation system.
- B. **PERMITTED USES:** See Table 6.1
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
 4. Uses as listed below, included within and entered from within, any motel or hotel, as a convenience to the occupants thereof, and their customers, providing that the accessory uses shall not exceed ten (10%) percent of the gross floor area of the permitted uses in the building and no exterior advertising displays for any accessory uses shall be visible from outside the building:
 - a. Barber shops
 - b. Beauty shops
 - c. News and confectionery stands
 - d. Restaurants
- D. **AREA AND HEIGHT REGULATIONS:** No building shall be erected or structurally altered hereafter except in accordance with the following regulations:
1. Minimum lot area - Ten thousand (10,000) square feet
 2. Minimum lot width at building setback line - Seventy (70) feet
 3. Minimum front yard depth - Fifty (50) feet
 4. Minimum side yard width no restrictions, except when adjacent to a dedicated street, road, highway, or other right-of-way, then the required width shall be the same as required for a minimum front yard depth in this zone. In the event a side yard is provided, it shall never be less than fifteen (15) feet
 5. Minimum rear yard depth - Fifteen (15) feet
 6. Maximum building height - Forty (40) feet
 7. In the case of this zone, more than one principal structure, as defined herein, may be constructed on one lot
- E. **OTHER DEVELOPMENT CONTROLS:**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.

3. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property.
4. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
5. Where any side and/or rear yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
6. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
7. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any permitted use in this zone.
8. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

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SECTION 6.11 RCO (RIVERFRONT COMMERCIAL) ZONE

- A. **PURPOSE:** This zone is established to provide for a primarily commercial environment accommodating those uses which are oriented towards river functions and activities.
- B. **PERMITTED USES:** See Table 6.1
- C. **AREA AND HEIGHT REGULATIONS**
1. Minimum lot area - None
 2. Minimum lot width at building setback line - None
 3. Minimum front yard depth - None, except where abutting a public street, then the required depth shall be twenty-five (25) feet
 4. Minimum side yard width - None
 5. Minimum rear yard depth - None
 6. Maximum building height
 - a. Permanent structures - Thirty-five (35) feet
 - b. Floating structures - Fifty-five (55) feet
 7. In the case of this zone, more than one principal structure, as defined herein, may be constructed on one lot
- D. **OTHER DEVELOPMENT CONTROLS**
1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
 2. No outdoor storage of any material (useable or waste) shall be permitted in this zone except within enclosed containers.
 3. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
 4. All facilities located in or adjacent to navigable waters shall be approved by the Corps of Engineers, Department of the Army, and the Division of Water, Kentucky Department for Natural Resources and Environmental Protection prior to the issuance of a zoning permit.
 5. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any use permitted in this zone.
 6. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

SECTION 6.12 IP (INDUSTRIAL PARK) ZONE

- A. **PURPOSE:** This zone is established to provide for manufacturing, warehousing, and related industrial uses, within a planned and coordinated development.
- B. **PERMITTED USES:** See Table 6.2
- C. **ACCESSORY USES**
1. Customary accessory structures and uses, including operations required to maintain or support any permitted use in this zone on the same lot as the permitted use, such as maintenance shops, power plants, and machine shops
 2. Uses, as listed below, located and entered from within any permitted use in this zone as a convenience to the occupants thereof, and their customers, provided such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building:
 - a. Cafeterias
 - b. Coffee shops or refreshment stands
 - c. Soda or dairy bars
 3. Fences and/or walls, as regulated by Article XII of this ordinance
 4. Signs, as regulated by Article XIII of this ordinance
- D. **AREA AND HEIGHT REGULATIONS**
1. Minimum tract for industrial development - Twenty-five (25) acres, except where area restrictions are less, as identified in the adopted comprehensive plan; however, development of a smaller tract adjacent to an existing approved site may be permitted provided the proposed development conforms to and extends the original development as if the new site has been a part of the originally approved site plan layout
 2. Minimum lot area within minimum tract - One (1) acre
 3. Minimum lot width at building setback line - One hundred fifty (150) feet
 4. Minimum front yard depth
 - a. When abutting an arterial, as identified in the adopted comprehensive plan - Seventy-five (75) feet
 - b. On internal roads - Fifty (50) feet
 5. Minimum side yard width
 - a. In internal parts of the park - Twenty-five (25) feet
 - b. Where the side yard is adjacent to an arterial, as identified in the adopted comprehensive plan - Seventy-five (75) feet

6. Minimum rear yard depth - Fifty (50) feet. No rear yard shall be required where a rail spur line forms the rear property line
7. Maximum building height - Forty (40) feet
8. In the case of this zone, more than one principal structure, as defined herein, may be permitted on one lot.

E. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property.
4. Where any side and/or rear yard of any permitted use in this zone abuts property in a residential zone, a minimum yard requirement of seventy-five (75) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
5. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any use permitted in this zone.
6. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

SECTION 6.13 I-1 (INDUSTRIAL-ONE) ZONE

- A. **PURPOSE:** This zone is established to provide for light manufacturing, warehousing, and other industrial uses.
- B. **PERMITTED USES:** See Table 6.2
- C. **ACCESSORY USES**
1. Customary accessory structures and uses, including operations required to maintain or support any permitted use in this zone on the same lot as the permitted use, such as maintenance shops, power plants, and machine shops
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
 4. Uses, as listed below, located and entered from within any permitted use in this zone as a convenience to the occupants thereof, and their customers, provided such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building:
 - a. Cafeterias
 - b. Coffee shops or refreshment stands
 - c. Soda or dairy bars
- D. **AREA AND HEIGHT REGULATIONS**
1. Minimum tract for industrial development - Twenty-five (25) acres, except where area restrictions are less, as identified in the adopted comprehensive plan; however, development of a smaller tract adjacent to an existing approved site may be permitted providing the proposed development conforms to and extends the original development as if the new site has been a part of the originally approved site plan layout
 2. Minimum lot area within minimum tract - One (1) acre
 3. Minimum lot width at building setback line - One hundred fifty (150) feet
 4. Minimum front yard depth - Fifty (50) feet
 5. Minimum side yard width - Twenty-five (25) feet; Fifty (50) feet is required where a side yard abuts a street, road, highway, or deeded right-of-way
 6. Minimum rear yard depth - Fifty (50) feet. No rear yard shall be ~~is~~ required where a rail spur line forms the rear property line
 7. Maximum building height - Forty (40) feet
 8. In the case of this zone, more than one principal structure, as defined herein, may be permitted on one lot
- E. **OTHER DEVELOPMENT CONTROLS**

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
2. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property.
3. Where any side and/or rear yard of any permitted use in this zone abuts property in a residential zone, a minimum requirement of seventy-five (75) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
4. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any permitted use in this zone.
5. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

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SECTION 6.14 I-2 (INDUSTRIAL-TWO) ZONE

- A. **PURPOSE:** This zone is established for heavy manufacturing, warehousing, and other industrial uses.
- B. **PERMITTED USES:** See Table 6.2
- C. **ACCESSORY USES**
1. Customary accessory structures and uses including operations required to maintain or support any permitted use in this zone on the same lot as the permitted use, such as maintenance shops, power plants, laboratories, offices, and machine shops
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
 4. Uses, as listed below, located and entered from within any permitted use in this zone as a convenience to the occupants thereof, and their customers, provided such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building:
 - a. Cafeterias
 - b. Coffee shops or refreshment stands
 - c. Soda or dairy bars
- D. **CONDITIONAL USES:** The uses listed as conditional uses in Table 6.2, or any customary accessory structures or uses, subject to the approval by the board of adjustments, as set forth in Section 14.12 of this ordinance:
- E. **AREA AND HEIGHT REGULATIONS**
1. Minimum tract for industrial development - Twenty-five (25) acres, except where area restrictions are less, as identified in the adopted comprehensive plan; however, development of a smaller tract adjacent to an existing approved site may be permitted providing the proposed development conforms to and extends the original development as if the new site has been a part of the originally approved site plan layout
 2. Minimum lot area within minimum tract - One (1) acre
 3. Minimum lot width at building setback line - One hundred fifty (150) feet
 4. Minimum front yard depth
 - a. When abutting an arterial, as identified in the adopted comprehensive plan - Seventy-five (75) feet
 - b. On internal roads - Fifty (50) feet
 5. Minimum side yard width

- a. In internal parts of the park - Twenty-five (25) feet
 - b. Where the side yard is adjacent to an arterial, as identified in the adopted comprehensive plan - Seventy-five (75) feet
6. Minimum rear yard depth - Fifty (50) feet. No rear yard shall be required where a rail spur line forms the rear property line
7. Maximum building height - Forty (40) feet
8. In the case of this zone, more than one principal structure, as defined herein, may be permitted on one lot

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
2. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent residential zone.
3. Where any side and/or rear yard of any permitted use or conditionally permitted use in this zone abuts property in a residential zone, a minimum requirement of seventy-five (75) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
4. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any permitted use in this zone
5. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

SECTION 6.15 I-3 (INDUSTRIAL-THREE) ZONE

- A. **PURPOSE:** This zone is established to provide for industrial uses in urban service areas which depend on the use of the adjacent river for access to barge traffic as part of a transportation mode of exchange and/or distribution.
- B. **PERMITTED USES:** See Table 6.2
- C. **ACCESSORY USES**
1. Customary accessory structures and uses including operations required to maintain or support any permitted use in this zone on the same lot as the permitted use, such as maintenance shops, power plants, laboratories, offices, and machine shops
 2. Fences and/or walls, as regulated by Article XII of this ordinance
 3. Signs, as regulated by Article XIII of this ordinance
 4. Uses, as listed below, located and entered from within any permitted use in this zone as a convenience to the occupants thereof, and their customers, provided such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building:
 - a. Cafeterias
 - b. Coffee shops or refreshment stands
 - c. Soda or dairy bars
- D. **AREA AND HEIGHT REGULATIONS**
1. Minimum tract for industrial development - Twenty-five (25) acres, except where area restrictions are less, as identified in the adopted comprehensive plan; however, development of a smaller tract adjacent to an existing approved site may be permitted providing the proposed development conforms to and extends the original development as if the new site has been a part of the originally approved site plan layout
 2. Minimum lot area within minimum tract - One (1) acre
 3. Minimum lot width at building setback line - One hundred fifty (150) feet
 4. Minimum front yard depth - Fifty (50) feet
 5. Minimum side yard width - Fifteen (15) feet; Forty (40) feet is required where a side yard abuts a street, road, highway, or deeded right-of-way
 6. Minimum rear yard depth - Twenty-five (25) feet. No rear yard shall be is required where a rail spur line forms the rear property line
 7. Maximum building height - Fifty (50) feet
 8. In the case of this zone, more than one principal structure, as defined herein, may be permitted on one lot
- E. **OTHER DEVELOPMENT CONTROLS**

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance
2. No lighting shall be permitted which would glare from any use located within this zone onto any street, or into any adjacent residential zone.
3. Where any side and/or rear yard of any permitted use in this zone abuts property in a residential zone, a minimum requirement of seventy-five (75) feet shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance.
4. A development plan, as regulated by Section 14.5 of this ordinance, shall be required for any permitted use in this zone.
5. Where an industrial use exists prior to the area being zoned I-3, and listed as a permitted use herein, but does not plan to use the adjacent river as a mode of transportation for its operation, such use may be permitted to expand, subject to the approval of the planning commission, or its duly authorized representative, provided such expansion is made in a manner that is coordinated with the use of the zone for river oriented industries and is in accordance with other requirements of this zone
6. New street construction within this zone shall utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

ARTICLE VII

SPECIAL DEVELOPMENT ZONES

SECTION 7.0 GENERAL: The Special Development Zones of this article are zoning classifications that deal with fairly unique situations or help accomplish special zoning goals.

SECTION 7.1 A-1 (AGRICULTURAL-ONE) ZONE

A. **PURPOSE:** This zone is established to preserve the rural character of the Non-Urban Service Area by promoting agricultural and related uses, and by discouraging all forms of urban development. It is also the intent of this zoning district to allow low-density residential development while maintaining and preserving agricultural/open space areas.

B. **PERMITTED USES:**

Residential Use Group - Household Living

1. Single-family residential dwellings (detached)
2. Manufactured homes
3. Mobile homes
4. Qualified manufactured homes

Commercial Use Group

1. Lodging - Bed and Breakfast, per Section 9.12

Other Use Group

1. Agriculture

C. **ACCESSORY USES:**

1. Customary accessory structures and uses
2. Fences and walls, as regulated by Article XII of this ordinance
3. Home occupations, as regulated by Section 9.9 of this ordinance
4. Signs, as regulated by Article XIII of this ordinance
5. Accessory Dwelling Units, as regulated by Section 9.6 of this ordinance

D. **CONDITIONAL USES:** The following uses, or any customary accessory structures and uses, subject to the approval by the board of adjustments, as set forth in Article XIX of this ordinance:

Public and Civic Use Group

1. Cultural exhibits and libraries

2. Day care or day care center
 - a. Family day care home
 - b. Day care type 2
 - c. Day care type 1
3. Recreation and open space
 - a. High intensity
 - b. Low intensity
4. Religious assembly
5. Safety services
6. Schools

Commercial Use Group

1. Animal services
 - a. Sales and grooming
 - b. Veterinary hospitals
 - c. Kennels and shelters
2. Funeral and internment services
 - a. Cemetery/mausoleum/columbarium
 - b. Undertaking

E. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES: Except as provided for in Subsection H., the following area and height regulations shall be followed:

1. Minimum lot area - Five (5) acres
2. Minimum lot width at building setback line - Two hundred fifty (250) feet
3. Minimum front yard depth - Seventy-five (75) feet
4. Minimum side yard width - One hundred (100) feet
5. Minimum rear yard depth - Fifty (50) feet
6. Maximum building height - Thirty-five (35) feet

F. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

1. Minimum lot area - Three (3) acres
2. Minimum lot width at building setback line - Three hundred (300) feet
3. Minimum front yard depth - Seventy-five (75) feet
4. Minimum side yard depth - Seventy-five (75) feet
5. Minimum rear yard depth - Seventy-five (75) feet
6. Maximum Building Height - Thirty-five (35) feet

G. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading and/or unloading shall be provided in accordance with Article XI of this ordinance.
2. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property
3. The sale of products that are raised, produced, and processed on the premises is permitted, provided that no roadside stands shall be permitted within fifty (50) feet from any road or highway.
4. Where any yard of any conditionally permitted use in this zone abuts a property in a residential zone, a minimum ten (10) foot wide screening area as regulated by Section 10.5 of this ordinance, shall be provided.
5. The following shall apply to bed and breakfast establishments:
 - a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
 - b. Food service may be provided for resident guests only.
 - c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
 - d. Interior alterations should maintain the unique characteristics of the structure, if applicable.
 - e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
 - f. A site plan, as regulated by Section 14.5 of this ordinance, shall be required.
6. New street construction within this zone shall utilize the Rural Street Cross Section contained within the Kenton County Subdivision Regulations.

H. ALTERNATIVE DEVELOPMENT CRITERIA: As an alternative to the minimum area and height regulations established in Subsection E., as part of any preliminary plat submittal, the following regulations may be followed:

1. Agricultural/Open Space Preservation - A minimum of fifty (50) percent of the proposed development shall be retained as perpetual open space. This area shall only be used for agricultural uses, recreational uses, open space uses, or for package treatment plants/septic tanks/leach systems.
2. Minimum Lot Area - For building lots to be used for residential purposes, the minimum lot area shall be one (1) acre. For all other building lots, the minimum lot area shall be three (3) acres.
3. Minimum Setbacks - There shall be a minimum front, side, and rear yard setback of fifty (50) feet.
4. Maximum Building Height - Thirty-five (35) feet

5. Permanent Easement - A permanent open space/conservation easement document pertaining to the use of the agricultural/open space preservation area shall be included in on the plat and in each owner's deed.
6. Access - Each building lot shall front on an internal street, which shall meet the minimum requirements of the subdivision regulations.
7. Maintenance - A homeowner's association, or other entity, shall be established to maintain private roads (if applicable), common water and sewer facilities, and agricultural/open space preservation areas.
8. Buffer - No building lot shall be located closer than one hundred (100) feet to the boundary of the proposed development.

SECTION 7.2 INST (INSTITUTIONAL) ZONE

- A. **PURPOSE:** The purposes of the Institutional (INST) Zone are to: provide for public, semi-public, medical, educational, and related type uses; promote flexibility in design and permit planned diversification in the relationships between the location and types of uses and structures; promote the advantages of large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, existing landscape features and amenities, and to utilize such features in an harmonious fashion; provide for more usable and suitably located recreation, public, and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.
- B. **APPLICATION AND PROCESSING:** Applications for development within an INST Zone shall be processed as follows:
 1. Applications for a map amendment to zone an area INST shall follow the procedures set forth in Article XIV of this ordinance. In addition to the regulations set forth in Article XIV, the application shall be accompanied by a development plan, as regulated by Section 14.5, A., for the entire area under single ownership.
 2. When a site is proposed to be developed within an area which is currently zoned INST, a Stage I Development Plan for the entire area under single ownership, as regulated by Section 14.5, A., of this ordinance, shall be submitted for review by the planning commission. Development shall include: grading of any land; construction of any streets or other improvements; and the demolition, erection, physical expansion, or change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.
 - a. The planning commission shall hold a public hearing on the proposed Stage I Development Plan in accordance with the requirements of KRS Chapter 424, and review said Stage I Development Plan with regard to its compliance with the stated purpose of the INST Zone, the required elements of the Stage I Development Plan, applicable requirements of this

section of the ordinance, and other applicable requirements of this ordinance. Upon holding such hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Stage I Development Plan and the bases for their recommendation.

- b. The legislative body, shall, within ninety (90) days after the planning commission makes its recommendation, process the proposed Stage I Development Plan. Action to approve the Stage I Development Plan may incorporate any conditions imposed by the planning commission. However, should the action impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection B., 1., a., of this section.

A copy of the approved Stage I Development Plan shall be forwarded to the planning commission, or its duly authorized representative, for further processing, in accordance with the requirements for a Stage II Development Plan.

3. Stage II Development Plan - A Stage II Development Plan, for the area proposed to be developed, shall be developed in conformance with the approved Stage I Development Plan and in accordance with the requirements of Section 14.5, B. of this ordinance, and submitted to the planning commission, or its duly authorized representative, for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 14.5, B. of this ordinance shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.
 - a. The planning commission, or its duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 14.5, B. of this ordinance, its conformity with the approved Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance.

Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this ordinance.

Upon approval of the Stage II Development Plan, by the planning commission, or its duly authorized representative, a copy of said plan shall

be forwarded to the zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other regulations as may be required by this ordinance.

C. PERMITTED USES:

Public and Civic Use Group

1. Colleges and Universities
2. Cultural Exhibits and Libraries
3. Day care or day care center
 - a. Day care type 2
 - b. Day care type 1
4. Hospital
5. Recreation and open space
 - a. High intensity
 - b. Low intensity
6. Religious assembly
7. Safety services
8. Schools
9. Social service agency

Commercial Use Group

1. Business support services
2. Medical Service
3. Office

D. ACCESSORY USES:

1. Customary accessory buildings and uses.
2. Uses as listed below, provided in conjunction with a permitted use, primarily as a convenience to its occupants, its customers, patients, and employees, and located within the same building as the permitted use:
 - a. Book store
 - b. Florist
 - c. Gift shop
 - d. Medical and educational supply store
 - e. Pharmacy
 - f. Restaurant or cafeteria

E. AREA REGULATIONS:

1. No INST Zone shall be permitted on less than ten (10) acres of land. However, an area of less than ten (10) acres may be zoned INST, provided it is adjacent to an area currently zoned INST, with an existing approved Stage I Development Plan.
 2. The minimum area for submission of a Stage I Development Plan, within an area currently zoned INST, shall be not less than one (1) acre.
- F. **HEIGHT, YARD, AND SETBACK REQUIREMENTS:** Except as specified herein, requirements shall be as approved in the Stage I Development Plan.
1. Where any yard of any use permitted in this zone abuts a single-family residential zone, a minimum yard requirement of ninety (90) feet shall be provided, fifty (50) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance. This 50 foot area shall remain open and not permit off-street parking and loading and/or unloading. In the event that such screening area contains an earthen berm or mound at least six (6) feet in height, the fifty (50) foot screening area shall be reduced to thirty (30) feet.
 2. Where any yard of any use permitted in this zone abuts a residential zone, other than a single - family residential zone, a minimum yard requirement of ninety (90) feet shall be provided, fifteen (15) feet of which shall be maintained by a screening area, as regulated by Section 10.5 of this ordinance. This fifteen (15) foot area shall remain open and not permit off-street parking and loading and/or unloading.
 3. Where any lot abuts a county road, the height of any structure on that lot that is built within three hundred (300) feet of the county road is limited to thirty-five (35) feet.
- G. **OFF-STREET PARKING AND LOADING AND/OR UNLOADING:** Off-street parking and, when applicable, loading and/or unloading facilities, shall be provided in accordance with Articles XI of this ordinance.
- H. **FENCES, WALLS, AND SIGNS:** The location, height, and type of all fences, walls, and signs, shall be as approved in the Stage I Development Plan.
- I. **NATURAL RESOURCE PROTECTION REGULATIONS:** Natural resource protection regulations shall be planned and applied in accordance with Article X of this ordinance.
- J. **SCREENING:** Shall be as approved in the Stage I Development Plan.
- K. **OTHER DEVELOPMENT CONTROLS:**
1. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. Such areas shall be screened from view.
 2. No lighting shall be permitted which would glare from this zone onto any street or into any adjacent property.

3. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
4. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of outdoor exercise and recreation facilities, off - street parking, and loading and/or unloading areas.
5. The property owner shall be required to maintain all landscaping, screening, mounding, and open spaces. Additionally, for a period of one year from the date of installation, the applicant shall be required to replace any plant material which dies.
6. New street construction within this zone may utilize either the Urban or Suburban Street Cross Sections contained within the Kenton County Subdivision Regulations.

L. CRITERIA: Evaluation of the proposed Institutional - One INST Zone and/or development plan shall be based upon the following criteria:

1. Design
 - a. Agreement with the various elements of the Area-Wide Comprehensive Plan, and where applicable, any other adopted plan.
 - b. Extent to which the proposed development plan is consistent with the purpose of the INST Zone.
 - c. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).
 - d. Nature and extent of the proposed uses in relation to the unique characteristics of the site.
 - e. Extent to which the design of the proposed development responds to the natural and man - made features of the site.
 - f. Building locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and off - street parking areas.
 - g. Extent to which the scale of each building relates to the natural environment.
 - h. The primary activity area of a building should be oriented toward a natural site amenity.
 - i. The location of buildings should be designed to provide for an orderly rhythm by avoiding long, unbroken building facades.
 - j. Heights of structures should be compatible with the height of existing structures adjacent to the site.
 - k. The heights of structures should be higher on the interior of the zoning district and lower on the perimeter of the zoning district, creating a terraced effect.

1. The heights of structures should take into account the final elevation of the site and be designed so as not to become strong visual elements from areas outside the general vicinity of the zoning district.
2. Circulation
 - a. Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
 - b. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.
 - c. The circulation system should follow the natural terrain of the site.
 - d. The circulation system should provide for the continuation of existing streets and provide for the connection of proposed streets to adjoining properties.
 - e. Extent to which the complete separation of pedestrian and vehicular circulation systems is achieved.
 - f. Pedestrian street crossings should provide for safe crossings where there is good sight distance along the street or at a grade separated crossing.
3. Open Space
 - a. A minimum of ten (10) percent of the total acreage of each site for a permitted use shall be set aside for open space, exclusive of streets, parking areas, and buildings.
 - b. Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.
 - c. Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.
 - d. Landscaping should be an integral part in the design of off - street parking areas to soften the impact of hard surfaced areas on adjacent areas.
 - e. Open spaces should not be isolated from one another by unrelated physical obstructions, but rather, should be linked together by open space corridors having a reasonable width.
 - f. Open spaces and landscaping along the perimeter of the site shall be compatible with adjoining uses and zones.
4. Utilities
 - a. Extent to which all necessary public utilities and facilities are available to service the proposed development, including police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.

5. Signage

- a. Signage should be designed to protect and enhance the visual amenities of the site.
- b. A sign package should be developed for the entire development that forms an integral part of the total design of the site.
- c. All signs should be of a complimentary scale and proportion in design and in visual relationship to the site and buildings.
- d. Extent to which signs define and enhance the architectural elements of a building or site.
- e. Extent to which signage is consolidated and coordinated with the overall site design.

M. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the planning commission, or its duly authorized representative, shall be made in accordance with the procedure required by Subsection B., 2. or B., 3., above, subject to the same limitations and requirements as those under which such plans were originally approved.

N. EXPIRATION: Development plans within the INST Zone shall be subject to the time constraints noted below. Upon expiration of said time constraints, and any extensions thereto, the applicant shall be required to resubmit the development plan for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100. Following submittal by the applicant, a public hearing shall be initiated if either of the following conditions apply:

- a. Stage II Development Plan has not been approved by the city's chief administrative official, or his duly authorized representative, within a period of five years from the date of the approved Stage I Development Plan; provided that an extension may be permitted upon approval of the city's chief administrative official, or his duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the approved Stage I Development Plan obsolete.
- b. Substantial construction has not been initiated within a period of two years from the date of approval of the Stage II Development Plan by the city's chief administrative official, or his duly authorized representative, provided that an extension may be permitted upon approval of the city's chief administrative official, or his duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. Substantial construction shall be deemed to mean placing of footers and/or foundation.

SECTION 7.3 ECP (ECO COMMERCE PARK) ZONE

A. PURPOSE: The purpose of the Eco Commerce Park (ECP) Zone is to allow for a variety of light industrial uses such as manufacturing, warehousing, professional office, and

research within a planned, coordinated development. The zone is appropriate in areas with environmentally sensitive features where development is appropriate if built in harmony with the character of the natural surrounding environment.

B. APPLICATION AND PROCESSING: Applications for development within an Eco Commerce Park (ECP) Zone shall be processed as follows:

1. Pre-application meeting: Prior to filing for development plan review, the developer, petitioner, applicant or property owner shall attend a pre-application meeting with staff to discuss the development review process, the Eco Commerce Park Zone requirements, and the legislative body's zoning ordinance requirements. The pre-application meeting will also serve as the pre-study meeting which is required prior to starting a Traffic Impact Study in accordance with Section 4.5., F of this ordinance.
2. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form. This meeting is intended to review the development plan and identify any issues in applying the regulations of the Eco Commerce Park.
3. Zoning Map Amendment: All map amendment requests shall follow the provisions set forth in Article XIV of this ordinance.
4. Stage II Development Plan Review: A Stage II Development Plan for the area proposed to be developed, shall be submitted for review in accordance with all sections of this ordinance to the planning commission's duly authorized representative.
5. Public Comment Period: After the submission of the Stage II Development Plan:
 - a. The applicant shall notify all property owners who own property adjacent to the site where development is proposed at least seven days prior to the public comment period.
 - b. A minimum of five business days shall be set aside for public comment period.
6. The planning commission or its duly authorized representative shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of this ordinance and its conformity with the items discussed at the pre-application meeting.
 - a. Following review of the submitted Stage II Development Plan, the planning commission or its duly authorized representative, shall make one of the following recommendations: approval, approval with conditions, or disapproval.

- b. Upon approval of the Stage II Development Plan by the planning commission or its duly authorized representative, the zoning administrator shall grant permits only in accordance with the approved Stage II Development Plan, and other regulations as may be required by this ordinance.

C. PERMITTED USES:

1. Agriculture
2. Manufacturing, Production, and Industrial Service, Limited and General
3. Warehouse, Wholesaling and Freight Movement
4. Research and development facilities

D. PROHIBITED USES:

1. Packaging or rendering plants, or slaughterhouses for the processing of animals and animal by-products
2. Foundries for the casting of aluminum
3. Manufacture, processing or bulk storage of feed, fertilizer, grain or soil conditioners
4. Manufacture, milling, mixing, processing, or bulk storage of asphalt, brick, cement, gravel, lumber, rock, sand, and similar construction materials.
5. Manufacture, processing, refining or bulk storage for off-premises delivery of coal, coke, compressed gases, liquefied petroleum gases or other fuels
6. Manufacture, processing, repair, compounding, packaging, assembly, or treatment plants and facilities for explosives related equipment, materials or products

E. ACCESSORY USES:

1. Customary accessory structures and uses, including operations required to maintain or support any permitted use in this zone on the same lot as the permitted use.
2. Food and beverage service operations entered from within any permitted use in this zone as a convenience to the occupants thereof, and their customers, provided such accessory uses shall not exceed ten percent of the gross floor area of the permitted uses in the building. No exterior advertising displays shall be visible from outside the building.
3. Tank farms, with a maximum height of 60 feet are permitted provided they are located such that the principal structure is located between the tank farm and the residential zone. These uses shall be screened using earth berms or landscaping.
4. Fences and/or walls, as regulated by Article XII of this ordinance.
5. Signs, as regulated by Article XIII of this ordinance.

F. AREA AND HEIGHT REGULATIONS:

1. Minimum Tract for Development - 25 acres; however, development of a smaller tract adjacent to an existing approved site may be permitted providing the proposed development conforms to and extends the original development as if the new site had been a part of the originally approved site plan layout.
2. Minimum Lot Area Within Minimum Tract - five acres.
3. Minimum Lot Width at Building Setback Line - 150 feet.
4. Maximum Building Height - 40 feet.
5. Maximum Impervious Surface Ratio - 60 percent. Pervious pavement and green roofs do not count towards the maximum impervious surface ratio.
6. In the case of this zone, more than one principal structure, as herein defined, may be permitted on one lot.

G. SETBACK REGULATIONS: When adjacent to a residential zone, the minimum required setback shall be 100 feet and in all other cases the minimum required setback shall be 50 feet. If these provisions conflict with other requirements of this ordinance, the more restrictive provision will apply.

H. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 10.6 of this ordinance.

I. PERFORMANCE STANDARDS FOR BUILDING DESIGN:

1. Variations in building façade using elements such as color, building materials or offset variations in roofline shall be used. No metal buildings shall be permitted except expansion walls.
2. All sides of a building that are visible from the public access areas of neighboring properties or the public right of way shall include a combination of architectural design elements.
3. Within developments of multiple buildings, building heights shall be varied to avoid the appearance of an elongated building mass.
4. Color shades shall be used to facilitate blending into the neighborhood and unifying the development. The color shades of building materials may be drawn from the range of color shades found in earth tones or developments in the immediate area.
5. Mechanical equipment if located on the building roof shall be screened by using elements of the building's roof.

- J. **TRAFFIC IMPACT STUDY:** A Traffic Impact Study shall be provided per the specifications provided in Section 4.5 of this ordinance.
- K. **LIGHTING:** Lighting shall be provided per the requirements of Section 4.6 of this ordinance.
- L. **OTHER DEVELOPMENT CONTROLS:**
1. Development shall be consistent with all conceptual development plans/studies adopted/approved by the legislative body.
 2. Off - street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
 3. No outdoor storage of any materials, supplies, or products shall be permitted in this zone.
 4. Screening and landscaping shall be provided, as regulated by Section 10.5 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
 5. All business activities permitted within this zone shall be conducted within a completely enclosed building.
 6. No outdoor storage of any waste materials shall be permitted in this zone, except within enclosed containers. Such area shall be screened from view.
 7. New street construction within this zone may utilize either the Urban, Suburban or Rural Street Cross Sections contained within the Kenton County Subdivision Regulations.
- M. **HILLSIDE PROTECTION:** Hillside protection measures shall be planned and applied in accordance with Section 10.2 of this ordinance.
- E. **RIPARIAN PROTECTION:** It is the intent of this sub-section to establish riparian buffer areas adjacent to all perennial streams and rivers in Kenton County to: Protect public and private water supplies; trap sediment and other pollutants in surface runoff; promote bank stabilization; protect riparian wetlands; minimize the impacts of flooding; prevent decreases in base flow; protect wildlife habitat; and maintain water quality.
1. **Establishment of Riparian Buffer Areas**

The following are exempt from the terms and protection of these regulations: grassy swales, roadside ditches, drainage ditches created at the time of a subdivision to convey stormwater to another system, tile drainage systems, and stream culverts.

The following shall apply to the riparian buffer:

 - a. The minimum riparian buffer shall include and interpreted from the LINK-GIS blueline stream layer, plus an additional 50 feet for residential uses and 75 feet for non-residential uses on either side of the stream.

- b. Where the 100-year floodplain is wider than the riparian buffer on either or both sides of the stream, the riparian buffer shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain width shall be reflective of and interpreted from the Federal Insurance Administration's Flood Insurance Study floodplain boundaries, and regulated per Section 9.25 of this Ordinance.
- c. The following adjustment for steep slopes shall be integrated into the riparian buffer calculation for width determination to account for the influence of gradient on the stream:

Average percent slope within the riparian buffer	Additional buffer requirements
= >15% and < 25%	Add 25 feet
> 25%	Add 50 feet

- d. The applicant shall be responsible for delineating the riparian buffer and identifying this setback on all subdivision plats, development plans, and/or zoning permit applications. No approvals or permits shall be granted prior to the determination of the riparian buffer in conformance with these regulations.
 - e. Prior to any land disturbance activity, the riparian buffer shall be clearly delineated with construction fencing or other suitable material by the applicant on site, and such delineation shall be maintained throughout soil-disturbing activities. The delineated area shall be maintained in an undisturbed state unless otherwise permitted by these regulations. All fencing shall be removed when a development project is completed.
2. Permitted Uses: All land within the riparian buffer shall be subject to the following standards and regulations. Except as otherwise provided in these regulations, the riparian buffer shall remain in a natural condition, or, if in a disturbed condition, including agricultural activities, at the time of the adoption of this ordinance, may be restored to a natural condition.
- a. Existing land uses, except:
 - (1) when the existing land use, or any building or structure involved in that use is enlarged, increased or extended to occupy a greater area of land; or
 - (2) when the existing land use, or any building or structure is involved in that use is moved (in whole or in part) to another portion of the property; or
 - (3) when the existing land use ceases for a period of more than one year; or
 - (4) when the existing land use involves agricultural production and management, in which case it shall be consistent with all state and federal laws, all regulations within the Kentucky Agriculture

Water Quality Act and best management practices established by the Kentucky Division of Conservation.

- b. Open space uses that are primarily passive in character shall be permitted to extend into the riparian buffer provided the vegetation and remaining area of buffer is maintained. Such uses include wildlife sanctuaries, nature preserves, forest preserves, fishing areas, and game farms.
- c. Multiple use recreation trails provided they are located at least 20 feet from the stream and constructed of pervious materials.
- d. Fences for which a permit has been issued by the Zoning administrator provided they are not located within the floodway boundary.
- e. Timber cutting when accomplished under the advice and guidance of an appropriate government agency and necessary to preserve the forest from pest infestation, disease infestation or fire threat. Removal of individual trees that are in danger of falling and causing damage to structures or causing blockage to the stream flow.
- f. Stream crossings when designed and constructed according to Kentucky Division of Water standards. All roadway crossings shall mitigate and remediate any necessary disturbance to the riparian buffer.
- g. Revegetation and/or reforestation of the riparian buffer. Information pertaining to species of shrubs and vines recommended for stabilizing flood prone areas along streams may be obtained at the Kenton County Conservation District.
- h. Stream bank stabilization or erosion control when accomplished according to best management practices and permitted uses by local, state and federal government regulations that emphasize the use of native plant species where practical and available. Stream bank stabilization/erosion control practices shall only be undertaken with approval from Sanitation District No.1.
- i. Structures which by their nature must be located within the riparian buffer. These include docks, boat launches, public water supply intake structures, facilities for water quality treatment and purification, utility transmission lines, and public wastewater treatment plant sewer lines and outfalls.

F. **VIEWSHED PROTECTION:** The purpose of these regulations is to protect and enhance the aesthetic character of areas that are highly visible from arterials and collectors, and to ensure the protection of natural resources such as hillsides and streams. These natural resources have a significant impact on the views along public rights of way.

- 1 For the purposes of these regulations, areas located 400 feet on either side of an existing arterial and 200 feet on either side of an existing collector street, measured from the edge of the right of way, shall be considered viewshed protection areas.

If the applicant can demonstrate that the boundaries of the viewshed protection area are inappropriate due to topographic conditions, the applicant shall submit a

proposed viewshed protection area and include the justification for the proposed change.

- 2 For new developments proposed in viewshed protection areas, the following measures either individually or in combination may be used to meet the purposes of these regulations:

- a. Existing vegetation on the site along the arterial or collector street shall be preserved for a minimum depth of 75 feet as measured perpendicular to the right of way. If the existing vegetation is less than 75 feet in depth or is insufficient to serve as a visual buffer, then a combination of at least one other technique shall be used. These areas may count towards any open space or riparian buffer requirement.

All areas with existing vegetation proposed to be protected shall be clearly identified on Stage II Development Plans; photographs may be submitted to show that the areas proposed for protection meet the intent of this ordinance.

The applicant shall submit a tree protection/planting plan that identifies areas with trees for preservation and describes protection methods to be used during construction. This plan may be a part of the required landscape plan and shall include the following information:

- (1) Location of trees to be preserved;
 - (2) Contour lines; and
 - (3) Limits of clearing, trenching, access routes for heavy equipment, etc. that may be dangerous to the tree(s).
- b. A landscaped earth berm with a maximum slope of three to one, rising at least four feet above the existing grade shall be provided. The earth berm shall be landscaped with evergreen trees, deciduous understory trees, and evergreen shrubs. A difference in elevation between areas requiring screening does not constitute an earth mound.
- c. A minimum setback of 150 feet shall be provided from the edge of the right of way to the closest structure. These areas may count towards any open space requirements.
- d. Landscaping or reforestation techniques shall be used when none of the other listed viewshed protection options is feasible. A minimum planting strip of 75 feet shall be provided with 1 tree per 35 feet of linear boundary, or fraction thereof, from either List A (shade trees) or List B (flowering and non-flowering trees), plus a single row hedge from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs) from the Planting Manual and Landscape Regulations Guidelines.

Alternatively, a reforestation program may be established for a minimum area 75 feet in depth as measured perpendicular to the right-of-way. A

detailed description with plans shall be submitted along with the Stage II Development Plan. The reforestation program shall be prepared by a licensed forester or a licensed landscape architect.

N. CRITERIA: Evaluation of the proposed Eco Commerce Park (ECP) Zone and/or development plan shall be based upon the following criteria:

1. Design

- a. Agreement with the various elements of the most recent Area-Wide Comprehensive Plan and where applicable, any plan officially adopted by the legislative body for the subject area.
- b. Extent to which the proposed development plan is consistent with the purpose of the Eco Commerce Park (ECP) Zone.
- c. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).
- d. Extent to which the design of the proposed development responds to the natural and man-made features of the site.
- e. Building locations planned to accomplish a desirable transition with open spaces, pedestrian areas, and off-street parking areas.
- f. Building and site designs that are visually appealing.
- g. Structure heights that are compatible with those of existing structures adjacent to the site.

2. Circulation

- a. Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle it. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
- b. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.
- c. Extent to which the circulation system follows the natural terrain of the site.
- d. Extent to which the circulation system provides for the continuation of existing streets and provides for the connection of proposed streets to adjoining properties.
- e. Extent to which the separation of pedestrian and vehicular circulation systems is achieved.
- f. Extent to which pedestrian street crossings provide for safe crossings at locations with good sight distance or at a grade-separated crossing.

3. Landscaping

- a. Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.
- b. Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.
- c. Landscaping should be an integral part in the design of off-street parking areas to soften the impact of hard-surfaced areas on adjacent sites.

4. Utilities

- a. Extent to which all necessary public utilities and facilities are available to service the proposed development. These include police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.

5. Signage

- a. Extent to which signage is designed to protect and enhance the visual amenities of the site.
- b. Extent to which signage developed for the entire development forms an integral part of the total design of the site.
- c. Extent to which signs compliment scale and proportion to the site and buildings.
- d. Extent to which signs define and enhance the architectural elements of a building or site.
- e. Extent to which signage is consolidated and coordinated with the overall site design.

O. AMENDMENTS: Any amendments to plans shall be made in accordance with the procedure required by Subsection B.

P. EXPIRATION: A Stage II Development Plan within the Eco Commerce Park (ECP) Zone shall be determined void if substantial construction has not been initiated within a period of 12 consecutive months from the date of its approval. The planning commission's duly-authorized representative may provide a one-time extension to this requirement for a period not to exceed 12 months if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. Substantial construction shall be deemed to mean the construction of roads.

Q. UTILITIES: All utilities must be underground when any new development occurs.

SECTION 7.4 TOWN CENTER FORM DISTRICT (TCFD) ZONE

- A. **PURPOSE:** The purpose of the Town Center Form District is to represent a high quality commercial development area that is aesthetically pleasing, visually unified and has a balanced functionality between pedestrian and vehicular uses. The vision for this area is one with buildings scaled and massed appropriately together and set closer to the street and to each other, inviting pedestrians to walk from place to place, with mixed uses that will serve a multitude of purposes for both the resident and visitor, and always with the intention of furthering the public health, safety, and general welfare. The provisions of this section are intended to ensure that new development within the designated Town Center Form District is consistent with the desired pattern and characteristics of the district, promoting the following as applicable:
1. Safe access and that will facilitate traffic movement along major arterial roads;
 2. A circulation system that balances multi-modal uses;
 3. A mixture of moderately intense uses including civic, shopping, restaurants, offices and residences;
 4. An aesthetically pleasing appearance of building mass, placement and materials, lighting, landscaping, and vehicular areas;
 5. Coordinated development between adjacent properties including shared parking, vehicular and pedestrian movement and appearance;
- B. **APPLICATION AND PROCESSING:** Applications for development shall be processed as follows:
1. **Pre-application meeting:** Prior to filing for development plan review, the developer, petitioner, applicant or property owner shall attend a pre-application meeting with staff to discuss the development review process, the TCFD Zone requirements, and the legislative body's zoning ordinance requirements. The pre-application meeting will also serve as the pre-study meeting which is required prior to starting a Traffic Impact Study in accordance with Section 4.5., F of this ordinance.
 2. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form. This meeting is intended to review the development plan and identify any issues in applying the regulations of the TCFD.
 3. **Zoning Map Amendment:** All map amendment requests shall follow the provisions set forth in Article XIV of this ordinance.
 4. **Stage II Development Plan Review:** A Stage II Development Plan for the area proposed to be developed, shall be submitted for review in accordance with all sections of this ordinance to the planning commission's duly authorized representative.

5. The planning commission or its duly authorized representative shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of this ordinance and its conformity with the items discussed at the pre-application meeting.
 - a. Following review of the submitted Stage II Development Plan, the planning commission or its duly authorized representative, shall make one of the following recommendations: approval, approval with conditions, or disapproval.
 - b. Upon approval of the Stage II Development Plan by the planning commission or its duly authorized representative, the zoning administrator shall grant permits only in accordance with the approved Stage II Development Plan, and other regulations as may be required by this ordinance.
6. Compliance with the Code - Compliance with the TCFD regulations shall be evaluated based on the intent of the regulations, how well the development conforms to the regulations and whether it is consistent with the Legislative Body's goals and plans to establish a Town Center Form District. Minor modifications shall be reviewed and discussed at the pre-application conference and shall be based on problems related to topography, or street grade, the location of streets, breaks and passages between buildings, signs, streetscape details, design issues related to the inclusion of existing buildings or mature trees as part of a development proposal.
7. Exceptions - Lots having less area than the five (5) acres required for development under the Town Center Form District and legally created prior to the adoption of these regulations may be occupied by one (1) single family dwelling unit.
8. Substantial Additions to Existing Developed Sites - The TCFD regulations shall be applied when substantial additions to existing buildings are made. Substantial building additions are defined per the criteria established in the table below. Developments that do not fall under this criteria must meet the minimum setback requirements as contained within Subsection G.1 (b) and (c). Developments that do meet these criteria must comply with the requirements listed in Table 1.

Where Existing Structure Is	Substantial Increase An Addition Of
0 – 1,000 sq. ft.	101% or greater
1,001 – 10,000 sq. ft.	40% or greater
10,001 – 25,000 sq. ft.	30% or greater
25,001 – 50,000 sq. ft.	20% or greater
50,001 sq. ft. and above	10% or greater

9. Permit Process - Zoning and Building Permits will not be issued for building activity until the Stage II Development Plan review process is completed and a determination is made by the Legislative Body or its duly authorized representative, that the proposal is consistent with the Town Center Form District regulations, per the approved plan.

DRAFT

Table 1 Development Review Criteria					
Applicable Design Standards	Construction or expansion of a single family residential dwelling (as per Table in Administration section)			Comments	
	Construction or expansion of a single family residential dwelling (as per Table in Administration section)	Construction of 10 or more off-street parking spaces, or reconfiguration or redesign of existing developed sites	Accessory structure - new or expansion of existing paved area	Where the property fronts onto a public street/ROW	
Building Envelope	X				Where the property fronts onto a public street/ROW
Hillside Protection					
Riparian Protection					
Streetscape	X				Where the property fronts onto a public street/ROW
Outdoor Amenities					
Recreation and Open Space					
Parking and Loading	X				Where the property fronts onto a public street/ROW
Transportation	X				Where the property fronts onto a public street/ROW
Architectural	X				Where the property fronts onto a public street/ROW
Street Wall		X			Where the property fronts onto a public street/ROW
Retaining Wall					
Colors	X			X	Where the property fronts onto a public street/ROW
Accessory Structures	X			X	Section M.2 (b) does not apply
Lighting	X			X	Where the property fronts onto a public street/ROW
Signage	X				

10. Pre-Certificate of Occupancy Meeting - At least thirty (30) days prior to expected occupancy, the applicant shall notify NKAPC staff and arrange for a pre-Certificate of Occupancy meeting. The purpose of this meeting is to review and address outstanding items as per the approved development plan, as well as discuss the terms and conditions for securing performance bonds for any public improvements as part of the development.

C. PERMITTED USES:

Residential Use Group - Household Living

1. Single-family residential dwellings (detached)

Public and Civic Use Group

1. Cultural exhibits and libraries
2. Day care or day care center
 - a. Family day care home
 - b. Day care type 2
 - c. Day care type 1
3. Recreation and open space
 - a. High intensity
 - b. Low intensity
4. Religious assembly
5. Safety services
6. Schools

Commercial Use Group

1. Animal Services
 - a. Sales and Grooming
 - b. Veterinary Hospitals
2. Business Equipment Sales and Service
3. Business Support Services
4. Convention Center, Training Facility
5. Eating Drinking Establishment
 - a. Microbrewery
 - b. Restaurant, excluding drive-ins, drive-thrus
 - c. Tavern
6. Entertainment
 - a. Small
 - b. Medium
7. Financial Services
 - a. Tax Preparation
8. Food and Beverage Sales, Retail

9. Funeral and Internment Services
 - a. Undertaking
10. Lodging
 - a. Bed and Breakfast, per Section 9.12
11. Medical Service
12. Office''
13. Personal Improvement Service
14. Retail Sales and Service
 - a. Antique shop
 - b. Secondhand store

D. USE SPECIFICATIONS

1. Buildings which front onto a public street shall contain retail or office uses on the ground floor.
2. Movie and entertainment theaters may be exempt from the minimum story requirement and the maximum floor-to-floor story height requirements, but must have the appearance of at least a two-story building and meet all other requirements.
3. If a parking garage is incorporated into building design, two tiers of parking may be located above ground level without counting toward the measurement of building height. However, retail space must be incorporated on the ground floor, facing the street. Underground parking is permitted, not to count toward the measurement of building height.

E. SPECIAL PERMITTED USES

1. The following uses existing and in conformance with this zoning ordinance at the time of adoption of these regulations are to be considered permitted uses and are subject to the review criteria in Table 1.
 - a. Single family residential (detached)
 - b. Convenience stores, with the dispensing of fuels
 - c. Eating and drinking establishments, including drive-ins

G. BUILDING ENVELOPE STANDARDS

1. Siting Specifications
 - a. Minimum Tract for Development
 - (1) Five (5) acres; however, development of a smaller tract adjacent to an existing approved site may be permitted providing the proposed development conforms to and extends the original development as if the new site has been a part of the originally approved site plan

layout. Substantial additions to existing developed sites must meet the requirements contained in Section 7.4, B., 6.

- (2) Build to Line (Maximum) – 20 feet from the right of way, except in any of the following cases:
 - (a) Outdoor amenities are located between the right-of-way and the build-to line, in which case no more than 50 feet from the right of way.
 - (b) Development sites containing hillsides with slopes of 20% or greater may modify the build-to line to accommodate front parking, but only subject to the requirements of subsection K., 1., a.
- c. Side and rear yard setbacks
 - (1) No setback requirements, except when adjacent to a residential use above the first floor, then a minimum side yard of 5 feet shall be maintained.
 - (2) Where adjoining a residential zone outside of the form district a minimum 50 feet from the property line must be maintained.
- d. Use and Building Size Requirements
 - (1) Maximum building footprints are as follows:
 - (a) Single structure: 15,000 square feet, however, one building per development tract may have a maximum footprint of up to 30,000 square feet
 - (2) Maximum size of each individual tenant/occupant:
 - (a) In a single-use structure: 30,000 square feet, however, one building per development tract may contain up to 60,000 square feet.
 - (b) In a multi-use structure: Calculated by total number of stories
- e. Multiple Principal Structures
 - (1) Either multiple principal structures or common wall construction is permitted. Principal structures on the same or adjacent lots, constructed as detached buildings, shall maintain following minimum separations:
 - (a) Building wall with entrance or exit: 20 feet.
 - (b) Building wall with no entrance or exit: 10 feet

f. Building Frontage (See Figure 2 and 3)

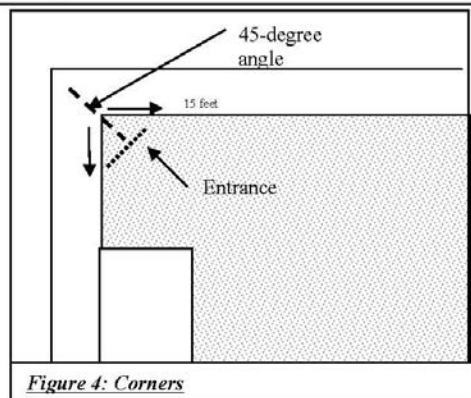
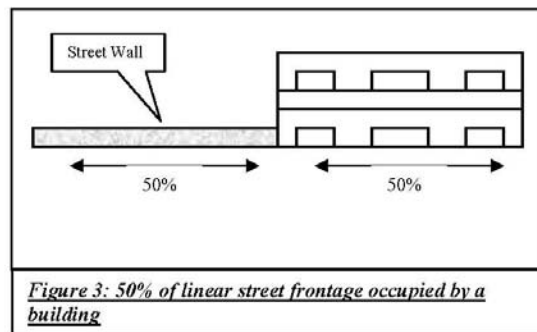
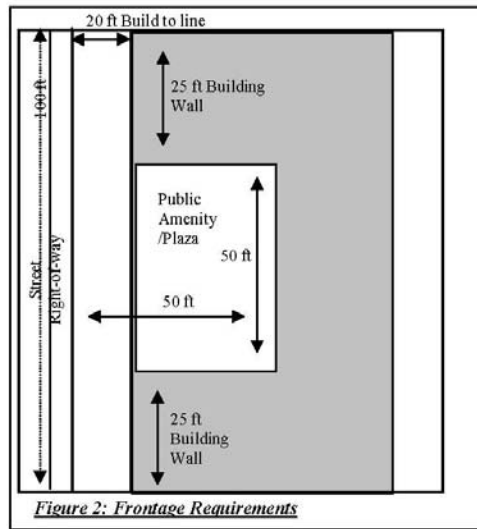
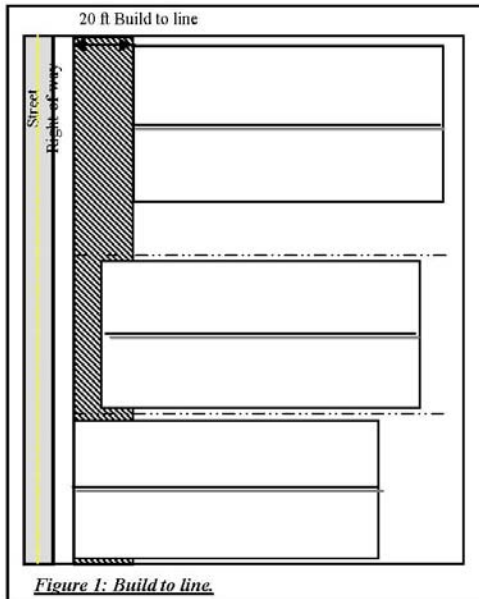
- (1) At least 50% of the linear street frontage of each lot shall be occupied by a building at the required setback/build to line.
- (2) Open unenclosed public seating or similar areas, fountains, and outdoor amenities are permitted to encroach beyond the build-to line as long as the corner requirements are met per Section 10.31, G., 1. h.

g. Building Entrances

- (1) Buildings shall have at least one public entrance on all façades facing the street and at least one where parking is located.
- (2) Buildings shall have one public entrance oriented toward the required Riparian Buffer or toward any required Outdoor Amenity or Open Space (see Section 10., I., 2., and 10., I., 3). No service entrances are permitted to be oriented towards the required Riparian Buffer or toward any required Outdoor Amenity or Open Space.
- (3) On corner lots, entrances may be on the front façade or at the corner of the building.
- (4) There shall be functioning entry door(s) along the street façade spaced at a distance of no less than 60 feet per structure (including those with common wall construction).
- (5) Garage entries shall not exceed 16 feet clear height and 24 feet clear width and shall not be sited within 100 feet of the block corner or another garage entry on the same block. Garage entry portals may be set back up to 24 inches behind the surrounding façade, but may not project beyond the building facade.

h. Corners (See Figure 4)

- (1) Buildings on corner lots shall be constructed at the build to line along both sides of the street for a minimum of 15 linear feet.
- (2) If a principal building or tenant entrance is at the corner, the entrance may be recessed within the 15 feet at a 45-degree (45°) angle to both streets.



2. Height Specifications (See Figure 6)

a. Building Height

- (1) Each building shall have a minimum of two (2) stories and shall not exceed sixty-five (65) feet in height.
- (2) If a parking garage is incorporated into building design, two tiers of parking may be located above ground level without counting toward the measurement of building height. However, retail space must be incorporated on the ground floor, facing the street. Underground parking is permitted, not to count toward the measurement of building height.
- (3) Maximum height of building with only residential uses above the first floor is 90 feet.

Commentary: Retail helps to make the street active and interesting.

b. Floor Height

- (1) Maximum floor-to-floor story height limit for stories other than the ground story is 14 feet.
- (2) All upper stories shall each have a minimum of 9 feet 4 inches clear (floor to ceiling height) and shall be useable floor space, unless otherwise regulated by Section 10.31, D., 2.

Commentary: Buildings overseeing the street and public areas with active fronts, contribute to a vital and safe public space. Enliven facades of retail or commercial space by providing visibility into building interiors or merchandising display windows.

3. Building Element Specifications (See Figure 7 and 8)

a. Ground Story Fenestration

- (1) No blank/uninterrupted walls shall be facing streets, access drives, sidewalks, outdoor amenities, recreational areas or other public uses.
- (2) Ground story façades shall have between 50 and 90 percent fenestration (measured as a percentage of the façade that is between 2 and 10 feet above the fronting streets, sidewalks, outdoor amenities or recreational areas) with a combination of two or more of the following animating features:
 - (a) Transparent doorways and entry areas;

- (b) Display windows at least 50% open to the business interior with a minimum height of 8 feet and having a maximum sill height of 3 feet;
 - (c) Arcades; with a minimum clear height of 11 feet (signage or lighting may encroach) at the sidewalk (street), and a minimum clear width (from frontage or build to line to inside column face) of 10 feet. The area within an arcade shall be open to all public access. Supporting Column/Pier shall be located no more than 20 inches from the back of the curb (minimum 60 inches public access easement/sidewalk within the arcades' clear width). (See Figure 9)
 - (d) Projections and windows.
 - (3) Awnings and overhangs in increments of 15 feet widths or less are permitted with the following requirements:
 - (a) Minimum 10 feet clear height above sidewalk, minimum 6 feet depth out from the building façade (Maximum to curb or tree-planting strip/furniture zone, whichever is closer).
 - (b) Canvas cloth or equivalent (no shiny or reflective materials), metal or glass.
 - (c) No internal illumination through the awning/overhang.
 - (d) Lettering on awning limited to five (5) inches tall on vertically hanging fabric at curb side of awning.
 - (e) No one-quarter cylinder configurations.
 - (4) Other features, such as public art are permitted.
- b. Upper Stories – Fenestration
- (1) Walls facing streets, sidewalks, outdoor amenities, recreational areas, off street parking areas or other public uses shall have between 50 and 70 percent fenestration (see Figure 5).



Figure 5: Fenestration on upper stories is required. Two contrasting examples are shown above.

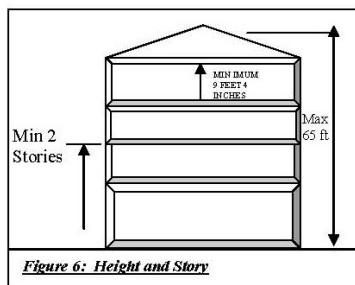


Figure 6: Height and Story

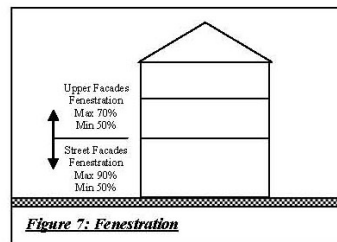


Figure 7: Fenestration

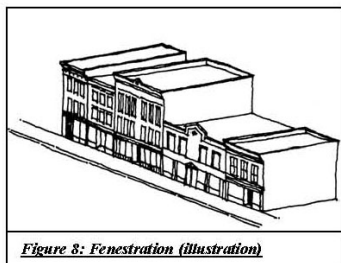


Figure 8: Fenestration (illustration)



Figure 9: Arcades

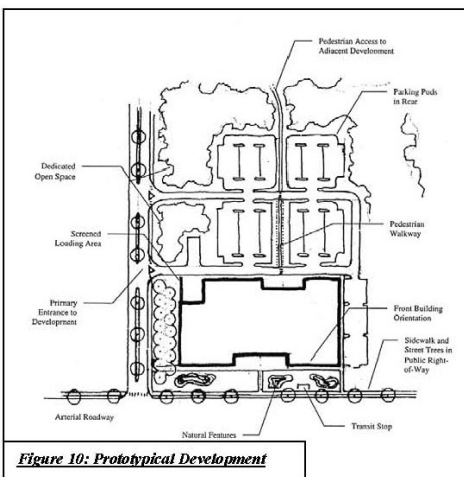


Figure 10: Prototypical Development

Commentary: Designs are encouraged that create a unique and attractive image for each business while respecting the design parameters of neighboring facades. Facades should relate to their surroundings and provide a sense of cohesiveness in the district without strict uniformity. Facades should present a visually balanced composition. High design standards and creativity are encouraged.

H. HILLSIDE PROTECTION

1. The requirements contained within Section 10.2 of this ordinance shall be met in addition to the following:

- a. Slope Setbacks

Proposed structures shall be set back from either the toe or top of the slope to a structure, whichever applies, a minimum of 10 feet, unless otherwise required by a geotechnical investigation or retaining walls are used. These setbacks do not supercede the minimum setbacks required by the Kentucky Building Code. Setbacks shall be measured as shown in Figure 11.

Commentary: It is recommended that when development is proposed in hillside areas, that consideration be given to fitting the proposed development to the natural configurations of an existing landscape.

2. Areas containing slopes of 35% or more shall not be disturbed.

3. Grading and Drainage

- a. All excavations on slopes greater than fifteen percent (15%) shall be made to approximate grade or subgrade elevations consistent with approved plans. Applications for grading permits must include an approved Land Disturbance Permit from Sanitation District No.1. Grading plans must be based on adequate surveys and soil investigations. The Kenton County Subdivision Regulations refer to general soil conditions that exist in the area.

Commentary: It is necessary to minimize problems associated with water runoff and soil erosion incurred in grading these slopes while preserving unique scenic resources and wildlife habitat.

- b. Excavation, Movement of Soil, Tree Removal, and Erosion and Sedimentation Control. Section 10.1 of this ordinance shall apply in addition to the following:
 - (1) Within the allowable disturbance area, finished cut and fill slopes shall be constructed to a maximum 3:1 (33.3%) slope or flatter (unless retaining walls are used) and revegetated.
 - (2) Remove good topsoil from areas to be graded or filled, and preserve it for use in finishing the grading of all slopes greater than twenty percent (20%).

- (3) Stabilize all graded areas with native vegetation or erosion control blankets as soon as grading is completed or work is interrupted for 30 days or more.
- (4) Use mulch to stabilize areas temporarily where final grading must be delayed.
- (5) Roughen the surface of all slopes during construction to retain water, increase infiltration and facilitate vegetation.

5. Slope Restoration

- a. Cuts and fills shall be restored to a maximum 3:1 (33.3%) slope or flatter and re-vegetated. Slope breaks, such as benches, may be used to reduce the length of cut and fill slopes to limit sheet and rill erosion and prevent gullying (see Figure 12). The required spacing between benches shall be in accordance with the Kentucky Department of Highways Geotechnical Manual. Other methods, such as geotextiles, may be used, however, they must be installed by a qualified geotechnical engineer.
- b. Cuts and fills that are controlled by retaining walls must meet the requirements of this ordinance (see Section 10.31, O).
- c. Re-vegetated slopes shall include both native trees and shrubs, as per the recommended Plant lists contained within the Planting Manual and Landscape Regulation Guidelines within the text of this ordinance.

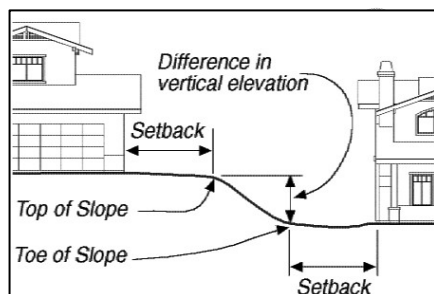


Figure 11: Slope Setbacks

Cuts and fills shall not be placed so close as to endanger adjoining property.

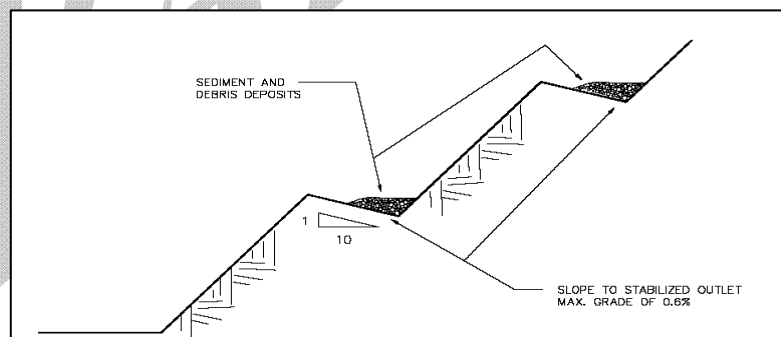


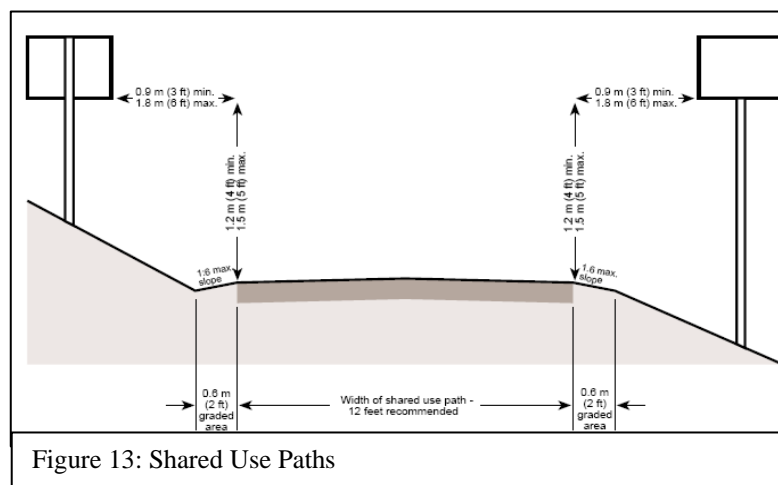
Figure 12: Benching

Benching is a variation on sloping, and consists of cutting the sides of the excavation to form one or more horizontal levels or steps, usually with vertical or near-vertical surfaces between levels. Soil type and local conditions determine the max horizontal and vertical dimensions of a benched excavation. Often a combination of benching and sloping is used.

I. RIPARIAN PROTECTION, OPEN SPACE AND OUTDOOR AMENITIES

1. Riparian Buffer Requirements

- a. The minimum Riparian Buffer width shall be reflective of and interpreted from the Federal Insurance Administration's Flood Insurance Study floodway boundaries, plus an additional 50 feet, however, no less than fifty (50) feet in total width (measured from outline of the creek, as defined within LINK GIS drain layer).
- b. If the applicant can demonstrate that the floodway boundaries in their location are inaccurate, boundary revisions may be made, in agreement with the Legislative Body.
- c. Building facades must include additional entrances when oriented toward the Riparian Buffer.
- d. The minimum required Riparian Buffer width shall remain undisturbed and restricted in use for flood control and restoration, as regulated in Section 10.3, of this zoning ordinance.
- e. An applicant has the option to obtain additional open space credits by applying a conservation easement to the entire area comprising the Riparian Buffer within the parcel. In such cases, a pedestrian and bicycle trail may be developed within the Riparian Buffer, at least ten (10) feet in width (See Figure 13), in cooperation with the recipient entity. A conservation easement shall count towards:
 - (1) An additional fifty percent (50%) of the required Open Space within the proposed development (See Section I., 2), and
 - (2) A ten percent (10%) reduction in the required off-street parking landscaping requirements.
 - (3) A copy of a recorded conservation easement assuring the permanent protection, preservation and maintenance of the Riparian Buffer within the proposed development shall be submitted by the developer and recipient entity (i.e. the Legislative Body) prior to the recording of a plat or the issuance of a clearing/grading or zoning/building permit, whichever occurs first.



2. Open Space and Outdoor Amenities Requirements

- a. Definitions: For the purposes of the regulations within this section of the ordinance, the following definitions shall apply:

Open Space: Any publicly dedicated or privately owned area of land or water that is permanently preserved and maintained. Such an area may be predominately in a natural condition or improved or modified for uses such as recreation, education, aesthetics, cultural or natural resource management or public health and safety.

Outdoor Amenity: Improvements within the developed area that encourage outdoor activities and public interaction.

- b. The amount of open space and outdoor amenities required shall be calculated as follows:

Table 3: Open Space and Outdoor Amenity Requirement

Total area of development	Open Space*	Outdoor amenity*
5 acres or larger	15%	10%
Less than 5 acres adjacent to existing approved site	-	15%

* Percentage of buildable area (calculated as the area of the lot within which buildings and parking will sit)

- c. Table 4 describes which uses may be credited toward each of the required open space and outdoor amenity requirement.
- d. Additional requirements for Outdoor Amenities are as follows:
- (1) All outdoor amenity areas (except for sidewalks, and multi use paths) shall be accessible by sidewalks connecting with all surrounding buildings and a clear view through the public space must be maintained for public safety and urban design purposes
 - (2) All outdoor amenity areas other than planting beds and interior parking lot landscaping shall have seating at a rate of not less than 1 seat per 400 square feet (lineal feet in the case of multi use paths) of space and located within the outdoor space. Seating may be formal or informal and may include benches, planters, ledges, or similar seating features, and shall be a minimum of 12 inches in depth, 30 inches in width and 15 inches in height.

- (3) Required outdoor amenities areas may not be counted as open space area.

e. Additional requirements for Open Space are as follows:

- (1) If additional development on an existing approved site is proposed, then the total open space needs may be recalculated and credits may be shared, provided the open spaces are adjacent and accessible to both developments. An agreement from the property owners of the development sites involved must be submitted with the application.
- (2) When an area is to be preserved as private or common open space, prior to the recording of a plat or the issuance of a grading/zoning/building permit, whichever occurs first, the developer and recipient entity may apply a recorded conservation easement to the area of the proposed open space, and submit documentation assuring its permanent protection, preservation and maintenance by the Legislative Body or other responsible entity as approved by the Legislative Body.
- (3) When an area is to be preserved as public open space, determination must be made by the Legislative Body if the space is accessible by and a benefit to the general public. Prior to the recording of a plat or the issuance of a grading/zoning/building permit, whichever occurs first, the developer shall permanently dedicate the open space to public use in a manner acceptable to the recipient entity and submit documentation that the property will be accepted by the Legislative Body or other responsible entity as approved by the Legislative Body.

Table 4: Permitted uses within Open Space and Outdoor Amenity Requirement

Open Space	Outdoor Amenity
Applying a conservation easement to the entire area comprising the Riparian Buffer within the parcel shall count toward an additional 50% of the required Open Space.	Pedestrian and bicycle facilities 10 feet or greater in width.
Landscaped internal or frontage roadway medians (those not along KY 17) at least 10 feet in width that add to the community's improved visual appearance. For properties located along KY 17, up to 10% of the required open space area may be satisfied with a landscaped non-traversable median	Outdoor dining open to the public: (1) Outdoor dining shall be used in conjunction with, and under the same management and exclusive control of, a restaurant, bar, tavern or nightclub located on the same or contiguous property; (2) The outdoor seating capacity shall not exceed twenty-five percent (25%) of the total restaurant, bar, tavern or nightclub seating capacity and shall not be enclosed.
Green roofs (i.e. vegetated roof covers for stormwater mitigation).	Water features, public gardens and public art. Interactive Amenities, including but not limited to dance steps, art walks / experiences, backgammon and chess tables, mini amphitheaters.
Storm water detention and retention basins.	Rooftop gardens/plazas, seating areas.
Nationally or locally designated or recognized cultural, historic or archaeological sites.	Planting beds no less than 100 square feet and adjacent to a façade with a public entrance.
Undisturbed hillsides greater than a 15% slope and required Riparian Buffer areas.	Civic greens, and squares, no length and width dimension shall be less than 25 feet. (1) In civic greens minimum sixty percent (60%) pervious surface area (turf, groundcover, soil or mulch) and in squares minimum thirty percent (30%) pervious surface area.
Woodlands managed for forestry production, or forestry protection, areas for endangered species protection, meadows, wetlands, agricultural lands and activities.	(2) Of the remaining balance at least seventy percent (70%) must be pervious pavement (maximum thirty percent (30%) impervious paved).
Outdoor sports fields, golf courses, parks, community gardens and playgrounds.	Parks and playgrounds, which are required to be at least 50 feet from any street right of way.
Total of 20% of the required parking spaces are pervious.	Interior parking lot landscaping areas above minimum landscaping requirement and shall not be credited unless larger than 200 square feet.

J. TRANSPORTATION STANDARDS

1. Transportation connections are to be multi modal and useable by the public.
2. Vehicular
 - a. Direct vehicular connections are required between all uses, existing and future.
 - b. Developments that create public and private streets shall connect with and provide for future extension of the street network.
 - c. Developments that adjoin vacant sites shall be designed to accommodate future connections with access easements if necessary.
 - d. Easements and agreements must be identified on the submitted development plans and submitted prior to the pre-Certificate of Occupancy meeting per Section 10.31, B, 9.
3. Pedestrian
 - a. Direct pedestrian connections are required between all uses, existing and future.
 - b. Developments that create public and private streets shall connect with and provide for future extension of pedestrian access.
 - c. All uses within the form district shall provide pedestrian connections with adjacent uses outside the form district.
 - d. Developments that adjoin vacant sites shall be designed to accommodate future connections with access easements if necessary. Easements and agreements must be identified on the submitted development plans and submitted prior to the pre-Certificate of Occupancy meeting per Section 10.31, B, 9.
 - e. All development shall provide clearly defined safe pedestrian access to the public right of way, to the building entrances¹, to bus stops, and connecting to or including installation of the bicycle and pedestrian multi-use trail within the required Riparian Buffer.
 - f. With KYTC approval, pedestrian access is required to be located within abutting rights-of-way and across driveways with striping or contrasting pavements, or raised surfaces, that meet Kenton County Subdivision Regulations.
 - g. Sidewalks and trails must connect with any presently adjacent sidewalks and shall be a minimum of five (5) unobstructed feet in width. Sidewalks and trail connections are required to be constructed and completed at the time of street construction.
 - h. Construction of the bicycle and pedestrian multiuse trail shall in no case be less than ten (10) feet in width, with vertical grades no steeper than three percent (3%), and designed as shown in Figure 13.

¹ See Parking Lot Standards for pedestrian access requirements

4. Bicycle

- a. Direct bicycle connections are required between all uses, existing and future.
- b. Developments that create public and private streets shall connect with and provide for future extension of bicycle access. Bicycle lanes, shared use paths, paved and marked shoulders, or wider outside lanes designated for bicycles and with signage shall be installed on both sides of all streets with the following standards.
 - (1) Shared Use Paths – See Figure 13
 - (2) Bicycle Lanes – see Figure 15
 - (3) Paved Shoulders shall be minimum 4 feet in width.
 - (4) Wide outside lanes must be at least 14 feet in width.
- c. Connections are required to be constructed and completed at the time of street construction.
- d. Developments that adjoin vacant sites shall be designed to accommodate future connections with access easements if necessary. Easements and agreements must be identified on the submitted development plans and submitted prior to the pre-Certificate of Occupancy meeting per Section 10.31, B, 9.
- e. Construction of the bicycle and pedestrian shared use trail shall in no case be less than ten (10) feet in width, with grades no steeper than three percent, and designed as shown in Figure 13.

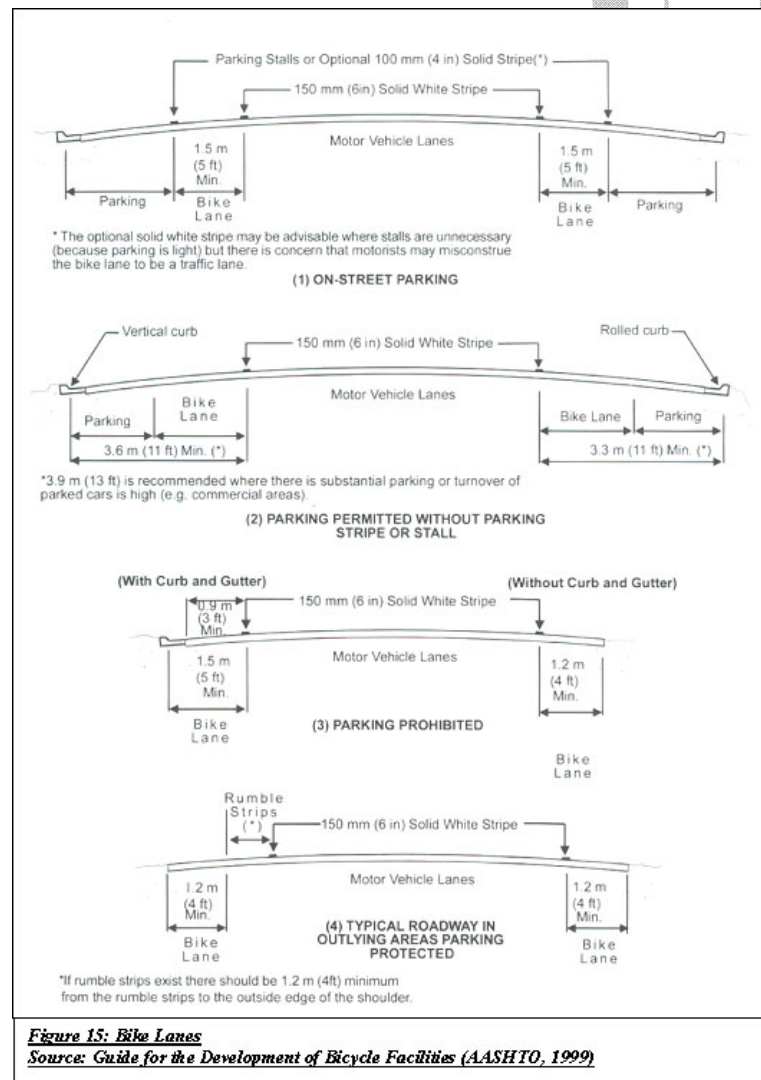
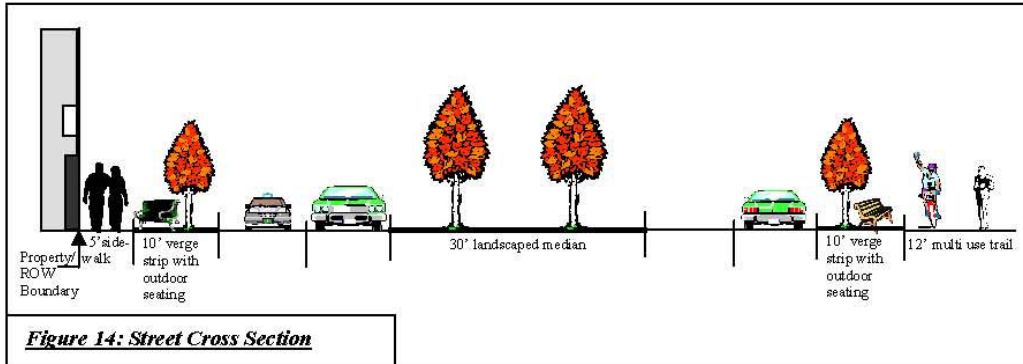
5. Transit

- a. Prior to plan submittal the Transit Authority of Northern Kentucky (TANK) shall be consulted on the appropriate location, number, and design of bus stops. Documentation from TANK must be submitted with application.

6. Access Management

- a. Sites with multiple buildings shall have joint access.
- b. Properties on arterial or collector streets shall provide access drives (joint use driveways and/or cross access easement) or access roads, including pedestrian access to allow circulation for commercial-to-commercial, office, industrial or multi-family. Access roads or drives may be in front of the property or in the rear or side. If planned as a public or private road the design shall conform to all applicable regulations of the Kenton County Subdivision Regulations.
- c. Spacing of access points along the cross access drive or frontage road shall be a minimum of 100 feet or as otherwise approved by the Legislative Body.

- d. Access drives shall be at least twenty-two (22) feet in width and with stub outs for future development.
- e. Easements and agreements must be identified on the submitted development plans and submitted prior to the pre-Certificate of Occupancy meeting per Section 10.31, B, 9.



K. PARKING, LOADING AND UNLOADING**1. Location of parking**

- a. Parking shall not be permitted between the property line and the build-to-line, except in the following cases:

- (1) Development sites containing hillsides with slopes of 20% or greater are permitted a maximum of two (2) rows of parking, not exceeding 20% of the total allowable parking for the site, but only when it can be demonstrated that slope conditions make provisions for adequate parking economically unreasonable. Where clearly visible from the street, this parking area must be screened with earth berms, landscaping and/or a street wall.

2. Number of Parking Spaces

- a. Section 11.2 of this ordinance applies with the following conditions:
 - (1) A 10% minimum reduction in the number of required spaces is required and a maximum allowable reduction of 50% shall be permitted.
- b. All parking spaces may be located off site but must be connected by pedestrian access (see pedestrian connection requirements) and must be located within 500 feet of the building. All parties shall execute a properly drawn legal instrument/agreement providing for the use of the off-site parking spaces. This instrument shall be drawn to the satisfaction of the Legislative Body and shall be executed by all parties concerned assuring the availability of the number of spaces designated for off-site and shall be recorded by the Legislative Body.
- c. Twenty percent (20%) of required parking may be pervious surface and may be counted as open space credits.
- d. No maximum number of spaces if parking structures are utilized.
- e. Underground parking shall count towards the total number of allowable parking spaces.

3. Connections between parking lots

- a. Vehicular and pedestrian connections are required between parking lots in adjacent developments.

4. Pedestrian circulation

- a. Clearly defined safe access must be provided from parking facilities, adjacent public rights of way and activity areas to building entrances.
- b. Parking lots must have walkways minimum five feet in width.

- c. Walkways must be lighted and must connect parking areas with building entrances. Walkways must be differentiated by means of landscaping, alternative paving materials or change in grade.
- d. Walkways adjacent to parking spaces must be 5 feet wide with separation by curbing, bollards, bumper blocks, elevation 4 inches high, or landscaping.
- e. Walkways that cross drive aisles must be defined by stripes, contrasting pavement materials, elevated pavement or combination.
- f. Walkways shall not pass behind a row of parking spaces.
- g. All developments must provide for future pedestrian circulation connecting parking lots or alleys, by hard surface walkways or similar.

5. Street wall requirement

- a. Any side yard parking areas shall have a street wall along the lot frontage, minimum height of 4 feet and a maximum height of 6 feet, with a required rail or fence to be anodized aluminum or steel.
- b. Street wall heights are measured relative to the adjacent sidewalk or to the ground elevation when not fronting a sidewalk.
- c. Street walls may be set back (or forward) not more than 8 inches from the build to line or adjacent building façade.
- d. A vehicle entry gate (opaque, maximum 18 feet wide) and a pedestrian entry gate (maximum 6 feet wide) are both allowed within any required street wall length.

6. Landscaping

- a. See Section 10.5 of this Ordinance.

7. Bicycle parking

- a. For non-single-family residential uses, two bicycle parking spaces are required plus one additional space per 25,000 square feet GFA (Gross Floor Area) of building area.
- b. The parking spaces must be a minimum of 2 feet from a parallel wall and 2.5 feet from a perpendicular wall (See Figure 16).
- c. If located on or next to a sidewalk, a minimum of 5 feet of clear sidewalk must remain when bicycles are parked at the device.
- d. If the device is installed at a transit stop, its location cannot impede transit boarding.



Figure 16: Bicycle parking stalls

- e. If the installation is near a curb cut on a street with motor vehicle parking, at least three feet of space must remain between a bicycle parked at the rack and the curb.
 - f. Whenever the device will be placed in the public right-of-way, the appropriate jurisdiction must approve the locations.
8. Loading/Unloading areas
- a. Shall be screened with same materials as main building so as not to be visible front adjacent public streets and residential uses.
 - b. Front loading docks are not permitted.

L. STREETSCAPE STANDARDS

1. Street trees

- a. Street trees shall be required. The minimum planting strip for street trees shall be four (4) feet, with plant material of one of the following:
 - (1) 1 tree every 60 feet on center (maximum) from List A (shade trees)*
 - (2) 1 tree every 60 feet on center (maximum) from List F (street trees)*
 - (3) 1 tree every 60 feet on center (maximum) from List B (flowering and non-flowering trees)*

*Plant lists can be found in the “Planting Manual and Landscape Regulation Guidelines” within the text of this zoning ordinance.

- b. Facades with customer entrance or visible from streets, sidewalks, outdoor amenities, recreational areas or other public uses: One tree planted within 15 feet of the building, for each 50 ft of façade length.
- c. Streetscape elements such as brick pavers, benches, waste bins, planters, and window boxes are encouraged and should be coordinated with the Legislative Body to ensure compatibility (see Figure 17).



Figure 17: Streetscape elements

2. Verge/Planting Strips

- a. Along state-owned rights of way, a minimum verge strip of 10 feet shall be maintained with planting types that meet the requirements of the existing landscape regulations. This may be located within the right-of-way per the approval of an encroachment permit from the Kentucky Transportation Cabinet.
- b. Clustering of trees may be permitted as long as the same numbers of trees are planted. Trees must be spaced properly to accommodate tree size at maturity.
- c. All landscaping must be set back a minimum of 3 feet from the edge of pavement or per the approval of Kentucky Transportation Cabinet encroachment permit, whichever is greater.

3. Utility Installation

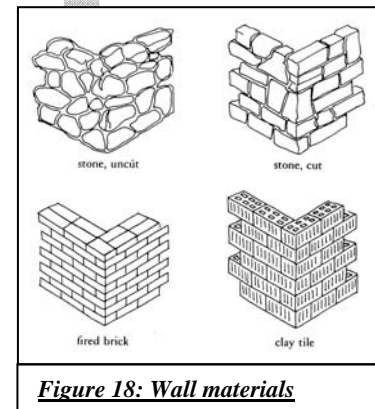
- a. All utilities shall be underground.

M. ARCHITECTURAL STANDARDS

1. Standards for building walls - Where clearly visible from streets, sidewalks, outdoor amenities, recreational areas or other public uses.

- a. Materials - The following materials are permitted (See Figure 18):

- (1) Brick and tile masonry
- (2) Stucco (cementitious finish)
- (3) Native stone (or synthetic equivalent)
- (4) Pre-cast masonry (for trim and cornice elements only)
- (5) Gypsum reinforced fiber concrete (GFRC – for trim elements only)
- (6) Exterior Insulation Finish System fascias, with moderate finish texture



- b. Configurations and Techniques

- (1) Walls
 - (a) Wall openings shall be taller than they are wide except as otherwise permitted for atriums and arcades.
 - (b) Wall openings shall not span vertically more than one story except as otherwise permitted for atriums and arcades.
 - (c) Wall materials shall be consistent horizontally (i.e. joints between different materials must be horizontal and

continue around corners) except for towers, chimneys and piers.

c. Stucco (cementitious finish)

- (1) Smooth or sand finish only, no “cake icing” finish.

2. Standards for roofs and parapets - Where clearly visible from streets, sidewalks, outdoor amenities, recreational areas or other public uses.

a. Materials: The following materials are permitted:

- (1) Clay or concrete (faux clay)
- (2) Tile (barrel or flat roman)
- (3) Slate (Equivalent synthetic or better)
- (4) Metal (Standing seam 5-v crimp, equivalent or better)
- (5) Shingle

b. Only the following configurations and techniques are permitted (See Figure 19 and 20):

(1) Roof shapes

- (a) Side gabled
- (b) Front gabled
- (c) Cross gabled
- (d) Simple hipped
- (e) Pyramidal hipped
- (f) Cross hipped
- (g) Gable-on-hipped
- (h) Flat with parapet

(2) Pitched roofs (exclusive of roofs behind parapet walls):

- (a) The primary ridge beam shall run parallel to the street.
- (b) Simple hip and gable roofs shall be symmetrically pitched between 25 and 50 percent.
- (c) Mechanical equipment must be screened from view from the ground from all public use areas, adjacent to the site in question.
- (d) Sloping roofs with a vertical rise that exceeds one-half the average height of supporting walls as measured along each facade are not permitted.

(3) Overhang (See Figure 21)

- (a) Eaves must overhang at least 24 inches on primary structures.
- (b) Rakes (gable end) must overhang at least 18 inches.
- (c) Balconies must be minimum of four (4) feet of platform and be accessible from the interior.

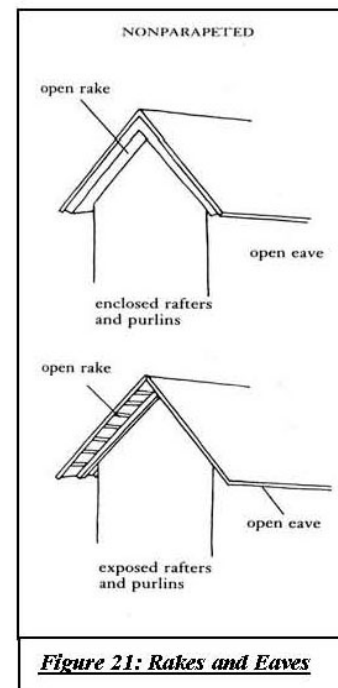
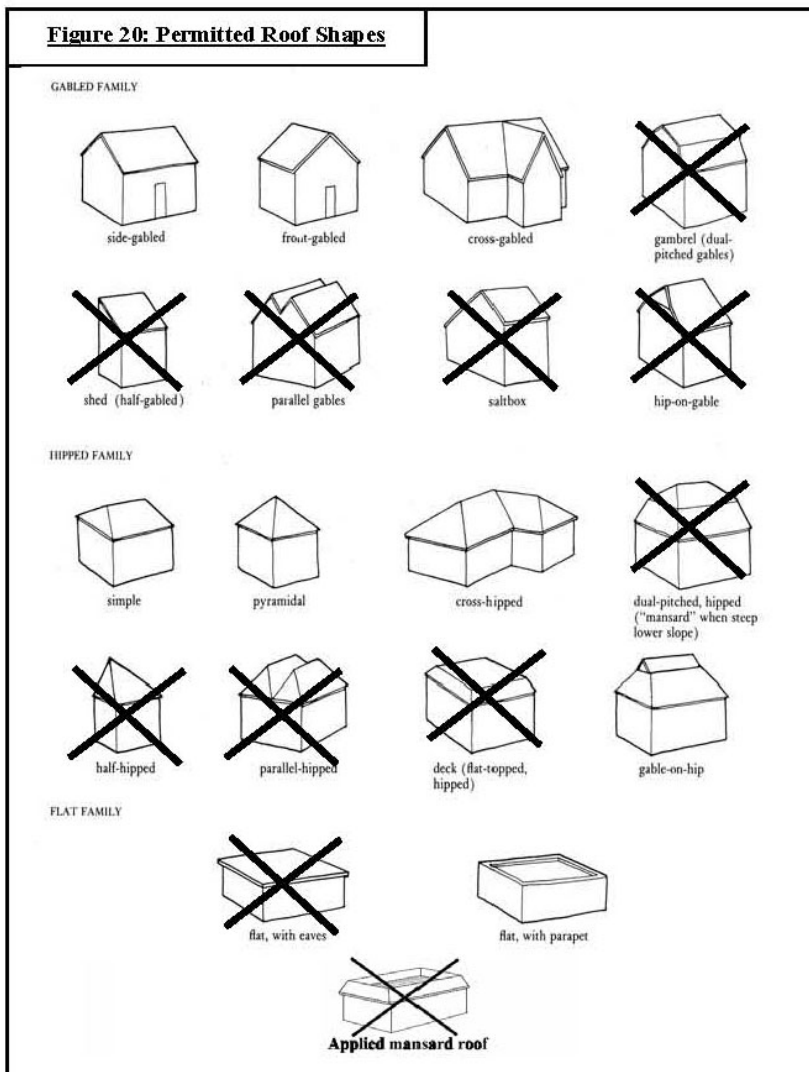
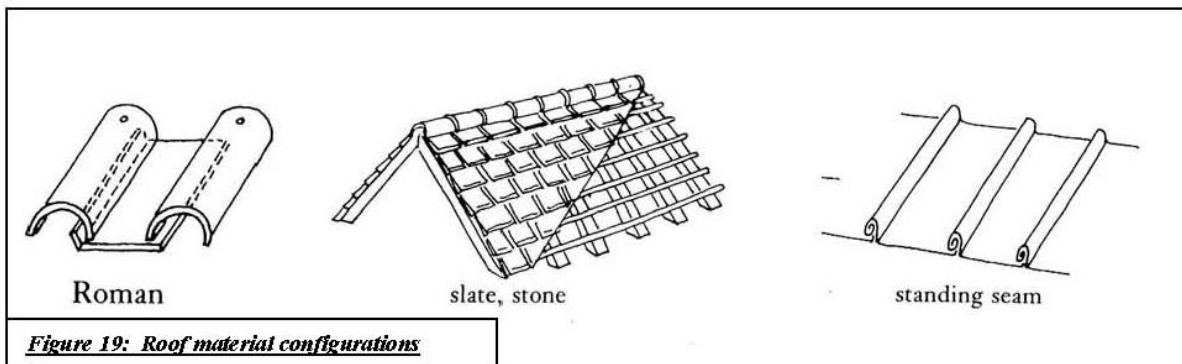
c. Parapet Roofs and Other Features (See Figure 22)

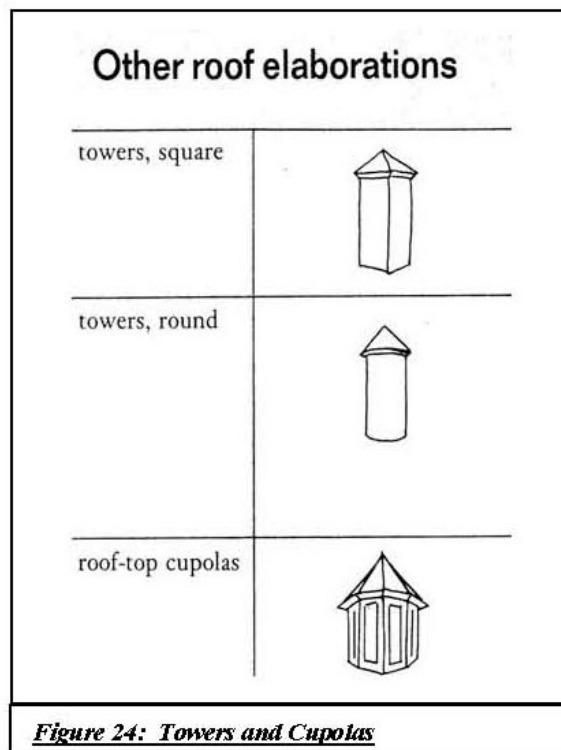
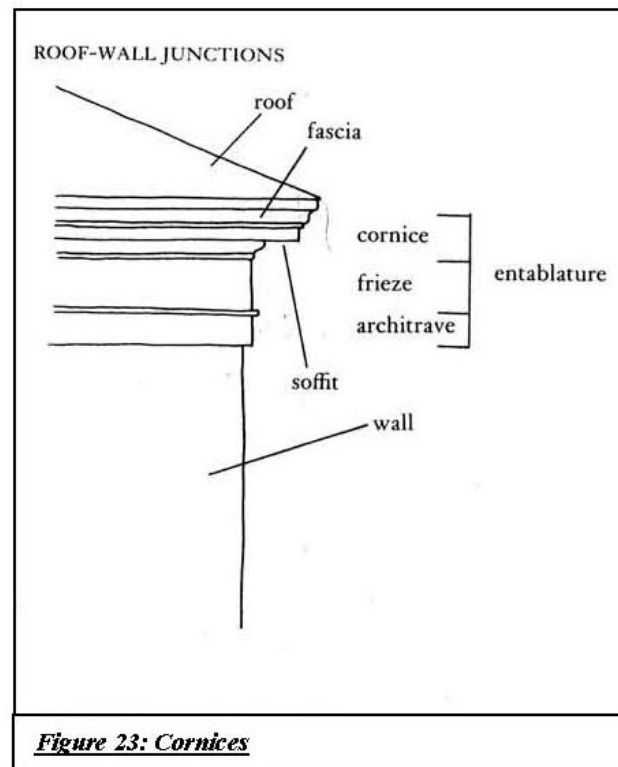
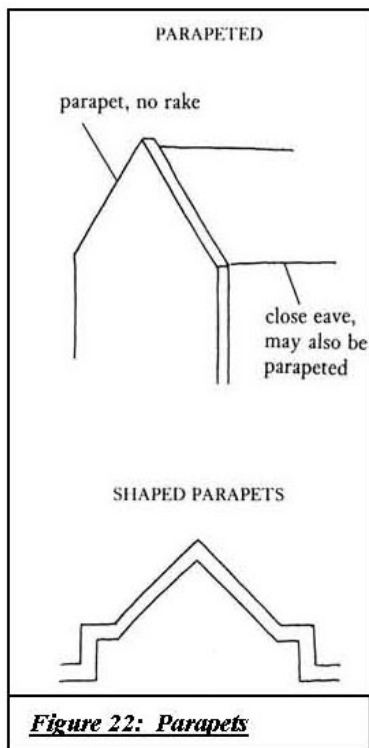
- (1) Parapets, towers, or cornices (See Figure 23 and 24), both incorporating a peaked or a flat-faced elevation shall be incorporated into each building design in the development.
- (2) Parapet walls sufficiently high enough to screen rooftop mechanical from viewing shall conceal roofs of building structures that are generally flat.
- (3) Parapet height shall be measured at the top of the Parapet, including any coping. An additional 3 feet in height by 12 feet in width (or 15 percent of the façade, whichever is greater) is permitted for a section of the Parapet emphasizing the building's main street entry or a corner. Any other variations regarding building heights must receive a variance.
- (4) Facades that exceed 100 feet in length measured along the street frontage shall have variations in roofline or rooftop parapet.

3. Standards for Windows and Doors - Where clearly visible from streets, sidewalks, outdoor amenities, recreational areas or other public uses. (Exceptions include religious buildings.)

a. Materials: The following materials are permitted.

- (1) Windows of anodized aluminum, wood, clad wood, vinyl, or steel
- (2) Window glass must be clear, with light transmission at the ground story at least 90%, and at least 75% for the upper stories
- (3) Specialty windows may utilize stained or opalescent glass
- (4) Window screens shall be black or gray
- (5) Screen frames shall match window frame material or dark anodized
- (6) Doors of wood, clad wood, or metal

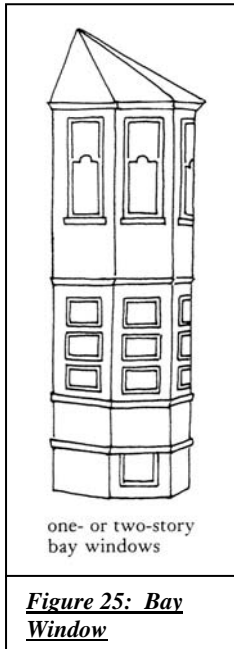




b. Configurations and Techniques

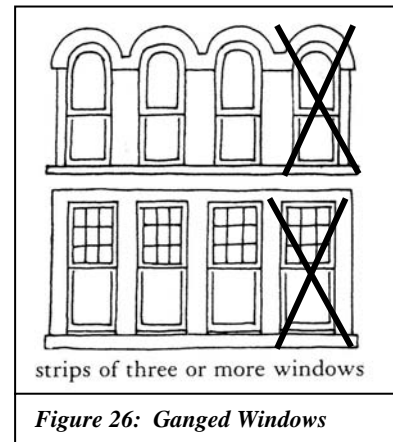
(1) The following requirements apply to all windows:

- (a) Openings for windows, windowpanes, and doors shall be taller than they are wide. Transom windows are not included in the measurements of this requirement.
- (b) Windows may be ganged horizontally (maximum 3 per group) if subdivided by a mullion, column, pier or wall section that is at least 7 inches wide.
- (c) Windows shall be no closer than 30 inches to building corners, excluding bay windows and where the building corner is also a block corner.
- (d) Bay windows shall have a minimum interior clear width at main wall of 4 feet; projection not greater than 36 inches beyond the build to line; walls and windows shall be between 90 degrees (perpendicular) and 0 degrees (parallel) relative to the primary wall from which they project. Bay windows may not project into any adjacent right-of way or property line (see Figure 25).
- (e) Exterior shutters shall be sized and mounted appropriately for the window (1/2 the width), even if inoperable.



(2) The following requirements apply to all upper-story windows:

- (a) Windows shall be double-hung, single-hung, awning, or casement windows.
- (b) Fixed windows are permitted.
- (c) Egress windows may be installed according to the appropriate building code.



(3) Shopfront (ground floor) windows and doors:

- (a) Single panes of glass not larger than 8 feet in height by 4 feet wide.
- (b) Ground floor windows shall not be made opaque by window treatments (excepting operable sunscreen devices within the air conditioned space) and shall allow a minimum 50 percent of surface view into the building for a depth of at least 20 feet.

(4) Doors

- (a) Double-height entryways (those that span more than one story) are not allowed.
- (b) Entryways may be set at a 45-degree (45°) angle to the door and shall have a clear view of the interior as shown in Figure 27.



Figure 27: Recessed doorway with view into building

N. STREET WALL STANDARDS

1. Materials

- a. Native stone (carved with local and traditional techniques) and equivalent imitation stone
- b. Metal – Wrought iron, welded steel and/or aluminum (black) (chain link fence is not permitted).
- c. Brick
- d. Stucco on concrete block (or poured) only with brick or stone coping.
- e. A combination of materials; i.e. stone piers with brick infill panels.

2. Configurations and Techniques

- a. Stucco Street Walls shall have a hardy species of climbing vine planted along them.
- b. Metal work may additionally be treated to imitate a copper patina.
- c. All Street Wall facades shall be as carefully designed as the building façade, with the finished side out, i.e. the “better” side facing the street.

O. RETAINING WALL STANDARDS

1. Materials: When retaining walls are used, the following materials may be used:

- a. Native stone and equivalent cultured/imitation stone (carved with local and traditional techniques)
- b. Brick

2. Configurations

- a. Walls not designed and approved by a registered professional engineer may not exceed four (4) feet in height. Walls greater than six (6) feet in height must be screened in a planting bed of not less than 10 feet in width,

parallel to the exposed side of the retaining wall, with one of the following:

- (1) 1 tree per 35 linear feet, or fraction thereof, from List A (shade trees), plus double row hedge from List E (evergreen/broadleaf shrubs)*
- (2) 1 tree per 20 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus a double row hedge from List E (evergreen/broadleaf shrubs)*

* Plant lists can be found in the Planting Manual and Landscape Regulation Guidelines within the text of this zoning ordinance.

- b. A series of smaller retaining walls is preferable to one large wall, provided that the series of walls can be built without excessive removal of vegetation during construction, and must be re-vegetated.

P. COLORS

1. Building Wall Colors

- a. Colors chosen for the building facades shall be of the same color palette/shade regardless of whether the structure is used as single or multi tenant space.
- b. Colors chosen for the building exteriors shall be taken from an earth tone color palette or substitute as acceptable by the Legislative Body. Colors may allow for national identity, with approval from the Legislative Body.
- c. Brick shall approximate the color of bricks made from regional clays.
- d. Primary colors shall not be used for building walls unless they are a muted tone.
- e. Neon colors are not allowed.

Commentary: Schemes with building walls of more than one color are discouraged except where materials are different, such as when a decorative stucco door surround is used. Where different wall materials allow two-tone schemes, similar colors and tones are recommended.

2. Roof Colors

- a. Natural colors or substitute as acceptable by the Legislative Body.

3. Trim Colors

- a. For windows, soffits, cornices, moldings, etc.: whites or dark saturated cool colors (greens, blues), bronze or substitute as acceptable by the

Legislative Body. Aluminum windows, screen frames, etc. shall be bronze anodized.

- b. Schemes may have no more than two trim colors.
- c. Entry doors are permitted a greater color latitude, subject to approval by the Legislative Body.
- d. Brick and stone shall be left their natural color.

Q. ACCESSORY STRUCTURES

- 1. Accessory structures shall have the same architectural detail, elements, materials and roof design as the principal structure.
- 2. Size, placement and screening of accessory structures:
 - a. Storage areas, refuse areas, mechanical equipment, and gas pumps with associated canopies, shall not be visible from the street.
 - b. Use of wing walls and other similar structures is required.
- 3. Drive through windows
 - a. Drive through, drive up, or drive in windows are not permitted.
- 4. Automated teller machines (ATMs)
 - a. ATMs are permitted only if incorporated into the primary building.
 - b. ATMs shall not be accessible via drive aisles or drive-thrus, must be walk up only.

R. LIGHTING STANDARDS

- 1. Plan Requirements
 - a. A lighting plan shall be submitted for review including details of, but not limited to, the number and location of all luminaries, height of poles, intensity, lighting patterns and details of lighting fixtures.
 - b. All lighting fixtures/poles shall be black tapered poles.
- 2. Specifications
 - a. No flashing, traveling, animated, neon or intermittent lighting shall be permitted whether such lighting is for temporary or for long-term duration. No fluorescent lights (except compact fluorescent bulbs that screw into standard sockets) may be used on the exterior of buildings.
 - b. Floodlights or directional lights (max. 75-watt bulbs) may be used to illuminate parking garages and maintenance areas, but must be shielded or

aimed away from the property line. Floodlighting shall not be used to illuminate building walls (i.e. no up-lighting) or parking areas.

- c. All luminaries designed for entryways and decorative purposes on nonresidential and multifamily residential buildings and structures that exceed 2,000 lumens shall have fixtures that cut off light from direct view.

3. Street Lighting

a. Lighting along State Route 17



**Figure 28: Pendant mount
teardrop type lighting fixture**

- (1) Street lighting standards shall meet the IES (Illuminating Engineering Society of North America) illumination recommendations for Roadway Lighting by providing a uniformity ratio of 3:1 along arterial roadways, 4:1 along collector roadways and 6:1 along local roadways. The height and spacing of the lighting fixtures shall be designed to achieve the uniformity ratio specified in the IES standards.
- (2) All fixtures along State Route 17 in the district shall be of the Holophane (A company that manufactures and supplies lighting products), “revitalization series”. The fixture shall be black in color, be fitted with a high renaissance base type and a pendant mount teardrop type lighting fixture (see Figure 28).
- (3) No cobra or shoebox type lighting fixtures shall be permitted.
- (4) The fixtures shall be installed within the median.

b. Lighting interior streets/driveways within development

- (1) All lighting fixtures shall be fitted with metal halide or high-pressure sodium “Acorn” full cut-off or cut-off type luminaire.
- (2) The maximum permitted height of lighting fixtures shall be 12 feet.
- (3) The fixtures shall be located in the verge strip area between the sidewalk and the street.
- (4) When lighting fixtures are placed along mixed-use buildings with residential uses on top floors an attempt shall be made to place the fixtures in areas without fenestrations.

4. Lighting for Off Street Parking

- a. The limits of minimum illumination in the parking areas shall in no case be less than 0.2-foot candles, unless otherwise required by the Legislative Body where pedestrian security and site entrance issues arise.
- b. The following requirements for minimum and maximum illumination apply:

Table 5: Minimum and Maximum Illumination

Primary Use*	Maximum permitted illumination at property line (in foot candles)	Maximum permitted height of luminaries (in feet)	Minimum Maintained illumination at site (in foot candles)
Commercial	0.5 (0.2 where adjacent to residential areas)	20	0.2
Residential	0.2	12	-

* If the use is 60% or greater on the site.

- c. All outdoor lighting shall be reduced by 25% during non-operating hours in mixed-use areas.
- d. All luminaries utilized shall be designed to have full cutoff or cutoff type fixtures to shield light from the direct view of an observer at ground level at the property line.
- e. All lighting must be located on poles or at ground level and must be directed toward the property interior.

5. Lighting for Pedestrian Walkways/Bikeways

- a. Pedestrian walkways/bike lanes adjacent to roadways shall maintain a minimum average illuminance level based on the primary use (See Table 7).
- b. Pedestrian walkways and bikeways away from roadways shall be lit and shall maintain an average illuminance level no less than 0.5 foot-candles.
- c. The maximum lighting levels in any pedestrian area (excluding building entrances) shall not exceed a maintained level of 3 foot-candles.

Table 6: Average Illuminance

Primary Use	Minimum Average Illuminance Level In foot candle
Commercial	1
Mixed Use	0.5
Residential	0.2

- d. The uniformity ratio shall not exceed 4:1 except where increased pedestrian security is desired in which case the uniformity ratio shall not exceed 5:1.
- e. Luminaries shall have a low brightness with an internal shield and prismatic refractor such as a 50-watt metal halide lamp with Aromat electronic ballast or a 55-watt induction lamp. Their aesthetic character shall be appropriate for the surrounding buildings and landscape, as approved by the plan.

f. Civic greens, squares and pedestrian walkways shall include luminaries of a particular “period” or architectural style (except when adjacent to residential buildings) such that:

- (1) If the fixtures are not cut off luminaries, the maximum output shall not be more than 2,000 lumens (60 watts incandescent).
- (2) Maximum pole height of luminaires shall not exceed 12 feet.

g. Decorative bollard lighting may be used in place of pole-mounted fixtures to direct light towards walkways/bikeways within public open space or civic areas. The height of decorative bollards shall not exceed 4 feet.

6. Lighting For Recreational Fields

- a. All luminaries must have a cut off angle less than 90 degrees and shall be turned off when not in use.
- b. No illumination for the purposes of sports activity shall be permitted after 11:00 p.m. unless already in progress prior to 9:00 p.m, or otherwise approved by the Legislative Body.
- c. Luminaire specifications shall be determined based on the class of play for the athletic field in question based on the IESNA RP-6-01 (Recommended Practice for Sports and Recreational Area Lighting).

7. Lighting For Gas Stations

- a. Outdoor sales and gas station canopies must utilize canopy lights that are fully recessed into the canopy or are fully shielded by the canopy.
- b. The minimum average minimum illuminance levels for Exterior Service Canopies listed in Table 8 shall be maintained to meet the values set forth in IESNA RP-33-99, Table 8: Service Station or Gas Pump Area Average Illuminance Levels.
- c. The total under canopy initial bare lamp lumens used for illuminating Exterior Service Canopies shall have a maximum output limit not to exceed 25 lumens per square foot of canopy area. Lighting limit shall include all canopy-mounted luminaires, as well as any signage or illuminated panels below the canopy.

Table 7: Minimum Average Illuminance

Service Station Component	Minimum Average Illuminance (in footcandles)
Approach	2.0
Driveway	2.0
Pump Island Area	10.0
Building Façade	3.0
Service Areas	3.0
Landscape Highlights	2.0

S. SIGNAGE STANDARDS

1. Article XIII of this zoning ordinance applies with the following additional regulations:
 - a. Façade signs are permitted only within the area between the first story and the second story, but no higher than 25 feet, and no lower than 10 feet above the adjacent grade.
 - b. Non-illuminated names of buildings, dates of erection, monument statues, tablets when carved into stone, concrete, metal, or any other permanent type of construction and integral part of an allowed structure are permitted, not larger than five (5) square feet in size.
 - c. Pole signs and cabinet type façade signs are not permitted.
 - d. Flashing, traveling, animated or intermittent lighting are not permitted.
 - e. No illuminated signage is permitted which would glare into residential units within multi-use structures.
 - f. Pedestrian-oriented signs
 - (1) Pedestrian oriented signs are signs that are designed for and directed toward pedestrians so that they can easily and comfortably read the sign, as they stand adjacent to the business (see Figure 29).
 - (2) One (1) pedestrian-oriented sign is permitted per business for facades facing the public street and the required riparian buffer area, if applicable.
 - (3) Signs of this type shall be erected on or attached to and not parallel to a building.
 - (4) Signs must not be placed lower than ten (10) foot above grade.



Figure 29: Pedestrian-oriented signs.

- (5) Signs must not exceed four (4) square feet in size and not extend beyond the building wall more than twenty-four (24) inches.

2. Finish Materials

- a. All exterior materials will be of high quality, durable, and easy to maintain, and provide for longevity of use. Permitted finish materials include:
- b. Masonry
- c. Wood; painted, stained or natural
- d. Metal
- e. Plastic, when used for individual letters and symbols only

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ARTICLE VIII

OVERLAY ZONES

SECTION 8.0 GENERAL

1. Overlay zones are tools for dealing with special situations or for accomplishing special planning and zoning goals. As the name implies, overlay zones are overlaid on base zone classifications to alter some or all of the underlying zone regulations. Overlay zones are shown on the official zoning map in parentheses following the base zone map symbol. Thus, an R-1C zoned parcel that is included in the Urban Commercial Corridor Overlay Zone would be shown on the zoning map as R-1C (UCC).
2. Overlay zone regulations apply in combination with underlying base zone regulations and all other applicable standards of this zoning ordinance. When overlay zone standards conflict with standards that otherwise apply in the underlying base zone, the regulations of the overlay zone always govern. All applicable regulations of the underlying base zone apply to property in an overlay zone unless otherwise expressly indicated.

SECTION 8.1 MHP (MANUFACTURED HOME PARK) OVERLAY ZONE

- A. **PURPOSE:** The purpose of the Manufactured Home Park (MHP) Zone are to: provide a means whereby manufactured homes may be constructed in the Residential (R) Zones, and therein, through a development plan, permit a wide flexibility in the design, location, siting of the building, and yard and setback requirements in order to provide for, to the greatest extent possible, the preservation of hillside areas and other natural geographic and topographic features, and to provide for more useable and suitably located recreation facilities and open space that would otherwise be provided under conventional residential land development procedures, but always with the intention of furthering the public health, safety, and general welfare.
- B. **GENERAL:** A Manufactured Home Park (MHP) Overlay Zone may only be permitted to be superimposed over any of the Residential (R) Zones, provided that all conditions or provisions of this section of the ordinance, the applicable requirements of the subdivision regulations, and any additional requirements as may be determined necessary to provide for the most efficient layout of the MHP Overlay Zone and its proper integration with the surrounding development, are met; and a public hearing is held on the MHP application.
- C. **APPLICATION AND PROCESSING:** Applications for the MHP Overlay Zone shall be processed as follows:
 1. Stage I Development Plan - Except as provided for in Section 14.5 of this ordinance, applications for a map amendment to zone an area MHP shall be accompanied by a development plan, as regulated by Section 14.5, A., of this

ordinance, along with supporting information/documentation pertaining to each of the criteria items identified in Subsection P., below. If an area, however, is currently zoned MHP, the submission of the Stage I Development Plan, for review by the planning commission and legislative body, shall not be required until the area is proposed to be developed. Development shall include the demolition, erection, physical expansion, change of use, or outside remodeling of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.

- a. The planning commission shall hold a public hearing on the proposed application in accordance with the requirements of KRS Chapter 424, and review said application with regard to its compliance with the stated purposes of the MHP Overlay Zone, the required elements of the Stage I Development Plan, and other applicable requirements of this section. Upon holding such hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Stage I Development Plan and the bases for their recommendation.
- b. The legislative body shall, within ninety (90) days after receiving the recommendations of the planning commission, review said recommendations and take action to approve or disapprove said MHP application. Such action may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection C., 1., a., above. Approval of the MHP Overlay Zone shall require that development be in conformance with the approved Stage I Development Plan.

The legislative body shall forward a copy of the approved Stage I Development Plan to the planning commission, or its duly authorized representative, for further processing in accordance with the requirement for Stage II Plan and record plat.

Upon approval of the MHP Overlay Zone, the official zoning map shall be amended by adding the suffix "MHP" to the residential zone (e.g., R-1B (MHP), R-1C (MHP), etc.)

2. Stage II Development Plan - A Stage II Development Plan shall be developed in conformance with the approved Stage I Development Plan and in accordance with the requirements of Section 14.5, B., of this ordinance, and submitted to the planning commission, or its duly authorized representative, for its review and approval. Except for the manner of submission and processing, the subdivision

regulations may be waived, where applicable, and the requirements of Section 14.5 B., of this ordinance, shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.

- a. The planning commission, or its duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 14.5, B., of this ordinance, other applicable elements of this ordinance, other applicable regulations, and its conformity with the approved Stage I Development Plan. Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), or decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this ordinance.

Upon approval of the Stage II Development Plan, by the planning commission, or its duly authorized representative, a copy of said plan shall be forwarded to the zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other regulations as may be required by this ordinance.

D. PERMITTED USES AND DENSITIES:

Residential Use Group - Household Living

1. Manufactured home

Public and Civic Use Group

1. Recreation and open space
 - a. High intensity
 - b. Low intensity

The density of dwelling units in a MHP shall be determined by the density (dwelling units per net acre) as calculated from the residential (R) zone superimposed by the MHP Overlay Zone. This density shall be applied to the total project area, excluding that land devoted to streets (public and private).

E. OTHER PERMITTED USES: The following structures and uses related to and for the exclusive use of the residents of the MHP (excluding, however, any commercial uses), are also permitted:

1. Community centers

2. Laundry facilities
 3. Rental or sales offices for lots and/or mobile homes in the Manufactured Home Park;
- F. **ACCESSORY USES:** Accessory uses shall be as specified within the zone being overlaid.
- G. **CONDITIONAL USES:** Conditional uses, including customary accessory structures and uses, shall be as specified within the zone being overlaid, subject to the approval of the Board of Adjustment, as set forth in Article XIV of this ordinance.
- H. **AREA REQUIREMENTS:**
1. No MHP Zone shall be permitted on less than five (5) acres of land. However, an area of less than five (5) acres may be zoned MHP, provided it is adjacent to an area with an existing approved Stage I Development Plan and is currently zoned RCD.
 2. The minimum area for submission of a Stage I Development Plan, within an existing MHP Zone, shall not be less than three (3) acres. However, a Stage I Development Plan may be submitted for an area less than five (5) acres, provided it is consistent with an officially adopted Neighborhood Concept Plan for the area in question, and said Stage I Development Plan is in agreement with all other requirements of the MHP Zone.
- I. **HEIGHT, YARD, AND SETBACK REGULATIONS:** Requirements shall be as approved in the plan.
- J. **OFF-STREET PARKING AND LOADING AND/OR UNLOADING:** Off-street parking and, when applicable, loading and/or unloading facilities, shall be provided in accordance with Article XI of this ordinance.
- K. **FENCES, WALLS, AND SIGNS:** The location, height, and type of all fences, walls, and signs, shall be as approved in the plan.
- L. **NATURAL RESOURCE PROTECTION REGULATIONS:** Natural resource protection regulations shall be planned and applied in accordance with Article XII of this ordinance.
- M. **COMMON OPEN SPACE/RECREATION AREA:** At least twenty (20) percent of the total acreage of the proposed MHP shall be retained as common open space/recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all the MHP. Common open space/recreation areas shall be that part of the total project exclusive of buildings, streets, parking areas, single-family residential lots, and access drives.

- N. SCREENING: Shall be as approved in the plan.
- O. CRITERIA: Evaluation of the proposed development plan shall be based upon the following criteria:
1. Agreement with the various elements of the Kenton County Comprehensive Plan and where applicable, any officially adopted Neighborhood Concept Plan by the planning commission or legislative body, or other adopted plan.
 2. Extent to which the proposed development plan is consistent with the purpose of the MHP Zone.
 3. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (based on topography, natural features, streets, relationship to adjacent uses, etc.).
 4. Nature and extent of the proposed uses in relation to the unique characteristics of the site; the current or anticipated need for such use(s) and the specific size and locale of the market area from which the specific uses of the site will draw or serve.
 5. Extent to which the proposed design, as indicated on the Stage I Development Plan, is compatible and coordinated with existing and/or proposed development contiguous to the site. Compatibility and coordination existing and/or proposed development shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding areas, including coordination of vehicular and pedestrian circulation; the scale (e.g., height and mass of structures) of the proposed development; location of open spaces and size of setbacks; provisions of screening areas or utilization of natural features; the transition of land use types based on the proposed design; and the impact of the proposed development on adjacent land uses, such as noise, visual impact, hours of operation, traffic circulation, etc.
 6. Amount of traffic that would be generated by the proposed operation and the ability of the existing highway system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
 7. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site
 8. Extent to which all necessary public utilities and facilities are available to service the development including police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.

- P. **AMENDMENTS:** Any amendments to plans, except for those minor adjustments which may be permitted by the planning commission, or its duly authorized representative, shall be made in accordance with the procedure required by Subsection C., subject to the same limitations and requirements as those under which such plans were originally approved.
- Q. **UTILITIES:** All utilities in a MHP shall be underground.
- R. **EXPIRATION:** Development Plans within the MHP Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said MHP Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions apply:
1. Stage II Development Plan has not been approved by the planning commission, or its duly authorized representative, within a period of twenty-four (24) consecutive months from the date of the approved Stage I Development Plan and Overlay Zone amendment by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the approved Stage I Development Plan obsolete.
 2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the of approval of the Stage II Development Plan by the planning commission, or its duly authorized representative, provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that construction was delayed due to circumstances beyond the applicants control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II Development Plan.

ARTICLE IX

SPECIFIC USE REGULATIONS

SECTION 9.0 SPECIFIC USE REGULATIONS

The purpose of this article is to provide regulations pertaining to specific development types. The development approval process within certain sections of this article is intended to provide an incentive to property owners and developers who are willing to develop in a particular form. Development in such cases is development “by-right” which entails only an administrative review carried out by NKAPC and/or the legislative body. Those wishing to submit plans for development review and approval under this Article must do so in accordance with the provisions of Article X (Zones) which specifies in which zones such developments may occur.

SECTION 9.1 PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS

A. PURPOSE

1. To establish mixed use developments and to promote flexibility in design and permit planned diversification in the relationships between location of and types of uses and structures
2. To enhance subdivision value and reduce development costs through promoting the advantages of modern large scale site planning through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, mixed land uses, and utilities.
3. To ensure the preservation of the existing landscape features and amenities, and to utilize such features in a harmonious fashion and as a nonstructural stormwater runoff and watershed protection measure.
4. To ensure the preservation of interconnected and contiguous green space as a habitat protection measure and a water quality protection measure.
5. To ensure a means whereby mixed land uses may be constructed in order to promote environmentally sensitive and efficient uses of land, including:
 - a. Clustering on less environmentally sensitive soils, which will reduce the amount of infrastructure, including paved surfaces and utility easements.
 - b. Reducing erosion and sedimentation by minimizing land disturbance and removal of vegetation.
6. To preserve unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes over twenty (20) percent, woodlands, and wildlife habitats.
7. To promote interconnected and contiguous green space throughout the community and with adjacent jurisdictions, and to promote convenient walking and/or biking paths to reduce reliance on automobiles.
8. To ensure interconnected street designs that reduce traffic speeds and reliance on main streets.

9. To promote community character and diversity through a mixture of uses, housing types, and lot sizes locating within close proximity to each other.
- B. AREA AND LOCATION REQUIREMENTS: PUDs shall only be permitted within Residential (R) zones and no PUD shall be permitted on less than five (5) acres of land. However, an area of less than five (5) acres may be developed as a PUD, provided it is adjacent to an area with an existing approved Stage II Development Plan and is currently developed as a PUD.

A Stage II Development Plan may be submitted for an area less than five (5) acres, provided it is consistent with any plan officially adopted by the legislative body for the area in question, and said Stage II Development Plan is in agreement with all other requirements of the PUD regulations.

C. APPLICATION AND PROCESSING:

1. Pre-application meeting - Prior to filing for development plan review, the developer, petitioner, applicant or property owner must attend a pre-application meeting with NKAPC staff to confer about the proposed PUD and be informed of the PUD regulations and to the application and review process.
2. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application meeting as a representation or implication that the proposal will be ultimately approved or rejected in any form. This meeting is intended to review the development plan and identify any issues in applying the PUD regulations.
3. Stage II Development Plan - A Stage II Plan shall be prepared in accordance with the requirements of Section 14.5, and submitted to the planning commission's duly authorized representative, for its review and approval. The planning commission's duly authorized representative, shall take final action to approve, approve with conditions, or disapprove the Stage II Development Plan. This action letter shall be forwarded to the legislative body's administrative official, or his/her duly authorized representative.
4. The planning commission's duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 14.5, for Stage II plans, and other applicable elements of this ordinance, and other applicable regulations. Upon approval of the Stage II Development Plan by the planning commission's duly authorized representative, a copy of said plan shall be forwarded to the legislative body's zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other regulations, as may be required by this ordinance.

- D. **REQUIRED COMMON OPEN SPACE AREA:** At least thirty (30) percent of the total area of a PUD development must be retained as common open space. The following may not be counted toward satisfying common open space requirements: required perimeter setbacks around the development, streets, parking areas, driveways, or development lots.
1. **Passive Open Space:** A minimum of fifty (50) percent of the required common open space area shall be passive open space. Such open space areas shall be used to protect natural resource areas on the site. Natural resource protection areas may be counted towards the required passive open space.
 2. **Active Open Space:** The remaining required common open space may be improved with active or semi-active recreational amenities available to, and usable by all residents of the development. Amenities may include, for example, swimming pools, play areas, ball fields, picnic tables and shelters, or fitness or walking/biking trails. Active uses may also include outdoor public squares.
 3. Prior to the recording of a plat or the issuance of a grading/zoning/building permit, whichever occurs first, the developer shall submit documentation that the required open space property will be accepted by the legislative body or other responsible entity as approved by the legislative body. An easement document pertaining to the use of the passive open space area shall be included on the plat and in each owner's deed.
- E. **PERMITTED USES:** Residential, commercial and public and civic uses are permitted within a PUD as listed below. A minimum of two (2) different types of residential housing units are required within a PUD. The density of dwelling units in a PUD shall be determined by the density (dwelling units per net acre) as calculated from the Residential (R) Zone the PUD is located within. Each PUD shall contain a commercial component, not to exceed twenty-five (25) percent of the total land area of the PUD. Commercial uses shall be grouped in complexes within a PUD.

Residential Use Group

1. Single, two, and multi-family residential dwelling units (attached or detached). The density shall be applied to the total project area exclusive of land devoted to commercial uses and streets (public or private).

Public and Civic Use Group

1. Cultural Exhibits and Libraries
2. Day Care
 - a. Type 1
 - b. Type 2
3. Recreation and Open Space
 - a. High-Intensity
 - b. Low-Intensity

4. Postal Services
5. Safety Services

Commercial Use Group

1. Animal Services
 - a. Sales and Grooming
 2. Entertainment
 - a. Small
 - b. Medium
 - c. Large
 - d. Bingo Hall
 3. Eating/Drinking Establishment
 - a. Restaurant, excluding drive-ins
 4. Financial Services
 6. Food and Beverage Sales, Retail
 7. Gasoline Stations
 8. Medical Service
 9. Office
 10. Personal Improvement Service
 11. Retail Sales and Service
- F. ACCESSORY USES: Accessory uses shall be as specified within the zone the PUD is being applied.
- G. CONDITIONAL USES: Conditional uses, including customary accessory structures and uses, shall be as specified within the zone the PUD is being applied, subject to the approval of the Board of Adjustment, as set forth in Article XIV of this ordinance
- H. HEIGHT, YARD, AND SETBACK REGULATIONS: Maximum building height shall be as specified within the zone the PUD is being applied. All other requirements shall be as approved in the plan.
- I. NATURAL RESOURCE PROTECTION: The submitted development plan shall be planned and applied in accordance with Article X of this ordinance.
- J. TRAFFIC STUDY REGULATIONS: Regulations regarding the completion of traffic studies within the limits of the proposed development shall be provided in accordance with Section 4.5 of this ordinance.
- K. NEW STREET CONSTRUCTION: PUD developments within R-1D, R-1E, R-1F, R-2, R-3 or R-4 Zones which can demonstrate the characteristics of a Traditional Neighborhood Development as defined in Article II may utilize the Traditional Neighborhood Development Street Cross Sections contained within the Kenton County Subdivision Regulations.

- L. **OFF-STREET PARKING AND LOADING AND/OR UNLOADING:** Off-street parking and, when applicable, loading and/or unloading facilities, shall be provided in accordance with Articles XI of this ordinance.
- M. **FENCES, WALLS, AND SIGNS:** The location, height, and type of all fences, walls, and signs, shall be as approved in the plan.
- N. **SCREENING:** Screening shall be provided in accordance with Section 10.5 of this ordinance.
- O. **CRITERIA:** Evaluation of the proposed development plan shall be based upon the following criteria:
1. Agreement with the various elements of the Kenton County Comprehensive Plan and where applicable, any plan officially adopted by the legislative body for the area in question.
 2. Extent to which the proposed development plan is consistent with the purpose of the PUD Zone.
 3. Adequacy of the proposed site, considering such factors as the configuration of the site, and the extent to which the site is formed by logical boundaries (based on topography, natural features, streets, relationship to adjacent uses, etc.).
 4. Extent to which the proposed design, as indicated on the Stage II Development Plan, is compatible and coordinated with existing and/or proposed development contiguous to the site. Compatibility and coordination existing and/or proposed development shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding areas, including coordination of vehicular and pedestrian circulation; the scale (e.g., height and mass of structures) of the proposed development; location of open spaces and size of setbacks; provisions of screening areas or utilization of natural features; the transition of land use types based on the proposed design; and the impact of the proposed development on adjacent land uses, such as noise, visual impact, hours of operation, traffic circulation, etc.
 5. Extent to which the commercial components of a PUD relate to and serve the residential components of the PUD.
 6. Amount of traffic that would be generated by the proposed operation and the ability of the existing highway system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
 7. Extent to which non-traditional street designs (i.e. roundabouts, alleys, etc.) are used to provide for the efficient and safe movement of traffic within and adjacent to the site.
 8. Extent to which all necessary public utilities and facilities are available to service the development including police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.

- P. **AMENDMENTS:** Any amendments to plans shall be made in accordance with the procedure required by Subsection C., subject to the same limitations and requirements as those under which such plans were originally approved.
- Q. **UTILITIES:** All utilities in a PUD shall be underground.

SECTION 9.2 RETIREMENT COMMUNITY DEVELOPMENT REGULATIONS

- A. **PURPOSE:** The purpose of retirement community development regulations are:
1. To provide appropriate housing alternatives for active adults age fifty-five (55) years and older and elderly persons living independently.
 2. To provide an opportunity for people age fifty-five (55) years of age and older to live in a residential neighborhood designed specifically for their needs, equipped with the appropriate amenities and located within reasonable proximity to public transportation services.
 3. To permit flexibility in the design, location and siting of buildings in order to provide for, to the greatest extent possible, the preservation of the existing landscape features and amenities, and also provide for accessible and suitably located open space and recreation amenities, and other public and common facilities than would otherwise be provided under conventional residential land development procedures.
- B. **DISTRICT LOCATIONS:** Retirement communities shall only be permitted within Residential (R) zones in accordance with the permitted uses listed in Article V, provided that all conditions or provisions of this section of the ordinance, the applicable requirements of the subdivision regulations, and any additional requirements, as may be determined necessary to provide for the most efficient layout of the retirement community and its proper integration with the surrounding development, are met. Retirement communities may be established on any parcel, or combination of parcels that meet the following additional requirements:
1. A conceptual circulation plan shall be required, including the layout of the entire area of the retirement community, taking into consideration internal and external pedestrian connectivity, vehicular access and the functional relationship of uses within the retirement community.
 2. Proximity of the retirement community to within no more than ¼ mile from public transportation services.
- C. **APPLICATION AND PROCESSING:** Stage II Development Plan - A Stage II Plan shall be prepared in accordance with the requirements of Section 14.5, and submitted to the planning commission for its review and approval. The planning commission shall take final action to approve, approve with conditions, or disapprove the Stage II

Development Plan. This action letter shall be forwarded to the city's administrative official, or his/her duly authorized representative.

- a. The planning commission shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 14.5, for Stage II plans, and other applicable elements of this ordinance, and other applicable regulations. Upon planning commission approval of the Stage II Development Plan, a copy of said plan shall be forwarded to the city's zoning administrator, who shall grant permits only in accordance with the approved Stage II development plan and other regulations, as may be required by this ordinance.
- D. **PERMITTED USES:** As defined and regulated herein, retirement communities may include the following uses and facilities:
1. All types of residential housing units (attached or detached) may be permitted including but not limited to, single-family, two-family, and multi-family residential units but only in accordance with the density requirements of the applicable zoning district.
 2. Common areas for use principally by residents and their guests. Such areas may include, dining facilities (with ancillary kitchen facilities), social rooms, chapels, overnight guest accommodations, and indoor and outdoor recreational facilities.
 3. Personal services and limited retail facilities principally intended for the use of residents and their guests, including craft and hobby shops, gift shops, hair stylists and similar activities.
 4. Administrative offices for the management of the senior housing community and ancillary services.
 5. Public and semi-public structures and uses may be permitted within a retirement community upon the approval of the legislative body. These uses shall be delineated on any development plan and shall be limited to one or more of the following uses:
 - a. Churches
 - b. Community centers
 - c. Country clubs
 - d. Fire or police stations
 - e. Libraries
 - f. Parks and open spaces
- E. **AREA REQUIREMENTS:** No retirement community shall be permitted on less than ten (10) acres of land.

- F. **COMMON OPEN SPACE/RECREATION AREA:** At least twenty percent (20%) of the total acreage of the proposed retirement community development shall be retained as common open space/recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the retirement community. Common open space/recreation areas shall be that part of the total project exclusive of dwellings, streets, parking areas, and other non-open space and indoor recreational facilities.
- G. **EVALUATION CRITERIA:** In considering applications submitted under this section, the planning commission shall take into consideration the public, health, safety and general welfare and the comfort and convenience of the public in general and the residents of the adjoining areas in particular and shall make any appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance and particularly in regard to achieving:
1. Maximum safety of traffic ingress and egress, minimum impact on the capacity of existing roads and sufficient parking areas to provide for adequate off-street parking.
 2. A site layout which would not have an adverse effect upon any properties in adjoining residential zones by impairing the established character or the potential use of properties in such zones.
 3. The reasonable screening of all parking lots, service areas, and multi-family housing developments from the view of adjacent residential properties and streets.
 4. Conformance of the proposed plan with the Goals and Objectives and Development Concepts as contained within the adopted Comprehensive Plan.
 5. Conformance of the building and all related signs and structures to the properties of the aesthetic character of the area, as determined by consideration of architecture, building size and type, scale of lot coverage, and consistency of uses in the immediate area.
- H. **PARKING REQUIREMENTS:** The parking ratios for retirement communities shall be as follows:
- | | |
|----------------------------------|--|
| Single and two-family dwellings: | Two (2) spaces per unit |
| Multi-family dwellings: | One (1) space per one (1) bedroom unit plus one (1) space per five (5) units for visitor parking, or one and one half (1.5) spaces for each two (2) or more bedrooms plus 1 space for each five (5) units for visitor parking. |
| Offices/Service facilities: | One (1) space per 200 square feet of gross floor area |

Common areas: One (1) space per four (4) seats in the main assembly area, plus one (1) space for each two (2) employees.

- I. **RESTRICTIONS:** Retirement communities designed for exclusive occupancy by senior citizens, as a minimum, must meet federal regulations for such facilities. In addition, the tenure of residential units within a retirement community shall be at the discretion of the managing entity. All facilities within a single retirement community, including all residential units, shall be under the management of a single entity.

SECTION 9.3: DEVELOPMENT REGULATIONS FOR CONSERVATION SUBDIVISIONS

A. **PURPOSE**

1. To enhance subdivision value and reduce development costs through conservation and cluster designs.
2. To promote and preserve interconnected green space as a nonstructural stormwater runoff and watershed protection measure, and a means to promote convenient walking and/or biking paths to reduce reliance on automobiles.
3. To preserve interconnected and contiguous green space as habitat and water quality protection measures.
4. To promote environmentally-sensitive and efficient uses of land by clustering houses on less environmentally-sensitive soils, reducing the need for infrastructure such as paved surfaces and utility easements, and reducing erosion and sedimentation by minimizing land disturbance and removal of vegetation.
5. To preserve unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, slopes, woodlands, and wildlife habitats.
6. To ensure interaction within the community by orienting houses closer to the street and providing public gathering spaces, parks, and community facilities.
7. To ensure interconnected street designs that reduce traffic speeds and reliance on more highly-classified streets.
8. To promote community character and diversity through a mixture of housing types and lot sizes.

- B. **AREA AND LOCATION REQUIREMENTS:** Conservation subdivisions shall only be permitted on five (5) acres of land or more. An area of less than five (5) acres may be developed as a conservation subdivision, provided it is adjacent to an area with an

existing approved Stage II Development Plan and is currently developed as a conservation subdivision.

C. HOUSING DENSITY DETERMINATION

The number of lots to be permitted within a conservation subdivision shall be determined through the development of a yield plan. Yield plans illustrate the maximum number of lots that can be created in a conventional subdivision based on the existing zone. Yield plans do not have to meet formal design plan requirements but must be capable of being constructed given site features and all applicable regulations.

D. APPLICATION AND PROCESSING

1. Pre-application meeting - Prior to filing for development plan review, the developer, petitioner, applicant or property owner must attend a pre-application meeting with NKAPC staff to discuss the yield plan, the development review process, the traffic study, be informed of the Conservation Subdivision regulations and to confer about the application.
2. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application meeting as a representation or implication that the proposal will be ultimately approved or rejected in any form. This meeting is intended to review the development plan and identify any issues in applying the regulations of the Conservation Subdivision regulations.
3. Stage II Development Plan - A Stage II Plan shall be prepared in accordance with the requirements of Section 14.5, and submitted to the planning commission's duly authorized representative, for its review and approval. The planning commission's duly authorized representative, shall take final action to approve, approve with conditions, or disapprove the Stage II Development Plan. This action letter shall be forwarded to the legislative body's administrative official, or his/her duly authorized representative.
4. The planning commission's duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 14.5, for Stage II plans, and other applicable elements of this ordinance, and other applicable regulations. Upon approval of the Stage II Development Plan by the planning commission's duly authorized representative, a copy of said plan shall be forwarded to the legislative body's zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other regulations, as may be required by this ordinance.

- E. RESIDENTIAL USES AND DENSITIES: The base density of dwelling units in a conservation subdivision shall be determined from the yield plan.

1. Density Bonus: A density bonus shall be granted if any of the following criteria are met, collectively up to a maximum of a 30 percent density bonus:
 - a. Density Bonus for Open Space - a density bonus shall be permitted for providing:
 - (1) An additional five percent (5%) open space - an additional two percent (2%) in dwelling units per net acre;
 - (2) An additional ten percent (10%) open space - an additional five percent (5%) in dwelling units per net acre;
 - (3) An additional 15 percent (15%) open space - an additional ten percent (10%) in dwelling units per net acre; and
 - (4) An additional 20 percent or more (20%>) open space - an additional 20 percent (20%) in dwelling units per net acre.
 - b. Density bonus for affordable housing - A density bonus may be permitted if an RCD development contains:
 - (1). A minimum of ten (10) percent affordable housing - Additional (10) percent dwelling units per net acre.
 - (2). Above ten (10) percent affordable housing - Same as above, plus an additional one (1) percent dwelling units per net acre for every percent above the minimum ten (10) percent affordable housing provided, up to a maximum of fifteen (15) percent.
 - (3). Affordable housing shall be evenly distributed (no more than two such dwelling units adjacent to, on top or below, or across the street/hall from each other) through the entire project area, so as to avoid concentrated areas of affordable housing and have a similar exterior to market-rate housing in the development.
 - (4). An Affordable Housing Development Agreement shall be made between an applicant for a development and the city/county containing specific requirements to ensure the continuing affordability of housing included in the development.
 - (5). Affordable housing means - A sales price that is within the means of a moderate-income household.

In the case of dwelling units for sale, housing that is affordable is housing for which the mortgage, taxes, insurance, and fees are no more than thirty (30) percent of the adjusted income for a household whose gross annual income is at or below one hundred (100) percent of the area median income, adjusted for the household size.
 - c. Density Bonus For Increased Setbacks Along Street Frontage - an increase of five percent (5%) in dwelling units per net acre shall be permitted if the

setback along a collector, arterial, or interstate, as identified in the Area-wide Comprehensive Plan, is increased to a minimum of 100 feet.

Additional open space provided may count towards additional open space/recreational area, but not areas contained within the original required perimeter setbacks around the development.

- d. **Density Bonus For Public Access To Common Open Space** - an additional five percent (5%) in dwelling units per net acre shall be permitted if access to the required common open space areas is granted to the general public.
- e. **Density Bonus For Preserving/Reusing Historic Structures Or Buildings** - an additional five percent (5%) in dwelling units per net acre shall be permitted for preserving/reusing historic structures or buildings.

Examples of Density Bonuses within the R-1C Zone:

Total acres	Mandatory open space	# of lots	Additional Open Space	Density bonus	Additional lots	Total lots
100	30	348	-	-	-	348
100	30	348	10	5%	17	365
100	30	348	20	20%	70	418
100	30	348	-	Affordable Housing (10%)	35	383

- E. **REQUIRED COMMON OPEN SPACE AREA:** At least 30 percent (30%) of the total area of a conservation subdivision shall be retained as common open space. Natural resource protection areas may be counted towards the common open space requirement. Required perimeter setbacks around the development shall only count towards 60% of the common open space requirement and they shall be active open space uses.

Passive Open Space: a minimum of 50 percent (50%) of the required common open space area shall be passive open space. Such open space areas shall be used to protect natural resource areas on the site. Riparian and viewshed protection areas may be counted towards the required passive open space.

Active Open Space: the remaining required common open space may be improved with active or semi-active recreational amenities available to, and usable by all residents of the development. Amenities may include swimming pools, play areas, ball fields, picnic tables and shelters, or fitness or walking/biking trails. They may also include small public squares or outdoor rooms.

Prior to recording the plat or issuing a grading/zoning/building permit, whichever occurs first, the developer shall submit documentation that the required open space will be accepted by the legislative body or other responsible entity for operation and management. An easement document pertaining to the use of the passive open space area shall be included on the plat and in each owner's deed.

G. ACCESSORY USES: Accessory uses shall be as specified within the existing zone.

H. CONDITIONAL USES: Conditional uses, including customary accessory structures and uses, shall be as specified within the existing zone and subject to the approval of the Board of Adjustment, as set forth in Article XIX of this ordinance.

I. HEIGHT, YARD AND SETBACK REGULATIONS:

1. Minimum Building Site Width - 100 feet
2. Minimum site perimeter setback - 50 feet.
3. Maximum building height shall be as specified in the existing zone.

All other requirements shall be as approved in the plan.

J. NATURAL RESOURCE PROTECTION: The submitted development plan shall be planned and applied in accordance with Article X of this ordinance.

K. TRAFFIC STUDY REGULATIONS: Regulations regarding the completion of traffic studies within the limits of the proposed development shall be provided in accordance with Section 4.5 of this ordinance.

K. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs, shall be as approved in the plan.

N. CRITERIA: Evaluation of the proposed development plan shall be based upon the following criteria:

1. Extent to which the proposed development complies with the various elements of the Comprehensive Plan and where applicable any plan officially adopted by the legislative body.
2. Extent to which the proposed development plan is consistent with the purpose of these conservation subdivision regulations.
3. Extent to which the proposed site is adequate considering such factors as its configuration and the extent to which it is formed by boundaries based on topography, natural features, streets, and relationship to adjacent uses.
4. Extent to which the proposed development is coordinated with existing and/or proposed contiguous development in terms of intensity, coordination of vehicular and pedestrian circulation, scale, open space and setbacks, screening or utilizing natural features, and impact on adjacent land uses.

5. Extent to which non-traditional street designs (i.e. roundabouts, alleys, etc.) are used to provide for the efficient and safe movement of traffic.
 6. Extent to which necessary public utilities and facilities are available to serve the development. Where deficiencies exist, the extent to which improvements shall be considered.
- O. AMENDMENTS: Amendments to plans shall be made in accordance with the procedure required by Subsection D.
- N. UTILITIES: All utilities in a conservation subdivision shall be underground.

SECTION 9.4 REGULATIONS OF SEXUALLY ORIENTED BUSINESSES – ALTERNATIVE (1) ONE

- A. The Fiscal Court of Kenton County, after consultation among the mayors, councils, commissioners and staffs of the municipalities and the county within the County, found that a substantial need exists to revise significantly the ordinances regarding sexually oriented businesses within Kenton County.
- B. The Fiscal Court, in association with the Northern Kentucky Area Planning Commission and the Fiscal Court of adjacent Campbell County its cities in the Northern Kentucky Community, retained Duncan Associates to conduct a study of existing sexually oriented uses and related businesses in Kenton and Campbell Counties, which is part of a single, larger community.
- C. Duncan Associates assigned two nationally-known planners, Eric Damian Kelly, FAICP and Connie B. Cooper, FAICP, to conduct that study
- D. Kelly and Cooper have completed that study, including the following elements:
1. Field study, involving visits to all identified existing sexually oriented businesses in Kenton and Campbell Counties;
 2. Meetings with stakeholder groups involved in these businesses;
 3. Consultation with the Kenton County, Campbell County Attorney, and the city attorneys for certain cities, and the community at large on this issue;
 4. Consultation with the professional staff of the Northern Kentucky Area Planning Commission on this issue;
 5. Review of studies and litigation concerning sexually oriented businesses in other communities;
 6. Investigation of regulatory approaches to massage therapy;
 7. Review of existing ordinances in Kenton and Campbell Counties;
 8. Review of similar ordinances in a number of communities outside the Commonwealth of Kentucky;
 9. Review of Kentucky statutes related to regulating sexually oriented businesses.

- E. Duncan Associates has summarized this work and presented recommendations to the Northern Kentucky Area Planning Commission and Kenton and Campbell Counties and their cities in an August 2003 report entitled “Site Visit Analysis: Sexually Oriented and Related Businesses in Kenton and Campbell Counties” (hereinafter called simply the “Kelly and Cooper Study”).
- F. That study has also been made available to the legislative bodies of Kenton and Campbell Counties for their consideration and use.
- G. That study has been accepted and used by the Fiscal Court of Kenton County in adopting the countywide licensing ordinance, Kenton County Ordinance No. 451.9, as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus in 2004.
- H. The United States Supreme Court in *City of Renton v. Playtime Theater, Inc.*, 475 U.S. 41 (1986), held that local governments may rely upon the experiences of other cities as well as on its own studies in enacting local legislation to regulate sexually oriented businesses;
- I. The United States Supreme Court in *Renton* and other cases has held that a local government may regulate such uses through content-neutral, time, place, and manner restrictions, so long as said regulations are designed to serve the government interest and do not unreasonably omit avenues of communication, and are aimed not at the content of protected speech within said establishments but rather at the secondary effects of said establishments on the surrounding communities.
- J. The study by Kelly and Cooper found extensive physical interaction between patrons and dancers at many of the establishments in both Kenton and Campbell Counties.
- K. Covington, the only municipality in Kenton County that has had sexually oriented businesses within its border, from January 1, 2002, to February 11, 2004, the police made a total of 469 calls to sexually oriented businesses in the city. The crimes committed at these establishments during this time period included robbery, assault, fraud, malicious mischief, public intoxication, and possession of illegal drugs. In addition, on June 13, 2003, Covington police arrested three individuals for prostitution-related charges at Liberty's Show Lounge, a sexually oriented cabaret in the city.
- L. As the Sixth Circuit Court of Appeals noted in a decision addressing issues related to the Adult Entertainment ordinance in the City of Newport (Campbell County), there is a long history underlying efforts to regulate sex businesses in Northern Kentucky:

Defendant City of Newport ("City" or "Newport") long ago gained a reputation as home to a veritable smorgasbord of vice, attracting patrons from across the nation. For decades, the small city was considered the Midwest's answer to Las Vegas, and leaders of organized crime were said to operate its gambling casinos and nightclubs.

In the 1960's, public pressure began to demand that Newport be cleaned up. This pressure has continued until the present, with varying degrees of success.

A 1986 report generated by the Newport Alcoholic Beverage Control Administrator indicated that of 28 adult bars opened since 1978 (including successive bars at the same site), 21 had had at least one prostitution-related conviction, and 18 had had multiple convictions. Def. Ex. K, p. 2. The report explained that "all of the prostitution in businesses with adult entertainment involved an alcoholic beverage as the median [sic] of exchange and the solicitation of such drinks by 'mixers.'" Id. In all, 98% of prostitution arrests in Newport occurred in the vicinity of these bars. Id. Adult entertainment establishments, which constituted 12% of all businesses serving alcohol, accounted for 17% of all police runs. Def. Ex. K, p. 21.

A later review, conducted in 1990 by the Newport License Inspector, documented the continued prostitution arrests occurring at several adult dancing establishments. Def. Ex. G. Moreover, the City determined that over \$ 70,000 was expended in 1990 to target, patrol and prosecute the illicit behavior occurring in and around the bars. Def. Ex. H.

Several of Newport's citizens, merchants and church groups also opposed the presence of the semi-nude dancing clubs. These groups generally believed that the adult entertainment clubs were "clouds over [the] neighborhood that keep [it] from growing in the [right] direction." See Def. Ex. I (letter to Mayor from Taylors Landing Business District). Complaints commonly expressed were that the seamy establishments deterred other merchants from locating in Newport's business district, deterred shoppers, served a poor example for the City's youth, and generally tarnished the City's image. Id.

Bright Lights, Inc., v. City of Newport, 830 F. Supp. 378, 380-81 (E. D. Ky. 1993).

Based on those findings, the court went on to hold in relevant part:

Having considered the matter carefully, the court concludes that some leeway must be afforded the reform efforts of the City Council of Newport. This body has been elected by the citizens to attempt to "clean up the image" of the City.

To do this, it must overcome the sleazy impression of Newport and Northern Kentucky that survives from "the heyday" when things ran wide open; reform candidates were literally drugged and framed for morals offenses by public officials and police officers; the members of reform citizens groups were vilified and harassed; and a "liberal" in local parlance was a person favoring the continued open and notorious violation of the gambling and morals laws.

To illustrate that the Council's perception of a need to clean up the image of the City is not paranoid, the court notes the following statements in a national magazine's satirical Chapter on Newport's big sister, the city of Cincinnati.

"The city's streets fairly shine; the odd litterer draws a scornful stare. Wide avenues, bosky side streets, the most inviting of thoroughfares. And clean. So clean. No X-rated movie theaters, no adult-book stores, no bare-breasted night joints soil these streets, all of them long ago jettisoned over to the Kentucky side of the river."

Peter Richmond, "Town Without Pity," *Gentlemen's Quarterly*, July 1993, at 102, 104.

This court holds that the City of Newport has the right to secede as Cincinnati's combat zone.

The court holds that the City has "an important and substantial governmental interest" in advancing these reform goals, which interest is furthered by the ordinances in question. *Barnes*, 111 S. Ct. at 2461. The court further finds and holds that in the case of the City of Newport, given its unique history, the ordinances' "incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest." *Id.* (quoting *O'Brien*, 391 U.S. at 376-77, 88 S. Ct. at 1678-79).

Newport's image affects that of all of Northern Kentucky, a community of nearly 300,000 people. That City and its community have the right to project a progressive and decent image. The nudity ordinances contribute to the enhancement of this interest and will be upheld. 830 F.Supp. at 384;

- M. The Supreme Court had earlier noted in upholding another regulation in Newport, "it is plain that, as in *Bellanca*, the interest in maintaining order outweighs the interest in free expression by dancing nude." *Newport v. Iacobucci*, 479 U.S. 92, 97, 93 L. Ed. 2d 334, 340, 107 S. Ct. 383, 386 (1986). Although the significance of the opinion itself is now questionable (see *J&B Social Club # 1 v. City of Mobile*, 966 F. Supp. 1131, 1135 (S.D. Ala. 1996)), the quoted part of the opinion stands unchallenged.
- N. The cities of Covington and Newport continue their efforts to improve their image. Since 1985, Covington has redeveloped its riverfront, creating several new office towers, high-end condominiums, hotels, and a convention center. In Newport, in conjunction with private development and Southbank Partners, Inc., the City has built a major entertainment center along the river. This initiative has promoted improved pedestrian and transit connections in Northern Kentucky's river cities to and from the stadiums and other attractions along the Cincinnati riverfront.
- O. Despite these efforts, the areas of downtown Covington and Newport away from the riverfront continue to suffer in many ways. The study by Kelly and Cooper found in the area near to existing sexually oriented uses a number of building vacancies and building maintenance falling far short of that found in the revitalized areas near the river.
- P. The (*insert legislative body name*) respects the Constitutional rights of its citizens, including the right to present certain types of entertainment that may not appeal to the entire population. Through this ordinance, it is the desire of the (*insert legislative body name*) to balance the Constitutional rights of businesses that present sexually oriented

entertainment with the (*insert legislative body name*) interests in ensuring that this community not suffer from the same sorts of adverse effects that Covington and Newport have long suffered.

- Q. From long experience in Covington and Newport, as well as from the following studies and others not listed, the (*insert legislative body name*) also finds that such businesses may have primary and secondary effects involving crimes related to the activities in the establishments, of which prostitution and crimes of violence are those of greatest concern. See for example:
1. “Final Report to the City of Garden Grove: The Relationship between Crime and Adult Business Operations on Garden Grove Boulevard,” Richard W. McCleary, Ph.D., James W. Meeker, J.D., Ph.D., October 23, 1991.
 2. “Survey of Appraisers: Fort Worth and Dallas – Effects of Land Uses on Surrounding Property Values,” Duncan Associates, Eric Damian Kelly, FAICP, and Connie B. Cooper, FAICP, September 2004.
 3. “Adult Entertainment Businesses in Indianapolis, An Analysis,” 1984.
 4. “Adult Business Study,” by City of Phoenix Planning Department, May 25, 1979.
 5. “Effects on Surrounding Area of Adult Entertainment Businesses in Saint Paul,” June 1978, City of Saint Paul Division of Planning, Department of Planning and Management; and Community Crime Prevention Project, Minnesota Crime Control Planning Board.
 6. “Staff Report, Whittier City Planning Commission; Subject: Adult Business Regulations,” July 11, 1994.
 7. “Adult Entertainment Study,” Department of City Planning, City of New York, Second Printing, November 1994.
 8. “Adult Use Study,” Newport News Department of Planning and Development, March 1996.
 9. “A Report on the Secondary Impact of Adult Use Businesses in the City of Denver,” prepared by multiple city departments for Denver City Council, January 1998.
 10. “Survey of Appraisers in Monroe County, New York,” Summer 2000. For detailed results of the survey, see Kelly and Cooper, Everything You Always Wanted to Know about Regulating Sex Businesses, Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000; pages 51-57.
 11. The Tucson “study” consisting of two memos: one from the Citizens Advisory Planning Committee, addressed to the Mayor and City Council, and dated May 14, 1990; and the other from an Assistant Chief of Police to the City Prosecutor, regarding “Adult Entertainment Ordinance,” dated May 1, 1990.
- R. The (*insert legislative body name*) recognizes that some of the cited studies included bars without sexually oriented entertainment among the businesses studied; the (*insert legislative body name*) finds, nevertheless, that addressing the establishments that have live, sexually oriented entertainment is a more critical local issue than that of bars without such entertainment, for three reasons:

1. Bars in Kentucky are already regulated by the Commonwealth, and those state regulations directly address many of the concerns that arise with the service of alcohol;
 2. The local history of prostitution and sex-related crimes has largely been related to businesses with live, sexually oriented entertainment, and not with other establishments that serve alcohol; and
 3. The interaction between dancers who are paid to work with very limited clothing and the customers who pay to see them work in the establishments with live entertainment creates a sexually charged environment and the opportunity to negotiate for the provision of additional services that do not involve dancing or other protected expression and that are simply unacceptable under the standards of the County and its citizens.
- S. As noted earlier in these findings, there is a long local history of prostitution and sex-related crimes at or incident to the operation of establishments with live, sexually oriented entertainment. Further, the studies shown herein provide further evidence of the potential crime-related secondary effects from such businesses. Although the methodologies and quality of these studies vary somewhat, local experience has demonstrated to the (*insert legislative body name*) that the relationship between crime and such establishments is a fact in Northern Kentucky and not just a theory published in a study.
- T. The (*insert legislative body name*) has reviewed evidence and testimony presented at public meetings before the County, and information based on the past experiences of the Kenton and Campbell Counties and the cities of Covington and Newport, the experiences of the County Attorneys' offices prosecuting numerous and varied offenses that have occurred in and around the sexually oriented entertainment establishments, and based upon the documented experiences of other governmental units within Kentucky and elsewhere in dealing with the impact of sexually oriented entertainment, that such businesses can, if not properly regulated, be deleterious to said community.
- U. The (*insert legislative body name*) finds that the countywide licensing ordinance related to sexually oriented businesses and service oriented escort bureaus adopted by the Fiscal Court of Kenton County is an effective tool for addressing the many operational issues that can arise with such businesses.
- V. The (*insert legislative body name*) finds that amendments to the (*city's/county's*) Zoning Ordinance regarding the location and design of such businesses are important variables in the nature and extent of adverse secondary effects of sexually oriented businesses on the community, and further finds that location and design are among the types of issues that are typically addressed through zoning.
- W. Based on the recommendations of Kelly and Cooper, which are based on their experience in other communities and their review of the studies cited above and other local efforts to address such secondary effects, the (*insert legislative body name*) finds that the following principles are essential to effective zoning controls of sexually oriented businesses:

1. Sexually oriented businesses should, to the maximum extent practicable, be separated from one another by a distance that is greater than a convenient walking distance, because experience elsewhere has shown that the location of such businesses near one another may increase the adverse secondary effects, particularly those related to crime, by a greater than arithmetic factor;
 2. Although there are currently several such businesses located near one another in Covington's downtown area, the Covington City Commission has determined that the City will not attempt to require these existing businesses be relocated;
 3. Sexually oriented businesses have the greatest adverse effect on residential neighbourhoods and should thus be separated to the maximum extent practicable from residential neighbourhoods;
 4. Sexually oriented businesses are likely to attract criminal elements that prey on "soft targets," including children, and it is thus important to separate sexually oriented businesses from schools, parks, recreation centers, and religious institutions, all of which are places where children are likely to congregate, often without parental protection;
 5. Also because of the tendency of sexually oriented businesses to attract criminal elements that prey on soft targets, it is important to seek locations for such businesses that are not located along pedestrian routes, where young people, old people and others who are vulnerable, are likely to walk in going about their day-to-day business. Thus, locations to which the primary access is by automobile minimize the risk of persons going about their daily business encountering persons who are visiting or even loitering around the sexually oriented business;
 6. Experiences in other communities show that private booths, back rooms, "VIP" rooms and other small and private spaces in sexually oriented businesses create the opportunity for casual sexual activity and create logistical difficulties and risks of physical endangerment for police officers responsible for dealing with such activities. For that reason, it is essential that movies, performances and other activities at sexually oriented businesses should be permitted only in large rooms that are open and visible to management, other patrons and code and police officers who may visit the establishment during operating hours.
- X. FINDINGS: The facts and other matters set forth in the previous clauses that form the preamble to this ordinance are hereby adopted as findings of fact in support of the legislative action of the (*insert legislative body name*) in adopting this amendment to the Zoning Ordinance. Upon adoption of this zoning amendment, these shall be incorporated into the Zoning Code by reference as if fully set forth therein to the adopting Resolution.
- Y. DEFINITIONS:
1. CABARET OR THEATER, SEXUALLY ORIENTED – a building or portion of a building which provides or allows the provision of sexually oriented entertainment to its customers or which holds itself out to the public as an establishment where sexually oriented entertainment is available. Signs, advertisements or an establishment name including verbal or pictorial allusions to

sexual stimulation or gratification or by references to “adult entertainment,” “strippers,” “showgirls,” “exotic dancers,” “gentleman’s club,” “XXX” or similar terms, shall be considered evidence that an establishment holds itself out to the public as an establishment where sexually oriented entertainment is available.

2. CUSTOMER – any person who:
 - a. Is allowed to enter a business in return for the payment of an admission fee or any other form of consideration or gratuity; or
 - b. Enters a business and purchases, rents, or otherwise partakes of any material, merchandise, goods, entertainment, or other services offered therein; or
 - c. Enters a business other than as an employee, vendor, service person, or delivery person.
3. DAY CARE CENTER – a licensed facility providing care, protection and supervision for children 12 years old or younger or for any individual who is deemed mentally challenged.
4. DISPLAY PUBLICLY – the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others or from any portion of the premises where items and material other than sexually oriented media are offered for sale or rent to the public.
5. ENCOUNTER CENTER, SEXUALLY ORIENTED – a business or enterprise that, as one of its principal purposes, offers: physical contact between two or more persons when one or more of the persons is in a state of nudity or semi-nudity.
6. ENTERTAINER, SEXUALLY ORIENTED – any person paid as an employee, contractor, subcontractor, or agent of the operator of a cabaret who frequently appears in a state of semi-nudity at any establishment regulated by this chapter.
7. ENTERTAINMENT, SEXUALLY ORIENTED – any of the following activities, when performed by a sexually oriented entertainer at a sexually oriented business that is required to be licensed: dancing, singing, talking, modeling (including lingerie or photographic), gymnastics, acting, other forms of performing, or individual conversations with customers for which some type of remuneration is received.
8. ESCORT – a person who is held out to the public to be available for hire for monetary consideration in the form of a fee, commission, or salary, and who for said consideration consorts with or accompanies or offers to consort with or accompany, another or others to or about social affairs, entertainments, or places

of amusement or within any place of public resort or within any private quarters, and shall include a “service oriented escort;” for purposes of this ordinance, the term “escort” shall not include any person who would be understood by a reasonably prudent person as providing “babysitting” services or working as an assisted living companion to the elderly, infirm, disabled, or handicapped, and shall further not include licensed health professionals.

9. ESCORT, SERVICE ORIENTED – an escort that:
 - a. operates from an open office;
 - b. does not advertise that sexual conduct will be provided to the patron or work for an escort bureau that so advertises; and
 - c. does not offer to provide sexual conduct.
10. ESCORT BUREAU, SERVICE ORIENTED – an escort bureau that
 - a. maintains an open office at an established place of business;
 - b. otherwise operates in full accordance with the countywide licensing ordinance, Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus, as such ordinance may be amended from time to time.
11. ESCORT, SEXUALLY ORIENTED – an escort who:
 - a. works for (either as an agent, employee, or independent contractor), or is referred to a patron by a sexually oriented escort bureau; or,
 - b. either advertises that sexual conduct will be provided, or works for (either as an employee, agent, or independent contractor), or is referred to a patron by an escort bureau that so advertises; or,
 - c. offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee from an escort patron or a prospective escort patron.
12. ESCORT BUREAU, SEXUALLY ORIENTED – an escort bureau that operates in any of the following manners:
 - a. engages in fraudulent, misleading, or deceptive advertising that is designed to make the prospective client believe that acts of prostitution (as defined under Kentucky law) will be provided; or,
 - b. collects money (whether paid in advance or paid after the promised proscribed act) for the promise of acts of prostitution by its escorts; or,
 - c. uses as escorts persons known to have violated the law regarding prostitution, and refuses to cease the use of such a person; or,
 - d. operates an escort bureau as a “call girl” prostitution operation; or,

- e. advertises that sexual conduct will be provided to a patron or customer, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron or customer; or,
 - f. solicits, offers to provide, or does provide acts of sexual conduct to an escort patron or customer; or,
 - g. employs or contracts with a sexually oriented escort, or refers or provides to a patron a sexually oriented escort.
13. ESTABLISHMENT – any business regulated by this Section.
14. EXPLICIT SEXUAL MATERIAL – any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or material of anthropological significance shall not be deemed to fall within the foregoing definition.
15. FLOOR AREA, GROSS PUBLIC – the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.
16. FREQUENTLY – two or more times per month.
17. MASSAGE – touching, stroking, kneading, stretching, friction, percussion, and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).
18. MASSAGE PARLOR – any business offering massages that is operated by a person who is not a state licensed “massage therapist” or that provides massages by persons who are not state licensed massage therapists.
19. MASSAGE THERAPY – the profession in which a certified massage therapist applies massage techniques with the intent of positively affecting the health and well being of the client.
20. MASSAGE THERAPIST – a person licensed as a massage therapist in accordance with the provisions of Kentucky Rev. Statutes §309.350 et seq.
21. MEDIA – anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not

necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMS, DVDs, other magnetic media, and undeveloped pictures.

22. MEDIA, SEXUALLY ORIENTED – magazines, books, videotapes, movies, slides, CDs, DVDs or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas.”
23. MEDIA STORE WITH SOME SEXUALLY ORIENTED MEDIA – a retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area.
24. MEDIA STORE, SEXUALLY ORIENTED – an establishment that rents and/or sells sexually oriented media, and that meets any of the following three tests:
 - a. More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
 - b. More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
 - c. It advertises or holds itself out in any forum as a “XXX,” “adult” or “sex” business, or otherwise as a sexually oriented business, other than sexually oriented media outlet, sexually oriented motion picture theater, or sexually oriented cabaret.
25. MODELING STUDIO, SEXUALLY ORIENTED – an establishment or business that provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples, or small groups in a space smaller than 600 feet.
26. MOTEL, SEXUALLY ORIENTED – a hotel, motel, or similar commercial establishment that meets any of the following criteria:
 - a. Offers accommodations to the public for any form of consideration and provides patrons with sexually oriented entertainment or transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;”
 - b. Marketed as or offered as “adult,” “XXX,” “couples,” or “sexually oriented.”
27. MOTION PICTURE ARCADE, SEXUALLY ORIENTED – a building or portion of a building wherein coin-operated, slug-operated, or for any other form of consideration, electronically, electrically, or mechanically controlled still or

motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images of “specified sexual activities” or “specified anatomical areas.”

28. **MOTION PICTURE ARCADE BOOTH, SEXUALLY ORIENTED** – any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat customers and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, CD-ROMs, books, DVDs, magazines or periodicals) to show images of “specified sexual activities” or “specified anatomical areas” for observation by customers therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth.”
29. **MOTION PICTURE THEATER, SEXUALLY ORIENTED** – a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are frequently shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” or that are marketed as or offered as “adult,” “XXX,” or sexually oriented. Frequently shown films, motion pictures, videocassettes, slides or other similar photographic reproductions as characterized herein do not include sexually oriented speech and expressions that take place inside the context of some larger form of expression.
30. **NUDE MODELING STUDIO** – any place where a person who appears in a state of nudity or semi-nudity and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude model studio” shall not include a proprietary school licensed by the Commonwealth of Kentucky or a college, junior college, or university supported entirely or in part by public taxation; a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
31. **NUDITY OR STATE OF NUDITY** – the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola or nipple, or the showing of the covered male genitals in a discernibly turgid state. See, also, Semi-nude.
32. **OPERATOR** – any person operating, conducting, or maintaining a business regulated under this Chapter.
33. **OWNER(S)** – the individual owner of an establishment, or if the legal owner is a corporation, partnership, or limited liability company, the term shall include all general partners, any limited partner with a financial interest of ten percent (10%)

or more, all corporate officers and directors, and any shareholder or member with a financial interest of ten percent (10%) or more. "Owner" includes the spouse(s) of any of the above individuals.

34. **PERSON** – an individual, firm, partnership, joint-venture, association, independent contractor, corporation (domestic or foreign), limited liability company, trust, estate, assignee, receiver or any other group or combination acting as a unit.
35. **PREMISES** – the physical location at which a business operates; as used in this Chapter, the term shall include all parts of that physical location, both interior and exterior, which are under the control of the subject business, through ownership, lease or other arrangement.
36. **PRIMARY ENTERTAINMENT** – entertainment that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.
37. **PROTECTED LAND USE** – residential zoning district, school, religious institution, park, library, public recreation area, or day care center.
38. **PUBLIC AREA** – a portion of a sexually oriented business, excluding sexually oriented motels, that is accessible to the customer, excluding restrooms, while the business is open for business.
39. **SADOMASOCHISTIC PRACTICES** – flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.
40. **SEMI-NUDE OR IN A SEMI-NUDE CONDITION** – the showing of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other apparel, provided the areola is not exposed in whole or in part.
41. **SEX SHOP** – an establishment offering goods for sale or rent and that meets any of the following tests:
 - a. It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; sexually oriented novelties; and the combination of such items constitute more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area;

- b. More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or
 - c. More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.
42. **SEXUALLY ORIENTED BUSINESS** – an inclusive term used to describe collectively the following businesses: sexually oriented cabaret or theater; sexually oriented entertainment; sexually oriented motion picture theater; sexually oriented motion picture arcade; sexually oriented encounter center; sexually oriented media store; sexually oriented escort bureau; bathhouse; massage parlor; sex shop; sexually oriented modeling studio; or any other such business establishment whose primary purpose is to offer sexually oriented entertainment or materials. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the County or any applicable municipal zoning code or other applicable ordinances.
43. **SEXUALLY ORIENTED BUSINESS LICENSE** – any license applied for under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus, adopted in 2004.
44. **SEXUALLY ORIENTED TOYS OR NOVELTIES** – instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts or designed or marketed primarily for use to stimulate human genital organs.
45. **SPECIFIED ANATOMICAL AREAS** – include:
- a. Less than completely and opaquely covered human genitals, pubic region, or the areola or nipple of the female breast; and
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
 - c. Areas of the human anatomy included in the definitions of “nude” or “nudity.”
46. **SPECIFIED SEXUAL ACTIVITIES** – Acts of human masturbation, sexual intercourse, or sodomy. These activities include, but are not limited to the following: bestiality, erotic or sexual stimulation with objects or mechanical devices, acts of human anilingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, sodomy, or any excretory functions as part of or in connection with any of the activities set forth above with any person on the premises. This definition shall include apparent sexual stimulation of another person’s genitals whether clothed or unclothed.
- Z. **PROHIBITED USES:** The following uses are prohibited in the (*insert legislative body name*) and county-wide under Kenton County Ordinance No. 451.9, establishing

licensing requirements for sexually oriented businesses and service oriented escort bureaus. No Zoning Permit shall be issued for the following prohibited businesses:

1. Sexually oriented motion picture arcade or booth;
2. Sexually oriented encounter center;
3. Sexually oriented motel;
4. Sexually oriented massage parlor or any business offering massages that is operated by a person who is not licensed as a massage therapist in accordance with the provisions of Kentucky Rev. Statutes §309.350 et seq.;
5. Sexually oriented modeling studio;
6. Sexually oriented nude modeling studio; and
7. Sexually oriented escort bureau.

AA. PERMITTED USES: The following uses are permitted if they hold an approved Zoning Permit and a valid License approved under the county-wide Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus:

1. Media store with some sexually oriented media (not subject to licensing);
2. Sexually oriented media store;
3. Sex shop;
4. Service oriented escort bureau;
5. Sexually oriented motion picture theatre; and
6. Sexually oriented cabaret or theatre.

AB. PERMITTED ZONING DISTRICTS:

1. A media store carrying some sexually oriented media is permitted in any zoning district where other retail establishments are permitted.
2. A sexually oriented media store, sex shop or service oriented escort bureau is permitted in the following zoning districts if it holds an approved Zoning Permit and a valid License approved under the county-wide Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus:
 - a. SC (Shopping Center) Zone
3. A sexually oriented business featuring on-premise entertainment such as sexually oriented motion picture theatre, cabaret or theatre is permitted in the following zoning districts if it holds an approved Zoning Permit and a valid Kenton County Sexually Oriented Business License:
 - a. HC-1 (Highway Commercial One) Zone
 - b. HC-3 (Highway Commercial Three) Zone
 - c. LHS (Limited Highway Service) Zone
 - d. LSC (Limited Service Commercial) Zone

- e. SC (Shopping Center) Zone
- f. All Industrial (I) Zones, except for the IP (Industrial Park) Zone

AC. ZONING PERMIT: Any application for a sexually oriented business Zoning Permit shall be processed in accordance with Article XVI of the Zoning Ordinance with the following additional requirements:

1. Zoning Permit and License Required

- a. Permit and license required. Each sexually oriented business or service oriented escort bureau is required to obtain a Zoning Permit under the City of Covington's Zoning Code and License under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. However, no license is required for a media store with some sexually oriented media.
- b. Order of submissions. For a new sexually oriented business or service oriented escort bureau, the process is designed for the applicant to apply for a Zoning Permit first and Kenton County License second.
- c. Application Contents: In addition to the other requirements of an application for a Zoning Permit, the applicant shall submit to the Zoning Administrator at least the following:
 - (1) A complete description of the exact nature of the business to be conducted;
 - (2) A location plan, showing the location of the property and the applicant's identification of any school, religious institution, public recreation area, park or day care center within 1,500 feet of the property;
 - (3) A sketch of the exterior and interior of the premises, showing all areas that will be open to the public and their purposes, the dimensions of such areas, all entrances and exits, the location of the screen for a motion picture theatre, the location and dimensions of the stage for a cabaret or theatre;
 - (4) A parking plan; and
 - (5) A lighting and signage plan, showing fixtures that are adequate in number, design and location to meet the lighting requirements and applicable provisions of the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus.

AD. GENERAL STANDARDS:

- 1. General Standards related to sexually oriented businesses and service oriented escort bureaus.

- a. Separation distances. No retail-only sexually oriented business (sexually oriented media store or sex shop) or service oriented escort bureau shall be located within 500 feet of any area within the zoning districts having the designation of “residential” as the district classification or within 500 feet of any parcel of land occupied by a school, religious institution, park, library, public recreation area, or day care center (considered “protected uses”) in any other district.
 - b. Separation distances. No sexually oriented business offering on-premise entertainment (sexually oriented motion picture theatre, cabaret or theatre) shall be located within 1000 feet of any area within the zoning districts having the designation of “residential” as the district classification or within 1000 feet of any parcel of land occupied by a school, religious institution, park, library, public recreation area, or day care center in any other district.
 - c. Separation distances. No sexually oriented business shall be located within 1,000 feet of any other sexually oriented business or service oriented escort bureau; this restriction shall require such a separation regardless of whether it is located within the city or within the county.
 - d. Single use. There shall be no more than one type of sexually oriented business or service oriented escort bureau at any one location.
 - e. Nonconformity. No legally established and permitted sexually oriented business or service oriented escort bureau shall become nonconforming through subsequent establishment of a school, religious institution, park, library, public recreation area, or day care center (protected uses); nor shall a Zoning Permit for a sexually oriented business or service oriented escort bureau be denied based on the filing of a Zoning Permit application for a protected use after the filing of such application for a sexually oriented business.
 - f. Measurement method. Where this section requires that one use be separated from another use, measurements shall be made in accordance with this subsection. For a use which is the only use or the principal use on a lot or parcel, the measurement shall be made from property line to property line from a point nearest to the use for which the measurement is being made. If the use is located in a multi-tenant building, then the distance shall be measured from the portion of the building of the leasehold or other space actually controlled or occupied that is nearest to the use for which the measurement is being made. Measurements between properties or spaces under this section shall be made by the shortest distance between the two properties and/or spaces.
2. Standards for Parking: An Off-Street Parking Plan shall be submitted as a part of the application for a Zoning Permit. All off-street parking shall be in accordance with Article XI with specific standards related as follows:

- a. A sexually oriented media store, sex shop or service oriented escort bureau: 5.5 spaces per 1,000 square feet of gross public floor area.
 - b. A sexually oriented cabaret or theatre: 1 parking space for each 100 square feet of floor area used for dancing or assembly, or 1 space for each 4 persons based on design capacity, whichever is greater, plus 1 space for each 2 employees on shift of largest employment.
 - c. A sexually oriented motion picture theatre: 1 parking space for each 4 seats, based on a maximum seating capacity, plus 1 additional space for each 2 employees on shift of largest employment.
3. Standards for Exterior Lighting and Signage: An Exterior Lighting and Signage Plan shall be submitted with the application for a Zoning Permit. The required lighting shall be as follows:
 - a. Exterior lighting of the entries and private parking areas shall be a minimum of 15 footcandles as measured 3 feet from the ground or paving.
 - b. For a business on a single lot or parcel, no lighting shall illuminate any property not in control of the business by more than 5 footcandles as measured at the nearest adjacent property.
 - c. All signage shall be in accordance with the Article XIV.

AE. INDIVIDUAL BUSINESS STANDARDS:

1. Standards for a Service Oriented Escort Bureau: A service oriented escort bureau shall be subject to the following additional standards:
 - a. Room size. The establishment shall operate all business in an open area of at least 600 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room where customers are located.
 - b. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.
2. Standards for a Media Store with Some Sexually Oriented Media: A retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area shall not be classified as a sexually oriented business but shall be subject to the following standards:
 - a. Separate room. The sexually explicit media shall be kept in a separate room from the rest of the inventory of the store and shall not visible outside the room;
 - b. Age limit. Sexually explicit media shall be available only to persons 18 years or older;

- c. Access. Access to the room shall be through a solid door, accessed by an electronic control device monitored by the clerk or manager on duty through direct visual control;
 - d. Visibility. Customers and activities in the room shall be visible at all times to the clerk or manager on duty through a video system located at the clerk's or manager's counter; and
 - e. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.
- 3. Standards for a Sexually Oriented Media Store or Sex Shop: A sexually oriented media store or sex shop shall be subject to the following additional standards:
 - a. Room size. The establishment shall operate all business in an open area of at least 600 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room where customers are located;
 - b. Displays. No displays of sexually explicit media or images shall be visible from the exterior of the buildings; and
 - c. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.
- 4. Standards for a Sexually Oriented Motion Picture Theatre: A sexually oriented motion picture theater shall be subject to the following additional standards:
 - a. Presentation area. All screenings and presentations of motion pictures, videos or other media shall occur in a room open to all customers of the establishment and containing at least 1000 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room.
 - b. Lighting. The lighting level in the area occupied by customers shall be at least 5 footcandles as measured at the floor.
 - c. Seating. Seating shall consist of individual, theater-style chairs, with solid arms separating the chairs. No couches, benches, portable chairs, beds, loose cushions or mattresses, or other forms of seating may be provided. Separate spaces for wheelchairs shall be provided in accordance with the applicable provisions of the building code and the Americans with Disabilities Act.
- 5. Standards for a Sexually Oriented Cabaret or Theatre: A sexually oriented cabaret or theater shall be subject to the following additional standards:
 - a. Presentation area. All entertainment shall occur in an unobstructed room of at least 600 square feet of floor area with a person in any part of such room having a clear view of all entertainment areas;
 - b. Performance stage. All entertainment shall take place on stage elevated at least 24 inches above the surrounding floor area, with a minimum area of

100 square feet, and with a horizontal separation of at least 60 inches between the edge of the stage and the nearest space to which customers have access—the horizontal separation shall be physically enforced by a partial wall, rail, or other physical barrier, which may be located either on the stage (to keep the entertainers back from the edge) or on the floor (to keep the customers back from the stage);

- c. Lighting. The lighting level in the area occupied by customers shall be at least 15 footcandles as measured 3 feet from the floor.
- d. Seating. Seating shall consist of chairs or open booths; no couches, beds, or loose cushions or mattresses, or of any form shall be provided.

AF. ZONING ADMINISTRATOR REVIEW AND EXPIRATION OF ZONING PERMIT:

1. Determination of Completeness: Within 5 business days of submission of the sexually oriented land use permit application, the Zoning Administrator shall determine if the application is complete. If the application is incomplete, the Zoning Administrator shall return the application to the applicant with a letter or form specifying the items that are missing. The application shall not be further processed unless and until the applicant submits a complete application.
2. Review, Decision: If the Zoning Administrator determines that an application is complete, the Zoning Administrator shall review the application and, within 20 calendar days of submittal of the complete application, grant or deny the permit. If the permit is denied, the denial shall be made in writing, by letter or on a form, and shall specify the reasons why the application was denied, citing the specific provisions of this ordinance or other provisions of the City's ordinances that provide the basis for such denial. If the Zoning Administrator fails to act on a complete application within the 20-day period, the application is deemed denied. Upon denial or deemed denial, the applicant may appeal that denial to the Board of Adjustment.
3. The applicant may, at its option, pursue other or additional administrative remedies available under the zoning ordinance; by doing so, applicant shall be deemed to have waived any right to a decision within a particular time period and shall be subject to all of the terms, conditions and timelines applicable to such administrative remedies under the zoning ordinance.
4. Expiration of Zoning Permit: The issuance of the Zoning Permit shall be conditioned on the applicant obtaining and retaining a Kenton County Occupational License for the use represented by the Zoning Permit. If a no license has been granted within 6 months after the issuance of the Zoning Permit, then the Zoning Permit shall expire; provided, however, that the expiration date for the Zoning Permit shall be extended until 30 days after the end of any administrative or judicial appeal of the Zoning Permit.

AG. APPEAL PROCEDURES:

1. Appeals to Board of Adjustment

- a. Appeals to the Board of Adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. Such appeal shall be taken within 10 calendar days after such action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator, by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. A fee, as required by § 158.007, shall also be paid to the Zoning Administrator at this time. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record on which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the Board, an interested person may appear and enter his or her appearance, and all shall be given an opportunity to be heard.
- b. The Board of Adjustment shall hear the appeal within 30 calendar days of its filing with the Zoning Administrator and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least 7 calendar days prior to the hearing. The affected parties may appear at the hearing in person or by an attorney. The Board of Adjustment shall hear the matter and render a decision within 36 days after the filing of the appeal. If the Board of Adjustment fails to act within such time, the application is deemed denied.

2. Appeals from the Board of Adjustment

- a. Any person or entity claiming to be injured or aggrieved by any final action of the Board of Adjustment shall appeal from the action to the circuit court of the county in which the property which is the subject of the action of the Board of Adjustment lies. Such appeal shall be taken within 30 calendar days after the final action of the Board of Adjustment. The Board of Adjustment shall be a party in any such appeal filed in the circuit court. All final actions which have not been appealed within 30 days shall not be subject to judicial review and shall become final.
- b. After the appeal is taken, the procedure shall be governed by the Rules of Civil Procedure. When an appeal has been filed, the Clerk of the Circuit Court shall issue a summons to all parties, including the Board of Adjustment in all cases, and shall cause it to be delivered for service as in any other law action.

AH. SEVERABILITY: It is hereby declared to be the intention of the (*insert legislative body name*) that the sections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any phrase clause, sentence, paragraph or section of this Chapter shall

be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Chapter, since the same would have been enacted by the (*insert legislative body name*) without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION 9.5 REGULATIONS OF SEXUALLY ORIENTED BUSINESSES – ALTERNATIVE TWO (2)

- A. The (*insert legislative body name*), together with the other cities in Kenton County together with the Kenton County Fiscal Court, after consultation among the mayors, councils, commissioners and staffs of the municipalities and the county within the County, found that a substantial need exists to revise significantly the ordinances regarding sexually oriented businesses within Kenton County.
- B. The (*insert legislative body name*), in association with the Northern Kentucky Area Planning Commission and the Fiscal Court of adjacent Campbell County its cities in the Northern Kentucky Community, retained Duncan Associates to conduct a study of existing sexually oriented uses and related businesses in Kenton and Campbell Counties, which is part of a single, larger community.
- C. Duncan Associates assigned two nationally-known planners, Eric Damian Kelly, FAICP and Connie B. Cooper, FAICP, to conduct that study
- D. Kelly and Cooper have completed that study, including the following elements:
 - 1. Field study, involving visits to all identified existing sexually oriented businesses in Kenton and Campbell Counties;
 - 2. Meetings with stakeholder groups involved in these businesses;
 - 3. Consultation with the Kenton County, Campbell County Attorney, and the city attorneys for certain cities, and the community at large on this issue;
 - 4. Consultation with the professional staff of the Northern Kentucky Area Planning Commission on this issue;
 - 5. Review of studies and litigation concerning sexually oriented businesses in other communities;
 - 6. Investigation of regulatory approaches to massage therapy;
 - 7. Review of existing ordinances in Kenton and Campbell Counties;
 - 8. Review of similar ordinances in a number of communities outside the Commonwealth of Kentucky;
 - 9. Review of Kentucky statutes related to regulating sexually oriented businesses.
- E. Duncan Associates has summarized this work and presented recommendations to the Northern Kentucky Area Planning Commission and Kenton and Campbell Counties and their cities in an August 2003 report entitled “Site Visit Analysis: Sexually Oriented and

Related Businesses in Kenton and Campbell Counties” (hereinafter called simply the “Kelly and Cooper Study”).

- F. That study has also been made available to the legislative bodies of Kenton and Campbell Counties for their consideration and use.
- G. That study has been accepted and used by the Fiscal Court of Kenton County in adopting the countywide licensing ordinance, Kenton County Ordinance No. 451.9, as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus in 2004.
- H. The United States Supreme Court in *City of Renton v. Playtime Theater, Inc.*, 475 U.S. 41 (1986), held that local governments may rely upon the experiences of other cities as well as on its own studies in enacting local legislation to regulate sexually oriented businesses;
- I. The United States Supreme Court in *Renton* and other cases has held that a local government may regulate such uses through content-neutral, time, place, and manner restrictions, so long as said regulations are designed to serve the government interest and do not unreasonably omit avenues of communication, and are aimed not at the content of protected speech within said establishments but rather at the secondary effects of said establishments on the surrounding communities.
- J. The study by Kelly and Cooper found extensive physical interaction between patrons and dancers at many of the establishments in both Kenton and Campbell Counties.
- K. Covington, the only municipality in Kenton County that has had sexually oriented businesses within its border, from January 1, 2002, to February 11, 2004, the police made a total of 469 calls to sexually oriented businesses in the city. The crimes committed at these establishments during this time period included robbery, assault, fraud, malicious mischief, public intoxication, and possession of illegal drugs. In addition, on June 13, 2003, Covington police arrested three individuals for prostitution-related charges at Liberty's Show Lounge, a sexually oriented cabaret in the city.
- L. As the Sixth Circuit Court of Appeals noted in a decision addressing issues related to the Adult Entertainment ordinance in the City of Newport (Campbell County), there is a long history underlying efforts to regulate sex businesses in Northern Kentucky:

Defendant City of Newport ("City" or "Newport") long ago gained a reputation as home to a veritable smorgasbord of vice, attracting patrons from across the nation. For decades, the small city was considered the Midwest's answer to Las Vegas, and leaders of organized crime were said to operate its gambling casinos and nightclubs.

In the 1960's, public pressure began to demand that Newport be cleaned up. This pressure has continued until the present, with varying degrees of success.

A 1986 report generated by the Newport Alcoholic Beverage Control Administrator indicated that of 28 adult bars opened since 1978 (including successive bars at the same site), 21 had had at least one prostitution-related conviction, and 18 had had multiple convictions. Def. Ex. K, p. 2. The report explained that "all of the prostitution in businesses with adult entertainment involved an alcoholic beverage as the median [sic] of exchange and the solicitation of such drinks by 'mixers.'" Id. In all, 98% of prostitution arrests in Newport occurred in the vicinity of these bars. Id. Adult entertainment establishments, which constituted 12% of all businesses serving alcohol, accounted for 17% of all police runs. Def. Ex. K, p. 21.

A later review, conducted in 1990 by the Newport License Inspector, documented the continued prostitution arrests occurring at several adult dancing establishments. Def. Ex. G. Moreover, the City determined that over \$ 70,000 was expended in 1990 to target, patrol and prosecute the illicit behavior occurring in and around the bars. Def. Ex. H.

Several of Newport's citizens, merchants and church groups also opposed the presence of the semi-nude dancing clubs. These groups generally believed that the adult entertainment clubs were "clouds over [the] neighborhood that keep [it] from growing in the [right] direction." See Def. Ex. I (letter to Mayor from Taylors Landing Business District). Complaints commonly expressed were that the seamy establishments deterred other merchants from locating in Newport's business district, deterred shoppers, served a poor example for the City's youth, and generally tarnished the City's image. Id.

Bright Lights, Inc., v. City of Newport, 830 F. Supp. 378, 380-81 (E. D. Ky. 1993).

Based on those findings, the court went on to hold in relevant part:

Having considered the matter carefully, the court concludes that some leeway must be afforded the reform efforts of the City Council of Newport. This body has been elected by the citizens to attempt to "clean up the image" of the City.

To do this, it must overcome the sleazy impression of Newport and Northern Kentucky that survives from "the heyday" when things ran wide open; reform candidates were literally drugged and framed for morals offenses by public officials and police officers; the members of reform citizens groups were vilified and harassed; and a "liberal" in local parlance was a person favoring the continued open and notorious violation of the gambling and morals laws.

To illustrate that the Council's perception of a need to clean up the image of the City is not paranoid, the court notes the following statements in a national magazine's satirical Chapter on Newport's big sister, the city of Cincinnati.

"The city's streets fairly shine; the odd litterer draws a scornful stare. Wide avenues, bosky side streets, the most inviting of thoroughfares. And clean. So clean. No X-rated movie theaters, no adult-book stores, no bare-breasted night joints soil these streets, all of them long ago jettisoned over to the Kentucky side of the river."

Peter Richmond, "Town Without Pity," *Gentlemen's Quarterly*, July 1993, at 102, 104.

This court holds that the City of Newport has the right to secede as Cincinnati's combat zone.

The court holds that the City has "an important and substantial governmental interest" in advancing these reform goals, which interest is furthered by the ordinances in question. *Barnes*, 111 S. Ct. at 2461. The court further finds and holds that in the case of the City of Newport, given its unique history, the ordinances' "incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest." *Id.* (quoting *O'Brien*, 391 U.S. at 376-77, 88 S. Ct. at 1678-79).

Newport's image affects that of all of Northern Kentucky, a community of nearly 300,000 people. That City and its community have the right to project a progressive and decent image. The nudity ordinances contribute to the enhancement of this interest and will be upheld. 830 F.Supp. at 384;

- M. The Supreme Court had earlier noted in upholding another regulation in Newport, "it is plain that, as in *Bellanca*, the interest in maintaining order outweighs the interest in free expression by dancing nude." *Newport v. Iacobucci*, 479 U.S. 92, 97, 93 L. Ed. 2d 334, 340, 107 S. Ct. 383, 386 (1986). Although the significance of the opinion itself is now questionable (see *J&B Social Club # 1 v. City of Mobile*, 966 F. Supp. 1131, 1135 (S.D. Ala. 1996)), the quoted part of the opinion stands unchallenged.
- N. The cities of Covington and Newport continue their efforts to improve their image. Since 1985, Covington has redeveloped its riverfront, creating several new office towers, high-end condominiums, hotels, and a convention center. In Newport, in conjunction with private development and Southbank Partners, Inc., the City has built a major entertainment center along the river. This initiative has promoted improved pedestrian and transit connections in Northern Kentucky's river cities to and from the stadiums and other attractions along the Cincinnati riverfront.
- O. Despite these efforts, the areas of downtown Covington and Newport away from the riverfront continue to suffer in many ways. The study by Kelly and Cooper found in the area near to existing sexually oriented uses a number of building vacancies and building maintenance falling far short of that found in the revitalized areas near the river.
- P. The (*insert legislative body name*) respects the Constitutional rights of its citizens, including the right to present certain types of entertainment that may not appeal to the entire population. Through this ordinance, it is the desire of the (*insert legislative body name*) to balance the Constitutional rights of businesses that present sexually oriented entertainment with the (*insert legislative body name*) interests in ensuring that this community not suffer from the same sorts of adverse effects that Covington and Newport have long suffered.

- Q. From long experience in Covington and Newport, as well as from the following studies and others not listed, the (*insert legislative body name*) also finds that such businesses may have primary and secondary effects involving crimes related to the activities in the establishments, of which prostitution and crimes of violence are those of greatest concern. See for example:
1. “Final Report to the City of Garden Grove: The Relationship between Crime and Adult Business Operations on Garden Grove Boulevard,” Richard W. McCleary, Ph.D., James W. Meeker, J.D., Ph.D., October 23, 1991.
 2. “Survey of Appraisers: Fort Worth and Dallas – Effects of Land Uses on Surrounding Property Values,” Duncan Associates, Eric Damian Kelly, FAICP, and Connie B. Cooper, FAICP, September 2004.
 3. “Adult Entertainment Businesses in Indianapolis, An Analysis,” 1984.
 4. “Adult Business Study,” by City of Phoenix Planning Department, May 25, 1979.
 5. “Effects on Surrounding Area of Adult Entertainment Businesses in Saint Paul,” June 1978, City of Saint Paul Division of Planning, Department of Planning and Management; and Community Crime Prevention Project, Minnesota Crime Control Planning Board.
 6. “Staff Report, Whittier City Planning Commission; Subject: Adult Business Regulations,” July 11, 1994.
 7. “Adult Entertainment Study,” Department of City Planning, City of New York, Second Printing, November 1994.
 8. “Adult Use Study,” Newport News Department of Planning and Development, March 1996.
 9. “A Report on the Secondary Impact of Adult Use Businesses in the City of Denver,” prepared by multiple city departments for Denver City Council, January 1998.
 10. “Survey of Appraisers in Monroe County, New York,” Summer 2000. For detailed results of the survey, see Kelly and Cooper, Everything You Always Wanted to Know about Regulating Sex Businesses, Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000; pages 51-57.
 11. The Tucson “study” consisting of two memos: one from the Citizens Advisory Planning Committee, addressed to the Mayor and City Council, and dated May 14, 1990; and the other from an Assistant Chief of Police to the City Prosecutor, regarding “Adult Entertainment Ordinance,” dated May 1, 1990.
- R. The (*insert legislative body name*) recognizes that some of the cited studies included bars without sexually oriented entertainment among the businesses studied; the (*insert legislative body name*) finds, nevertheless, that addressing the establishments that have live, sexually oriented entertainment is a more critical local issue than that of bars without such entertainment, for three reasons:
1. Bars in Kentucky are already regulated by the Commonwealth, and those state regulations directly address many of the concerns that arise with the service of alcohol;

2. The local history of prostitution and sex-related crimes has largely been related to businesses with live, sexually oriented entertainment, and not with other establishments that serve alcohol; and
 3. The interaction between dancers who are paid to work with very limited clothing and the customers who pay to see them work in the establishments with live entertainment creates a sexually charged environment and the opportunity to negotiate for the provision of additional services that do not involve dancing or other protected expression and that are simply unacceptable under the standards of the County and its citizens.
- S. As noted earlier in these findings, there is a long local history of prostitution and sex-related crimes at or incident to the operation of establishments with live, sexually oriented entertainment. Further, the studies shown herein provide further evidence of the potential crime-related secondary effects from such businesses. Although the methodologies and quality of these studies vary somewhat, local experience has demonstrated to the *(insert legislative body name)* that the relationship between crime and such establishments is a fact in Northern Kentucky and not just a theory published in a study.
- T. The *(insert legislative body name)* has reviewed evidence and testimony presented at public meetings before the County, and information based on the past experiences of the Kenton and Campbell Counties and the cities of Covington and Newport, the experiences of the County Attorneys' offices prosecuting numerous and varied offenses that have occurred in and around the sexually oriented entertainment establishments, and based upon the documented experiences of other governmental units within Kentucky and elsewhere in dealing with the impact of sexually oriented entertainment, that such businesses can, if not properly regulated, be deleterious to said community.
- U. The *(insert legislative body name)* finds that the countywide licensing ordinance related to sexually oriented businesses and service oriented escort bureaus adopted by the Fiscal Court of Kenton County is an effective tool for addressing the many operational issues that can arise with such businesses.
- V. The *(insert legislative body name)* finds that amendments to the *(city's/county's)* Zoning Ordinance regarding the location and design of such businesses are important variables in the nature and extent of adverse secondary effects of sexually oriented businesses on the community, and further finds that location and design are among the types of issues that are typically addressed through zoning.
- W. Based on the recommendations of Kelly and Cooper, which are based on their experience in other communities and their review of the studies cited above and other local efforts to address such secondary effects, the *(insert legislative body name)* finds that the following principles are essential to effective zoning controls of sexually oriented businesses:
1. Sexually oriented businesses should, to the maximum extent practicable, be separated from one another by a distance that is greater than a convenient walking

- distance, because experience elsewhere has shown that the location of such businesses near one another may increase the adverse secondary effects, particularly those related to crime, by a greater than arithmetic factor;
2. Sexually oriented businesses have the greatest adverse effect on residential neighbourhoods and should thus be separated to the maximum extent practicable from residential neighbourhoods;
 3. Sexually oriented businesses are likely to attract criminal elements that prey on “soft targets,” including children, and it is thus important to separate sexually oriented businesses from schools, parks, recreation centers, and religious institutions, all of which are places where children are likely to congregate, often without parental protection;
 4. Also because of the tendency of sexually oriented businesses to attract criminal elements that prey on soft targets, it is important to seek locations for such businesses that are not located along pedestrian routes, where young people, old people and others who are vulnerable, are likely to walk in going about their day-to-day business. Thus, locations to which the primary access is by automobile minimize the risk of persons going about their daily business encountering persons who are visiting or even loitering around the sexually oriented businesses.
- X. In examining Kenton County for available sites that would be suitable for sexually oriented businesses that meet the above criteria, Kelly and Cooper identified a number of such sites in the County, none of which were located in *(insert legislative body name)*.
- Y. *(insert legislative body name)* currently has no sexually oriented businesses in the community.
- Z. *(insert legislative body name)* currently has no area zoned for any type of commercial use.
- AA. *(insert legislative body name)* currently has only limited areas zoned for commercial use, and those areas are small and adjacent to residential areas.
- AB. *(insert legislative body name)* has within its limited commercial areas only small, local businesses generally serving the convenience needs of residents.
- AC. *(insert legislative body name)* residents in these jurisdiction with limited commercial areas must go to larger, nearby cities for most of their retail purchases and entertainment.
- AD. Staff of *(insert legislative body name)* can not recall ever receiving any applications for or inquiries about the establishment of any sexually oriented business in the *(insert legislative body name)*.
- AE. *(insert legislative body name)* thus finds that the physical context and experience of the City of ***** support the findings by Kelly and Cooper.

- AF. *(insert legislative body name)* finds that, in reliance on the Kelly and Cooper study, other municipalities in the County, including specifically Covington, Erlanger and Taylor Mill, all of which have large and diverse commercial or industrial areas with suitable sites that would be potentially available locations where sexually oriented businesses could legally locate.
- AG. *(insert legislative body name)* acknowledges that it can re-evaluate these findings if, in the future, there is a substantial change in the character of the community and the potential for suitable sites for sexually oriented businesses within the community.
- AH. *(insert legislative body name)* therefore finds that there are no suitable locations for sexually oriented businesses in the *(insert legislative body name)* and such businesses should therefore be prohibited.
- AI. FINDINGS: The facts and other matters set forth in the previous clauses that form the preamble to this ordinance are hereby adopted as findings of fact in support of the legislative action of the *(insert legislative body name)* in adopting this amendment to the Zoning Ordinance. Upon adoption of this zoning amendment, these shall be incorporated into the Zoning Code by reference as if fully set forth therein to the adopting Resolution.
- AJ. DEFINITIONS:
1. CABARET OR THEATER, SEXUALLY ORIENTED – a building or portion of a building which provides or allows the provision of sexually oriented entertainment to its customers or which holds itself out to the public as an establishment where sexually oriented entertainment is available. Signs, advertisements or an establishment name including verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult entertainment,” “strippers,” “showgirls,” “exotic dancers,” “gentleman’s club,” “XXX” or similar terms, shall be considered evidence that an establishment holds itself out to the public as an establishment where sexually oriented entertainment is available.
 2. CUSTOMER – any person who:
 - a. Is allowed to enter a business in return for the payment of an admission fee or any other form of consideration or gratuity; or
 - b. Enters a business and purchases, rents, or otherwise partakes of any material, merchandise, goods, entertainment, or other services offered therein; or
 - c. Enters a business other than as an employee, vendor, service person, or delivery person.
 3. DAY CARE CENTER – a licensed facility providing care, protection and supervision for children 12 years old or younger or for any individual who is deemed mentally challenged.

4. **DISPLAY PUBLICLY** – the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others or from any portion of the premises where items and material other than sexually oriented media are offered for sale or rent to the public.
5. **ENCOUNTER CENTER, SEXUALLY ORIENTED** – a business or enterprise that, as one of its principal purposes, offers: physical contact between two or more persons when one or more of the persons is in a state of nudity or semi-nudity.
6. **ENTERTAINER, SEXUALLY ORIENTED** – any person paid as an employee, contractor, subcontractor, or agent of the operator of a cabaret who frequently appears in a state of semi-nudity at any establishment regulated by this chapter.
7. **ENTERTAINMENT, SEXUALLY ORIENTED** – any of the following activities, when performed by a sexually oriented entertainer at a sexually oriented business that is required to be licensed: dancing, singing, talking, modeling (including lingerie or photographic), gymnastics, acting, other forms of performing, or individual conversations with customers for which some type of remuneration is received.
8. **ESCORT** – a person who is held out to the public to be available for hire for monetary consideration in the form of a fee, commission, or salary, and who for said consideration consorts with or accompanies or offers to consort with or accompany, another or others to or about social affairs, entertainments, or places of amusement or within any place of public resort or within any private quarters, and shall include a “service oriented escort;” for purposes of this ordinance, the term “escort” shall not include any person who would be understood by a reasonably prudent person as providing “babysitting” services or working as an assisted living companion to the elderly, infirm, disabled, or handicapped, and shall further not include licensed health professionals.
9. **ESCORT, SERVICE ORIENTED** – an escort that:
 - a. operates from an open office;
 - b. does not advertise that sexual conduct will be provided to the patron or work for an escort bureau that so advertises; and
 - c. does not offer to provide sexual conduct.
10. **ESCORT BUREAU, SERVICE ORIENTED** – an escort bureau that
 - a. maintains an open office at an established place of business;
 - b. otherwise operates in full accordance with the countywide licensing ordinance, Kenton County Ordinance No. 451.9, establishing licensing

requirements for sexually oriented businesses and service oriented escort bureaus, as such ordinance may be amended from time to time.

11. **ESCORT, SEXUALLY ORIENTED** – an escort who:
 - a. works for (either as an agent, employee, or independent contractor), or is referred to a patron by a sexually oriented escort bureau; or,
 - b. either advertises that sexual conduct will be provided, or works for (either as an employee, agent, or independent contractor), or is referred to a patron by an escort bureau that so advertises; or,
 - c. offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee from an escort patron or a prospective escort patron.
12. **ESCORT BUREAU, SEXUALLY ORIENTED** – an escort bureau that operates in any of the following manners:
 - a. engages in fraudulent, misleading, or deceptive advertising that is designed to make the prospective client believe that acts of prostitution (as defined under Kentucky law) will be provided; or,
 - b. collects money (whether paid in advance or paid after the promised proscribed act) for the promise of acts of prostitution by its escorts; or,
 - c. uses as escorts persons known to have violated the law regarding prostitution, and refuses to cease the use of such a person; or,
 - d. operates an escort bureau as a “call girl” prostitution operation; or,
 - e. advertises that sexual conduct will be provided to a patron or customer, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron or customer; or,
 - f. solicits, offers to provide, or does provide acts of sexual conduct to an escort patron or customer; or,
 - g. employs or contracts with a sexually oriented escort, or refers or provides to a patron a sexually oriented escort.
13. **ESTABLISHMENT** – any business regulated by this Section.
14. **EXPLICIT SEXUAL MATERIAL** – any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or material of anthropological significance shall not be deemed to fall within the foregoing definition.
15. **FLOOR AREA, GROSS PUBLIC** – the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for

cabaret or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.

16. FREQUENTLY – two or more times per month.
17. MASSAGE – touching, stroking, kneading, stretching, friction, percussion, and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).
18. MASSAGE PARLOR – any business offering massages that is operated by a person who is not a state licensed “massage therapist” or that provides massages by persons who are not state licensed massage therapists.
19. MASSAGE THERAPY – the profession in which a certified massage therapist applies massage techniques with the intent of positively affecting the health and well being of the client.
20. MASSAGE THERAPIST – a person licensed as a massage therapist in accordance with the provisions of Kentucky Rev. Statutes §309.350 et seq.
21. MEDIA – anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMS, DVDs, other magnetic media, and undeveloped pictures.
22. MEDIA, SEXUALLY ORIENTED – magazines, books, videotapes, movies, slides, CDs, DVDs or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas.”
23. MEDIA STORE WITH SOME SEXUALLY ORIENTED MEDIA – a retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area.
24. MEDIA STORE, SEXUALLY ORIENTED – an establishment that rents and/or sells sexually oriented media, and that meets any of the following three tests:
 - a. More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or

- b. More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
 - c. It advertises or holds itself out in any forum as a “XXX,” “adult” or “sex” business, or otherwise as a sexually oriented business, other than sexually oriented media outlet, sexually oriented motion picture theater, or sexually oriented cabaret.
- 25. **MODELING STUDIO, SEXUALLY ORIENTED** – an establishment or business that provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples, or small groups in a space smaller than 600 feet.
- 26. **MOTEL, SEXUALLY ORIENTED** – a hotel, motel, or similar commercial establishment that meets any of the following criteria:
 - a. Offers accommodations to the public for any form of consideration and provides patrons with sexually oriented entertainment or transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;”
 - b. Marketed as or offered as “adult,” “XXX,” “couples,” or “sexually oriented.”
- 27. **MOTION PICTURE ARCADE, SEXUALLY ORIENTED** – a building or portion of a building wherein coin-operated, slug-operated, or for any other form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images of “specified sexual activities” or “specified anatomical areas.”
- 28. **MOTION PICTURE ARCADE BOOTH, SEXUALLY ORIENTED** – any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat customers and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, CD-ROMs, books, DVDs, magazines or periodicals) to show images of “specified sexual activities” or “specified anatomical areas” for observation by customers therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth.”
- 29. **MOTION PICTURE THEATER, SEXUALLY ORIENTED** – a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are frequently shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” or that are marketed as or offered as “adult,” “XXX,” or sexually oriented. Frequently shown films, motion pictures,

videocassettes, slides or other similar photographic reproductions as characterized herein do not include sexually oriented speech and expressions that take place inside the context of some larger form of expression.

30. **NUDE MODELING STUDIO** – any place where a person who appears in a state of nudity or semi-nudity and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude model studio” shall not include a proprietary school licensed by the Commonwealth of Kentucky or a college, junior college, or university supported entirely or in part by public taxation; a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
31. **NUDITY OR STATE OF NUDITY** – the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola or nipple, or the showing of the covered male genitals in a discernibly turgid state. See, also, Semi-nude.
32. **OPERATOR** – any person operating, conducting, or maintaining a business regulated under this Chapter.
33. **OWNER(S)** – the individual owner of an establishment, or if the legal owner is a corporation, partnership, or limited liability company, the term shall include all general partners, any limited partner with a financial interest of ten percent (10%) or more, all corporate officers and directors, and any shareholder or member with a financial interest of ten percent (10%) or more. “Owner” includes the spouse(s) of any of the above individuals.
34. **PERSON** – an individual, firm, partnership, joint-venture, association, independent contractor, corporation (domestic or foreign), limited liability company, trust, estate, assignee, receiver or any other group or combination acting as a unit.
35. **PREMISES** – the physical location at which a business operates; as used in this Chapter, the term shall include all parts of that physical location, both interior and exterior, which are under the control of the subject business, through ownership, lease or other arrangement.
36. **PRIMARY ENTERTAINMENT** – entertainment that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.
37. **PROTECTED LAND USE** – residential zoning district, school, religious institution, park, library, public recreation area, or day care center.

38. **PUBLIC AREA** – a portion of a sexually oriented business, excluding sexually oriented motels, that is accessible to the customer, excluding restrooms, while the business is open for business.
39. **SADOMASOCHISTIC PRACTICES** – flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.
40. **SEMI-NUDE OR IN A SEMI-NUDE CONDITION** – the showing of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other apparel, provided the areola is not exposed in whole or in part.
41. **SEX SHOP** – an establishment offering goods for sale or rent and that meets any of the following tests:
- a. It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; sexually oriented novelties; and the combination of such items constitute more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area;
 - b. More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or
 - c. More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.
42. **SEXUALLY ORIENTED BUSINESS** – an inclusive term used to describe collectively the following businesses: sexually oriented cabaret or theater; sexually oriented entertainment; sexually oriented motion picture theater; sexually oriented motion picture arcade; sexually oriented encounter center; sexually oriented media store; sexually oriented escort bureau; bathhouse; massage parlor; sex shop; sexually oriented modeling studio; or any other such business establishment whose primary purpose is to offer sexually oriented entertainment or materials. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the County or any applicable municipal zoning code or other applicable ordinances.
43. **SEXUALLY ORIENTED BUSINESS LICENSE** – any license applied for under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus, adopted in 2004.

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44. SEXUALLY ORIENTED TOYS OR NOVELTIES – instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts or designed or marketed primarily for use to stimulate human genital organs.
45. SPECIFIED ANATOMICAL AREAS – include:
- a. Less than completely and opaquely covered human genitals, pubic region, or the areola or nipple of the female breast; and
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
 - c. Areas of the human anatomy included in the definitions of “nude” or “nudity.”
46. SPECIFIED SEXUAL ACTIVITIES – Acts of human masturbation, sexual intercourse, or sodomy. These activities include, but are not limited to the following: bestiality, erotic or sexual stimulation with objects or mechanical devices, acts of human anilingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, sodomy, or any excretory functions as part of or in connection with any of the activities set forth above with any person on the premises. This definition shall include apparent sexual stimulation of another person’s genitals whether clothed or unclothed.
- AK. PROHIBITED USES: The following uses are prohibited in the (*insert legislative body name*) and county-wide under Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. No Zoning Permit shall be issued for the following prohibited businesses:
1. Sexually oriented motion picture arcade or booth;
 2. Sexually oriented encounter center;
 3. Sexually oriented motel;
 4. Sexually oriented massage parlor or any business offering massages that is operated by a person who is not licensed as a massage therapist in accordance with the provisions of Kentucky Rev. Statutes §309.350 et seq.;
 5. Sexually oriented modeling studio;
 6. Sexually oriented nude modeling studio; and
 7. Sexually oriented escort bureau.
- AL. OTHER USES PROHIBITED: Because there are no suitable sites for such sexually oriented businesses or, in accordance with the recommendations of the consultants to Kenton County, the following additional uses are prohibited:
1. Sexually oriented media store;
 2. Sex shop;
 3. Service oriented escort bureau;
 4. Sexually oriented motion picture theatre; and
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5. Sexually oriented cabaret or theatre.
- AM. STANDARDS FOR A MEDIA STORE WITH SOME SEXUALLY ORIENTED MEDIA: A retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area shall not be classified as a sexually oriented business but shall be subject to the following standards:
1. Separate room. The sexually explicit media shall be kept in a separate room from the rest of the inventory of the store and shall not visible outside the room;
 2. Age limit. Sexually explicit media shall be available only to persons 18 years or older;
 3. Access. Access to the room shall be through a solid door, accessed by an electronic control device monitored by the clerk or manager on duty through direct visual control;
 4. Visibility. Customers and activities in the room shall be visible at all times to the clerk or manager on duty through a video system located at the clerk's or manager's counter; and
 5. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.
- AN. SEVERABILITY: It is hereby declared to be the intention of the (*insert legislative body name*) that the sections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any phrase clause, sentence, paragraph or section of this Chapter shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Chapter, since the same would have been enacted by the (*insert legislative body name*) without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION 9.6 ACCESSORY DWELLING UNIT REGULATIONS

- A. APPLICABILITY: These regulations apply to any dwelling unit which meets the definition of an Accessory Dwelling Unit as defined in Section 2.8 (General Terminology).
- B. PERMITTED ZONES: Accessory dwelling units are permitted in the A-1 (Agricultural One) Zone and any single-family Residential (R) Zones.
- C. APPLICATION AND PROCESSING: Applications for an accessory dwelling unit shall conform with the regulations set forth in Article XIV.
- D. HEIGHT, YARD, AND SETBACK REGULATIONS

1. Maximum Floor Area:
 - a. Lot size up to 7,500 square feet - five hundred (500) square feet
 - b. Lot size 7,501 to 10,000 square feet - six hundred forty (640) square feet
 - c. Lot size in excess of 10,000 square feet - eight hundred (800) square feet
 - d. In no case shall an accessory dwelling unit, and any combination of accessory structures, occupy more than thirty (30) percent of the rear yard
 2. Maximum Height: An accessory dwelling unit shall only be one (1) story in height, and in no case shall exceed the height of the principal single-family dwelling unit
 3. Setbacks:
 - a. Shall only be permitted rear yard
 - b. Shall meet the setback requirements for principal structures in the zone said structure is located
 - c. Shall be located a minimum of ten (10) feet from the principal single-family dwelling unit
- E. **DEED RESTRICTIONS REQUIRED:** Before a property owner obtains a building permit for an accessory dwelling unit, the property owner shall file with the county clerk a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner. Said restrictions shall state:
1. The accessory dwelling unit, or the land on which the accessory dwelling unit is located, shall not be subdivided, sold separately, or otherwise segregated in ownership from the principal dwelling unit, or the land on which the principal dwelling unit is located.
 2. The use permit for the accessory dwelling unit shall be in effect as long as either the principal single-family dwelling unit, or the accessory dwelling unit, is occupied by the owner of record as the principal residence.
 3. The above declarations are binding upon any heir, successor, beneficiary, or inheritor in ownership of the property.
- F. **OTHER DEVELOPMENT CONTROLS**
1. Only one (1) accessory dwelling unit shall be permitted on each lot
 2. An accessory dwelling unit may be developed as a single-use structure or in conjunction with another accessory structure (i.e. the second floor of a detached garage), provided the accessory dwelling unit meets the criteria set forth in Section 9.6, D., above.
 3. An accessory dwelling unit shall be constructed on a lot containing a principal single-family dwelling unit or in conjunction with the development of the principal single-family dwelling unit

4. Off-street parking and loading and/or unloading areas shall be provided in accordance with Article XI of this ordinance.
5. No outdoor storage of any material (usable or waste) shall be permitted, except within enclosed containers.
6. No lighting shall be permitted which would glare from any accessory dwelling unit onto any street, or into any adjacent property.
7. All utilities associated with a detached accessory dwelling unit must be underground.
8. The design of an accessory dwelling unit shall be consistent with the principal single-family dwelling unit by using similar exterior wall materials, window types, door and window trims, roofing, and roof pitch.
9. The entrance to a detached accessory dwelling unit shall face the front or interior of the lot said structure is located.
10. Access to an accessory dwelling unit shall be from the same curb cut that is used by the principal dwelling unit.

SECTION 9.7 SPECIAL REQUIREMENTS GOVERNING HOME OCCUPATIONS:

Home occupations shall include the use of a residential structure for services rendered, other than by direct contact with customers, at that location (for example, where the bulk of the business is by telephone - actual work is performed in home and customer is contacted other than at that location). The following requirements shall apply to home occupations, where permitted herein:

- A. No persons other than members of the family residing on the premises shall be engaged in such operation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than twenty-five (25) percent of the gross floor area of any one floor of the dwelling unit (including the basement or cellar) shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation, that will indicate from the exterior that the structure is being utilized, in part, for any purpose other than that of a dwelling unit, except that a name plate, as regulated by Article XIII of this ordinance, shall be permitted.
- D. No home occupation shall be conducted in any accessory structure, nor shall there be any exterior storage of any materials on the premises.
- E. There shall be no commodity sold upon the premises in connection with such home occupation.
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the vicinity where such home occupation is located.

- G. No equipment or process which creates noise, vibration, glare, fumes, odors, or electrical interference, detectable to the normal senses off the lot, shall be used in such home occupation. In the case of electrical interference, no equipment or process which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises, shall be used.

SECTION 9.8 GENERAL MANUFACTURED HOME REGULATIONS

The following regulations shall apply to all manufactured homes located individually or in a manufactured home park, where permitted herein. Requirements of the zone in which said manufactured homes are permitted shall also apply:

- A. The manufactured home shall, at a minimum, be equipped with plumbing and electrical connections designed for attachment to appropriate external systems.
- B. All health, sanitation (including sewers and/or private secondary sewage treatment plants approved by the Northern Kentucky District Health Department and the Sanitation District No. 1 of Campbell and Kenton Counties), and safety requirements applicable to a conventional dwelling, shall be equally applicable to a manufactured home.
- C. The manufactured home shall be set and adequately anchored on a concrete or hard surfaced slab in accordance with the Kentucky Manufactured Home and Recreational Vehicle Park regulations, and the open space between the ground and the floor of the manufactured home shall be enclosed with some material such as concrete block, corrugated metal, or other durable and suitable material.
- D. Any person, firm, or corporation desiring to locate a manufactured home shall apply for a zoning/building permit and an occupancy permit. Applicable permits must be approved prior to the installation and occupancy of any manufactured home. The proper permits must be displayed in a conspicuous location in each manufactured home, signifying that all permits have been approved by the building inspector and zoning administrator.

SECTION 9.9 COMPATIBILITY STANDARDS FOR QUALIFIED MANUFACTURED HOUSING

- A. **PURPOSE:** The purpose of compatibility standards for manufactured housing is to permit local governments to adopt and enforce, as part of its zoning regulations, compatibility standards governing the placement of qualified manufactured homes in residential zones, within the local government's jurisdiction, designed to ensure that when a qualified manufactured home is placed in a residential zone, it is compatible, in terms of assessed value, with existing housing located immediately adjacent to (1) either side of the proposed site within the same block front; (2) adjacent to the rear, or (3) within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured home.

- B. A qualified manufactured home that meets the compatibility standards as set forth in Subsections D. 5., and D. 6., of this section, as well as the regulations of the zone in which it is proposed, shall be allowed as a permitted use and as a primary family residence in any residential zone permitting detached single-family residential uses.
- C. Applications must be submitted to the zoning administrator demonstrating that the compatibility standards as set forth in Subsections D., 5. and D. 6., have been met and contending that the proposed construction, installation, or relocation of the qualified manufactured home is similar and comparable in exterior appearance, building materials, and living area to other dwelling units that have been constructed on adjacent tracts, lots, and parcels.
- D. The procedures for approval shall be in accordance with the requirements of Article XVI and the following:
1. Applications for the placement of qualified manufactured homes shall be submitted with a nonrefundable application fee on a form or forms developed for that purpose to the city zoning administrator. Qualified manufactured homes that have been illegally placed upon a tract, lot, or parcel shall be first removed before an application for approval of placement shall be accepted.
 2. The application shall include (1) only information reasonably necessary to make determination as to conformity with the provisions of this Section of this ordinance; (2) recent photographs of the front, side and rear of the qualified manufactured home exterior finish (whichever is applicable); (3) pictures taken from the proposed site of the dwelling unit in the northerly, easterly, southerly, and westerly directions, and pictures of any adjacent dwelling units. The photographs shall be taken within 30 days prior to the submittal of the application. In addition, each application shall be accompanied by a site plan or plot plan containing appropriate information including, but not limited to, the following:
 - a. Location of all existing buildings, structures, easements, and boundary lines;
 - b. North arrow, scale, city and land lot;
 - c. Existing use of adjacent property
 - d. Location of all proposed buildings, structures, and land uses.
 3. Applications shall be first reviewed for completeness. If the application is rejected for not being complete, the applicant shall be notified of the reasons for the rejection. The applicant shall be responsible for the satisfaction of all of the comments prior to the resubmission of the revised application.
 4. The application shall be reviewed for compatibility with architectural appearance and similarity with:
 - a. adjacent development or surrounding developments;

- b. development within the same zone or general area;
 - c. proposed development permitted in the same zone or general area; and,
5. Compatibility with architectural appearance shall be based on the following:
- a. floor living space and setbacks;
 - b. siding and exterior materials;
 - c. roof pitch;
 - d. square footage;
 - e. general aesthetic appearance.
6. Compatibility with the orientation and location of existing structures shall be based on the following:
- a. building height;
 - b. building width;
 - c. building depth;
 - d. building setbacks.
7. A decision of approval, conditional approval or disapproval of a complete application shall be made and the applicant shall be notified in writing. Conditional approval shall require that the specific conditions and the reasons therefore be stated in writing and be agreed to by the applicant; such conditions shall be binding upon the applicant upon agreement. In the case of disapproval, the reasons therefore shall be specifically stated in writing by designating each specific provision of this section or other applicable ordinance that is not met and an explanation as to the reason or reasons why each such provision is not met.

SECTION 9.10 LAND USED FOR AGRICULTURAL PURPOSES: Pursuant to KRS 100, any land which is used for agricultural purposes (exclusive of land and building used for residences), shall have no regulations, except that:

- A. Setback lines shall be required for the protection of existing and proposed streets and highways, as required for the zone in which the use is located;
- B. That all buildings or structures in a designated floodway or floodplain, or which tend to increase flood heights, or obstruct the flow of flood waters shall be in accordance with this ordinance; and
- C. All dwellings to be constructed or provided as part of land used for agricultural purposes shall meet all requirements of the zone in which said use is located and all other requirements of this ordinance.

SECTION 9.11 REGULATIONS FOR BED AND BREAKFAST ESTABLISHMENTS: Bed and breakfast establishments, where permitted, shall be subject to the following regulations in addition to any imposed by the board of adjustment in approving a specific operation.

- A. The establishment shall be operated by the owner of the dwelling unit, who shall live in the unit
- B. Food service may be provided for resident guests only.
- C. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
- D. Interior alterations should maintain the unique characteristics of the structure, if possible.
- E. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
- F. A site plan, as regulated by Article XV of this ordinance, shall be required.

SECTION 9.12 PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES

- A. **APPLICATION OF PERFORMANCE STANDARDS:** After the effective date of this ordinance, any use established or changed to, and any building, structure, or tract of land, developed, constructed, or used for any permitted use or accessory use in all industrial zones, shall comply with all of the performance standards herein set forth for the district involved. If any existing use, building, or other structure is extended, enlarged, or reconstructed, the performance standards for the district involved shall apply with respect to such extended, enlarged, or reconstructed portion, or portions, of such use, building, or other structure.
- B. **TIME SCHEDULE FOR COMPLIANCE OF PERFORMANCE STANDARDS:** Except for standards regulated and enforced by the state of Kentucky, compliance with the provisions of this article of the ordinance shall be according to the following time schedule:
 - 1. All new installations shall comply as of going into operation.
 - 2. All existing installations not in compliance, as of the effective date of this ordinance, shall be in compliance within one (1) calendar year of the effective date of this ordinance, unless the owner or person responsible for the operation of the installation shall have submitted to the zoning administrator a program and schedule for achieving compliance. Such program and schedule shall contain a date on or before which full compliance will be attained and such other information as the zoning administrator may require. If approved by the zoning administrator, such date will be the date on which the installation shall comply.

The zoning administrator may require persons submitting such program to submit subsequent periodic reports on progress in achieving compliance.

C. PERFORMANCE STANDARDS

1. **BUILDING ENCLOSURES:** Every permitted use in the Industrial Park or Eco Commerce Park (ECP) zone shall be operated in its entirety within a completely enclosed building. In all other industrial zones, permitted uses shall be operated either within a completely enclosed building or within an area screened from view at the nearest zone boundary, as regulated by Section 10.5 and Article XII of this ordinance.
2. **NOISE:** For the purpose of measuring the intensity and frequencies of a sound, the “A” scale of a ANSI S1.4 Type 2 sound level meter shall be employed. In the enforcement of the regulation, noises produced by the operation of motor vehicles or other transportation facilities shall not be included in determining the maximum permitted decibel level.

The sound pressure of noise radiated from any activity shall not exceed the values given in Table 9-1 of this section in any octave band frequency at any point on or beyond any property line for any industrial park or Eco Commerce Park zone and beyond the zone boundary for all the other industrial zones. If the noise is not smooth and continuous, one or more of the corrections in Table 9-2 of this section of this ordinance shall be added to or subtracted from each of the decibel levels given in Table 9-1.

D. EXTERIOR LIGHTING:

1. All luminaries utilized shall be designed to have full cutoff type fixtures to shield light from direct view of an observer at ground level at property line.
2. The maximum permitted height of luminaries shall be 20 feet.
3. The maximum permitted illumination at the property line shall be 0.5 foot candles except when adjacent to a residential zone it shall be 0.2 foot candles.
4. All outdoor lighting which contain a minimum of four (4) parking lot light poles, parking lot lighting levels for ground surface parking lots and the top levels of parking decks or parking structures shall be reduced by a least fifty (50) percent of full operational levels within thirty (30) minutes after the close of business. This reduced lighting level shall be achieved by extinguishing at least fifty (50) percent of the total number of pole mounted lamps, by dimming lighting levels to no more than fifty (50) percent of the levels used during business or activity hours, or by some combination thereof; provided, however, that this provision shall not require parking lot lighting levels to be reduced to less than 0.2 footcandles as measured horizontally at the surface on which the light pole is mounted.
5. Any lights used for exterior illumination, except for overhead street lighting, warning, or traffic signals shall direct light away from adjoining zones.

- E. **HUMIDITY AND HEAT:** No heat shall be generated or transmitted that causes an increase above the ambient temperature in excess of five degrees Fahrenheit at or directly beyond the lot lines of the site from which the heat source is located.
- F. **VIBRATION:** No activity shall cause a vibration which is discernible without instruments on any adjoining lot or property.
- G. **ELECTRICAL RADIATION:** Any electrical radiation shall not adversely affect, at any point on or beyond the lot line, any operation or equipment, other than those of the creation of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
- H. **STORAGE:** The storage of any materials, supplies, or products outside of a completely enclosed building shall be prohibited within any industrial park or urban industrial zone. In any of the other industrial zones, outdoor storage of materials, supplies, and products is permitted in side and rear yards, provided that the storage of materials, supplies, and products are within an area screened from view at the nearest zone boundary, as regulated by Section 10.5 of this ordinance.
- I. **EMISSIONS AND OPEN BURNING:** No emission of particulate matter, sulphur, compound, carbon monoxide, hydrocarbon, nitrogen oxide, and open burning shall be allowed in excess of regulations adopted by the Kentucky Environmental Public Protection Cabinet, Division for Air Quality, Cincinnati Air Quality Region.
- J. **ODOROUS MATTER:** No emission of odorous matter shall be allowed in excess of ambient air quality standards, as set forth by regulations adopted by the Kentucky Environmental and Public Protection Cabinet, Division for Air Quality, Cincinnati Air Quality Region.
- K. **RADIATION:** All sources of ionizing radiation shall be registered or licensed by the Kentucky Cabinet for Health and Family Services, Department of Public Health, Radiation Health Branch and operated in accordance with their regulations in all industrial zones.
- K. **FIRE AND EXPLOSIVE HAZARDS:** In the I-1, I-2, and I-3 zones only, storage, utilization, or manufacture of solid materials which requires free burning and intense burning may be allowed if permitted in said zones, provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system. In the I-1, I-2, and I-3 zones only, the storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases, may be allowed if permitted in said zones, provided that storage, handling, and use shall be in accordance with Standards of American Insurance Association for Storage, Handling, and Use of Flammable Liquids, "American Insurance Association", Pamphlet No. 30, June 1959, or any subsequent revision or amendment thereto.

- L. **WASTE:** No waste material or refuse shall be dumped upon, or permitted to remain upon, any part of the property outside of the buildings in an industrial park or Eco Commerce Park zone. all waste shall be disposed off in accordance with the Solid Waste Regulations of the Environmental and Public Protection Cabinet, Department of Environmental Protection, Division of Waste Management.

All sewage and industrial waste shall be treated and disposed of in such a manner so as to comply with the standards of the appropriate authority. All plans for waste disposal facilities shall be required before the issuance of any building permit.

- M. **MINING AND RECLAMATION:** All methods of operation, construction of roads, back-filling, grading, blasting, water impoundments, treatment facilities, and reclamation must be in conformance with the regulations adopted by the Environmental and Public Protection Cabinet, Division of Mine Reclamation and Enforcement. Any excavation or processing operations shall also be subject to the regulations of the Division of Mine Reclamation and Enforcement.

- N. **BLASTING AND EXPLOSIVES:** All blasting and the use of explosives must be conducted in accordance with the regulations set forth by the Department of Minesafety and licensing, Division of Explosives and Blasting, pursuant to the authority of KRS 351.310 to 351.340 and 351.990, and in accordance with the Standards of Safety for Explosives, for the state of Kentucky, prepared by the Department of Public Safety, Division of Fire Prevention, pursuant to the authority of KRS 227.300.

- O. **INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS:** It is the intent of this ordinance that:

1. Where investigation can be made by the Zoning Administrator or other designated employee, using equipment normally available to the legislative body, such investigation shall be so made before notice of violation is issued.
2. Where technical complexity or no availability of equipment, makes it unreasonable in the opinion of the Zoning Administrator to make a determination, the Zoning Administrator may seek the opinion of an expert in the field to make the determination on behalf of the Planning Commission or the legislative body. The Zoning Administrator shall notify the applicant of the complaint, the needed investigation and all other pertinent information.

If the applicant wishes to conduct an independent investigation of the problem, they may do so and submit all pertinent documentation to the Zoning Administrator, for review by the expert, within 30 days of the investigation notice. If it is determined that the applicant is exceeding the standards set forth, an agreed upon timeline may be set between the Zoning Administrator and the applicant to correct the problem.

If the applicant does not wish to conduct an investigation or if the Zoning Administrator determines the need for an independent investigation by an expert, he/she may seek the opinion of an expert in the field.

After review of all documentation, if the expert designated by the zoning administrator finds that the applicant is in violation of the standards, the applicant shall pay all the costs of the investigation.

TABLE 9-1

**MAXIMUM PERMISSIBLE SOUND PRESSURE LEVEL (DECIBELS) AT
SPECIFIED POINTS OF MEASUREMENT FOR NOISE RADIATED
CONTINUOUSLY FROM A FACILITY**

RECEIVING LAND USE	7:00 A.M. - 10:00 P.M.	10:00 P.M. - 7:00 A.M.
Residential	55	50
Commercial and Industrial Park	60	55
Industrial	65	65

TABLE 9-2

**CORRECTION IN MAXIMUM PERMITTED SOUND PRESSURE LEVEL
IN DECIBELS TO BE APPLIED TO TABLE 9-1**

TYPE OF OPERATION OF CHARACTER OF NOISE	CORRECTION IN DECIBELS
Noise source operates less than twenty percent (20%) of any one hour period	plus 5*
Noise source operates less than five percent (5%) of any one hour period	plus 10*
Noise source operates less than one percent (1%) of any one hour period	plus 15*
Noise of impulse character (hammering, etc.)	minus 5
Noise of periodic character (hum, screech, etc.)	minus 5
* Apply one of these corrections only	

SECTION 9.13 OUTDOOR SWIMMING POOLS

A. PRIVATE SWIMMING POOLS: All private swimming pools shall be regulated according to the following requirements:

1. Shall be permitted to locate in the rear yard no closer than three (3) feet to any property line. The zoning administrator may allow pools to be located in the side yard if he determines that due to topography, unusual lot shape, or insufficient rear yard area, location of the pool in the rear yard is not possible.
2. Swimming pools which are constructed in-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or the property on which the pool is located. Such fence or wall shall be at least four (4) feet in height, but not more than seven (7) feet in height.
 - a. Only classes 1, 3, 4, or 5 fences are permitted, as regulated by Article XII of this ordinance.
 - (1) Class 1 - Masonry walls
 - (2) Class 3 - Woven wire (eighty percent (80%) open) and chain link
 - (3) Class 4 - Wood or other materials (more than fifty percent (50%) open)
 - (4) Class 5 - Solid fences, wood or other materials (less than fifty percent (50%) open)

Such fences or walls shall be constructed in such a manner that a child may not reach the pool from the street or any property without climbing the fence or wall or opening the gate or door.

3. Swimming pools which are located above-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or property upon which the pool is located. Such fence or wall shall be at least four (4) feet in height, but not more than seven (7) feet in height.
 - a. Only classes 1, 3, 4, or 5 fences are permitted, as regulated by Article XIV of this ordinance.
 - (1) Class 1 - Masonry walls
 - (2) Class 3 - Woven wire (eighty percent (80%) open) and chain link
 - (3) Class 4 - Wood or other materials (more than fifty percent (50%) open)
 - (4) Class 5 - Solid fences, wood or other materials (less than fifty percent (50%) open)

Such fences or walls shall be constructed in such a manner that a child may not reach the pool from the street or any property without climbing the fence or wall

or opening the gate or door. Said fence or wall may be the wall of the above-ground pool, providing that said wall is at least four (4) feet in height above the surrounding ground level.

Any access to above ground pools by means of a ladder or stairway shall be provided with a self-closing or self-latching door or gate, or some other device that would prevent a child from gaining access to the pool by means of a ladder.

4. Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.
5. All swimming pools and associated equipment shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the legislative body. Water used in the swimming pool, which is obtained from other than a public source, shall be approved by the Northern Kentucky District Health Department.
6. All swimming pools existing at the time of adoption of this ordinance, which are unprotected by a surrounding fence or wall, including gates or doors, as regulated herein, shall be required to comply with the provisions of this section within sixty (60) days after its adoption.
 - a. Only one bathhouse per dwelling unit shall be permitted.

B. PUBLIC, SEMI-PUBLIC, AND COMMERCIAL SWIMMING POOLS: All public, semi-public, and commercial swimming pools shall be regulated according to the following requirements:

1. Except as herein provided, no swimming pool and associated equipment shall be permitted within any minimum required yards or within the limits of any public right-of-way or easement.
2. The swimming pool, or the property on which the pool is located, shall be surrounded by a fence or wall, including a self-closing and self-latching door or gate
 - a. Only classes 1, 3, 4, or 5 fences are permitted, as regulated by Article XIII of this ordinance.
 - (1) Class 1 - Masonry walls
 - (2) Class 3 - Woven wire (eighty percent (80%) open) and chain link
 - (3) Class 4 - Wood or other materials (more than fifty percent (50%) open)
 - (4) Class 5 - Solid fences, wood or other materials (less than fifty percent (50%) open)

Such fences or walls shall be at least five (5) feet in height, but not exceeding the height as permitted herein, and of such construction that a child may not reach the pool from the street or from any property without climbing the wall or fence or opening the gate or door.

In lieu of providing a fence or wall, as required herein, swimming pools may be provided with a pool cover in compliance with the Kentucky Building Code and provided the following required safety criteria are met:

- a. The safety standard cover must pass the strength test and be able to withstand at least 490 pounds (equivalent to two adults and a child) on any a given 3 square foot area.
 - b. The cover must be able to drain water so that water does not accumulate and pose a drowning threat to a child.
 - c. The pool cover shall be designed to fit securely over all sides of the pool preventing a child from lifting the cover or entering the water. The cover shall also have a latch, which cannot become undone or loosened, to secure it in a closed position. If the cover is operated electrically, it shall provide for a manual override in the event of a power failure.
 - d. The power disconnect for the pool cover shall be located inside a building and shall include a visual detector or light which remains lit at all times when the pool cover is not in place.
 - e. That the pool will be kept under observation at all times while the pool cover is not in place.
3. Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.
 4. All swimming pools and associated equipment shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the legislative body. Water used in the swimming pool, which is obtained from other than a public source, shall be approved by the Northern Kentucky District Health Department.
 5. No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent properties.

SECTION 9.14 REGULATIONS FOR LARGE RETAIL ESTABLISHMENTS

A. **PURPOSE:** The purposes of these regulations are to:

1. Enhance the building and site design so as to blend in with the character of the adjoining neighborhood.
2. Encourage new development to use quality materials and innovative architectural design that is also complimentary to the existing built fabric.

3. To allow for a variation in building façade to add interest and reduce the massive scale to give the appearance of smaller stores.
4. To allow for the breakdown of the building into smaller stores to broaden the scope of future tenants in case of prolonged vacancy.

B. PRE-APPLICATION CONFERENCE

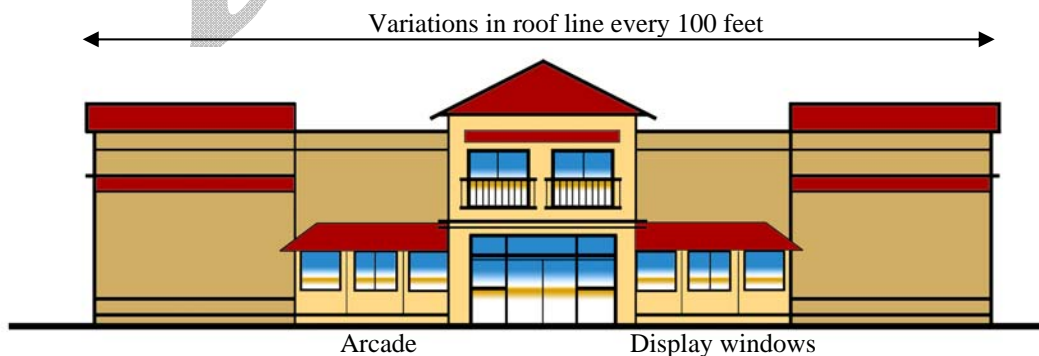
Prior to filing for development plan review or the issuance of a zoning permit, the developer, petitioner, applicant or property owner shall attend a pre-application conference with Planning Commission or its duly authorized representative to discuss the development review process, be informed of the requirements of this section, the requirements of the Zoning Ordinance and to confer about the application. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form. This conference is intended to review the development plan and flag any issues in applying these regulations.

C. APPLICABILITY

These regulations would apply to any retail sales and service use whose principal structure fits the definition of a large scale retail establishment as defined in Section 2.8 of this ordinance.

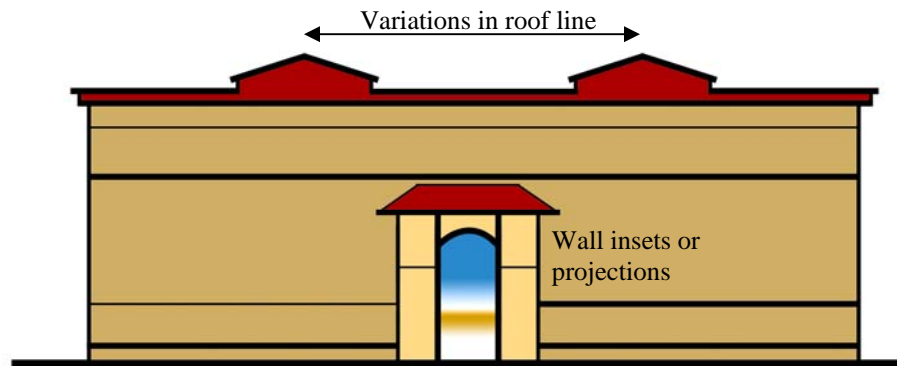
D. FACADES AND EXTERIOR WALLS

1. **FRONT FAÇADE:**
Buildings with exterior walls greater than 100 feet in horizontal length shall be constructed using a combination of materials and architectural features such as recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure. A combination of a minimum of three of the above listed features shall be repeated every 100 feet of the front façade.



2. **SIDE OR REAR FACADES FACING PUBLIC RIGHT OF WAY:**

Side facades of buildings facing public rights-of-way shall use a combination of a minimum of two of the following listed features that shall be repeated every 100 feet of the façade: recesses, projections, wall insets or window projections.



3. SIDE OR REAR FACADES NOT FACING PUBLIC RIGHT OF WAY:

Facades of the building not facing public rights-of-way shall have at least one of the following architectural features: Difference in color, material, projections or recesses.

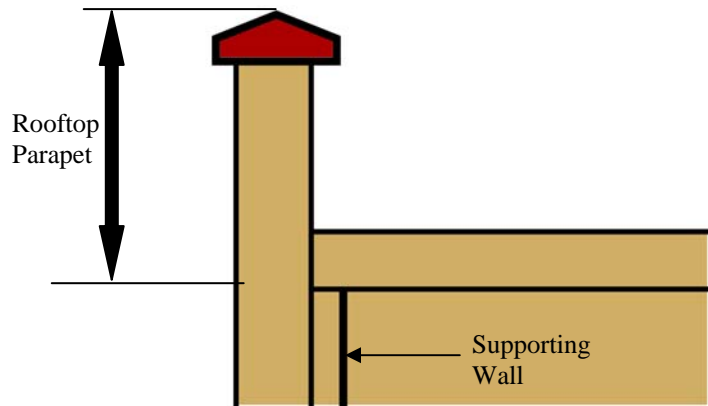
E. ENTRANCES:

1. Customer entrances are required along all exterior walls facing a parking area or street. Where this involves more than two sides of a building, this shall only apply to two sides of that building however more entrances may be permitted. Display windows shall be provided on either side of the entrances for a minimum of 50 feet.
2. Each building shall have clearly defined, highly visible customer entrances featuring no less than two of the following:
 - a. Canopies or porticos
 - b. Overhangs
 - c. Recesses/projections
 - d. Arcades
 - e. Raised corniced parapets over the door
 - f. Peaked roof forms
 - g. Arches
 - h. Architectural details such as tile work and moldings which are integrated into the building structure and design
 - i. Integral planters that incorporate landscaped areas



F. ROOFS:

1. Building front facades that exceed 100 feet in length shall have variations in roofline or rooftop parapet. Parapets shall be used to conceal flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed 15% of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three dimensional cornice treatments.



2. Overhanging eaves, extending no less than 3 feet past the supporting walls.
3. Sloping roofs that do not exceed the average height of the supporting walls.
4. White roofs are not permitted; however, cool roof color materials may be utilized to reflect light just like that of a white roof.

G. MATERIALS AND COLORS

1. Predominant exterior building materials shall be high quality materials. These include, without limitation:
 - a. Brick
 - b. Wood
 - c. Sandstone
 - d. Other native stone
 - e. Tinted, textured, concrete masonry units
2. Building materials that are used for the front façade of the building shall be used on the side facades of the building as well to provide visual continuity.
3. Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited, however, colors may allow for national identity.

4. Neon tubing shall not be an acceptable feature for building trim or accent areas.
5. Predominant exterior building materials should not include the following:
 - a. Smooth-faced concrete block
 - b. Tilt-up concrete panels
 - c. Pre-fabricated steel panels

H. COMMUNITY SPACE REQUIREMENT

1. All large retail establishments shall provide community space in proportion to the size of the building. The required community space shall be equal to 10% of the square footage of the principal building.
3. The community space may be divided up into more than one area on the property however there shall be at least one community space of not less than 5,000 square feet.
4. The community space shall be centrally located to serve needs of visitors and employees of the building. An alternate location may be used, however, it must which meets the intent of this section. The community space shall have pedestrian connections to a transit facility and to the front of the building.

I. **OUTDOOR STORAGE AND TRASH COLLECTION:** No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed areas or containers. All outdoor trash storage areas shall be screened per the requirements of Section 10.5 of this ordinance.

J. **OFF STREET PARKING:** Off street parking requirements for large-scale off-street parking lots shall apply as set forth in Article XI, Section 11.2., C., of this ordinance.

K. **LANDSCAPE AND SCREENING:** Screening and landscaping shall be provided, as regulated by Article X of this ordinance.

L. **ACCESS CONTROL:** Access control shall be provided as regulated by Article XI of this ordinance.

M. **TRAFFIC STUDY:** Traffic study requirement shall be as regulated by Section 4.5 of this ordinance.

N. **SIGNS:** Signage shall be provided in accordance with Article XIII of this ordinance.

O. **LIGHTING:** Lighting shall be provided in accordance with Section 4.6 of this ordinance.

ARTICLE X

NATURAL RESOURCE PROTECTION REGULATIONS

SHADED SECTIONS ARE CURRENTLY PENDING:

SECTION 10.0 NATURAL RESOURCE PROTECTION REGULATIONS

- A. **PURPOSE:** The following natural resource protection regulations shall apply to land disturbing activities, as well as specify regulations for development within the following areas: Hillsides greater than 20% slope; floodplain areas; and riparian areas. This section also addresses regulations pertaining to tree protection and landscaping as part of the review and approval of new development. The purpose of these regulations is to:
1. Protect the general public and public facilities from injury, loss of life, property damage or financial loss associated with flooding, erosion, landslides, or soil subsidence.
 2. Maintain and enhance the unique, fragile and valuable elements of the natural environment including, but not limited to: stream corridors, existing tree canopy, and fish and wildlife habitat.
 3. Prevent cumulative adverse environmental impacts on water quality, groundwater and aquatic areas.
- B. **CONFLICT WITH OTHER REGULATIONS:** If the provisions of these regulations conflict with other requirements within the [City/County] Zoning Ordinance, the more restrictive provision will apply.

SECTION 10.1 EXCAVATION, MOVEMENT OF SOIL, TREE REMOVAL, AND EROSION AND SEDIMENTATION CONTROL

- A. **APPLICABILITY:** The requirements in these regulations shall apply to land disturbing activities and all development and redevelopment activities that disturb an area less than one (1) acre. Sites that are larger than one (1) acre and areas which are part of a larger common plan of development or sale shall be covered by the Rules and Regulations of Sanitation District No.1 in the area designated by the Kentucky Division of Water for coverage under the KPDES Permit for Small Municipal Separate Storm Sewer Systems.
- B. No governmental entity or other person or entity shall strip, excavate, fill, or otherwise move soil, trees, or other vegetation, except for minor changes such as the filling of small depressions, removal of vegetation which is diseased or endangering the public safety, without first insuring that all requirements of the Subdivision Regulations, if applicable, have been fulfilled and then obtaining a permit from the zoning administrator.
- C. The zoning administrator may issue the required permit after determining that the resulting change in grade, or removal of trees and other vegetation, in the affected area will be in conformance with all applicable provisions of this ordinance. The provisions

of this section shall not be construed to prohibit normal excavation or grading which is incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this ordinance.

- D. Erosion and Sedimentation Control: Provisions shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development (i.e. infiltration, stabilization, drainage). Erosion and sedimentation controls for excavation, movement of soil, and tree removal, shall be designed and applied according to the following:
1. The smallest practical area of land shall be exposed at any one time during development.
 2. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
 3. Temporary vegetation, geotextile fabrics and/or mulching shall be used to protect critical areas exposed during development, or when construction activities have temporarily ceased (i.e. 21 days or more).
 4. Sediment basins (debris basins, desilting basins, or sediment traps) shall be properly installed and maintained to remove sediment from run-off waters from land undergoing development.
 5. Site perimeter controls are required and shall be installed to prevent the deposit soil and debris from graded surfaces onto public streets, into drainage channels or sewers, or onto adjoining land.
 6. Permanent final vegetation and structures shall be installed as soon as practical in the development.
 7. The development shall be fitted to the topography and soils so as to create the least erosion potential, and the least disturbance to the existing drainage system.
 8. Wherever feasible, natural vegetation shall be retained and protected.

SECTION 10.2 HILLSIDE DEVELOPMENT CONTROLS

- A. **APPLICABILITY:** This section is intended to ensure that when development is proposed on land areas identified on the Recommended Land Use Plan Map of the Comprehensive Plan as "Physically Restrictive Development Areas" (PRDA), and any other areas which have slopes of 20 percent (20%) or greater, shall require approval from the planning commission, or its duly authorized representative before development may occur.
- B. **PURPOSE:**
1. To permit a reasonable amount of development on hillsides while protecting the health, safety and general welfare of citizens by minimizing the potential for hillside failures and pollution from run-off and sedimentation.
 2. To encourage best management practices of design, landscape architecture, architecture and planning to preserve, protect, enhance the existing and future appearance and resources of hillside areas.

3. To preserve and enhance the natural landscape by encouraging the maximum retention of natural topographic features such as drainage swales, springs, streams, tree stands and other vegetative cover.
- C. Areas of land on which development may be restricted by hillside slopes shall meet the following requirements:
1. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures of any nature within the area identified as Physically Restrictive Development Area and any other areas which have slopes of 20 percent (20%) or greater, per Subsection A., 1., above, may occur until plans and specifications for such work have been submitted in the form of a development plan as regulated by Section 9.14 of this ordinance. In addition to development plan requirements, the following shall also be submitted:
 - a. Plan(s) showing existing topography and vegetation, the proposed physical changes necessary for construction, including grading (cutting and filling), compaction, erosion, sedimentation basins, areas to be cleared of vegetation, and any other pertinent information which will change the natural physical features of the site or general area.
 - b. A geotechnical report containing the results of a subsurface investigation of the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis. Such investigation shall be made by a qualified, registered civil engineer and a geologist, indicating that any structural or physical changes proposed in the area will be completed in a manner which will minimize hillside slippage and/or soil erosion. All disturbances must follow the recommendations of the geotechnical report.
 2. The development plan and other information required by this Section, shall be reviewed by the planning commission's duly authorized representative, who will recommend to the planning commission, or its duly authorized representative, what effect the proposed development will have on drainage, soil erosion, and/or hillside slippage.

After consideration of the recommendations, the planning commission's duly authorized representative, may authorize use of the site in accordance with the submitted plans. Prior to the issuance of a Certificate of Occupancy for the site, the planning commission, or its duly authorized representative, shall require written authorization from a qualified, registered civil engineer that the proposed development is in compliance with the specifications as contained within the geotechnical report.
 3. If, after review of the plans required by this section, the planning commission's duly authorized representative determines that said proposed plans will not

minimize hillside slippage and/or soil erosion, the planning commission, or its duly authorized representative, shall deny a permit for the development of said land.

4. Cuts and fills shall be restored to a maximum 2.5:1 (40 %) slope or flatter and re-vegetated. Slope breaks, such as benches, may be used to reduce the length of cut and fill slopes to limit sheet and rill erosion and prevent gullyng.

D. **CRITERIA:** Evaluation of the proposed development plan shall be based upon the following criteria:

1. **PUBLIC POLICY:**

- a. Public works in hillside areas should be designed to preserve the natural character of the land to the greatest extent possible. Deep or extensive excavations and fills scar the landscape and should be avoided.
- b. Excessive cutting and filling should be avoided in the construction of hillside roadways.
- c. Roadways constructed on hillsides should, wherever possible, follow the contours of the land or climb the slopes with a gentle grade.

2. **REGULATING THE SUBDIVISION OF HILLSIDE LAND:**

- a. Plans for hillside subdivisions should be laid out so that lots on the flatter upland portions of the site are held back from the crest of the hill.
- b. In planning hillside subdivisions, maximum existing vegetation should be retained.
- c. In planning hillside subdivisions, lots located on sloping portions of the site and at the crests of hills should be arranged so that intrusion of buildings constructed on lower elevations into the views of those above will be minimized.
- d. Hillside vegetation should not be heedlessly displaced, degraded, or destroyed.
- e. Subdivisions in hillside areas should be designed to preserve the natural character of the land, to the greatest extent possible.

3. **REGULATING THE CHARACTER OF DEVELOPMENT:**

- a. The visual impact of grading should be minimized by avoiding flat grading planes and sharp angles of intersection.
- b. When it is necessary to use retaining walls, their height should be minimized.
- c. When buildings are constructed on hillside sites, yards and patios should respect the natural contours, drainage patterns, and vegetation of the site.
- d. Slopes exposed in new development should be landscaped in order to mitigate visual impacts created by hillside grading.

- e. The natural slope line of the hill, as seen in profile, should be retained.
- f. Existing native vegetation should be preserved, and when disturbed, should be supplemented with new native vegetation.
- g. Trees should be planted in random clusters, not in rows, to compliment the natural pattern of tree distribution.
- h. All cuts, fills, and any other earth modifications should be replanted with appropriate native vegetation.
- i. The risk of off - site geologic property damage should be minimized by locating development away from areas which are vulnerable to sliding.
- j. Grading for buildings, driveways, outdoor use areas, utilities, etc., should be minimized to preserve the natural topography of the site.
- k. When grading operations are necessary, the smallest practical areas of land should be exposed at any one time during development and the length of exposure should be kept to the shortest practicable amount of time.

4. **REGULATING EARTHWORKS:**

- a. The tops and toes of excavations and their slopes should be set back from property boundaries and structures as far as necessary for the safety of adjacent properties and adequacy of foundation support and to prevent damage as a result of water runoff.
- b. No fill should be placed over trees, stumps, or other organic or unstable material.
- c. All retaining walls should be promptly backfilled.
- d. Where storm and drainage improvements are necessary, they should be designed to create a natural, rather than a man - made, appearance.
- e. In order to prevent runoff, erosion control plans should utilize existing trees and vegetation to the maximum extent possible.

SECTION 10.3 FLOOD PROTECTION DEVELOPMENT CONTROLS

A. **PURPOSE:** The purposes of the flood protection development controls are:

- 1. To permit only that development of flood prone areas which: (a) is appropriate in light of the probability of flood damage and the need to reduce flood losses; (b) is an acceptable social and economic use of the land in relation to the hazards involved; and (c) does not increase the danger to human life; and
- 2. To prohibit all other development in flood prone areas not identified in Subsection A., 1., above, including non-essential or improper installation of public utilities and public facilities.

B. Areas of land adjacent to streams, rivers, or bodies of water which have a high degree of susceptibility to flooding shall be limited to development according to the following regulations, notwithstanding any other section of this ordinance or any other ordinance adopted by the city.

1. The limits of the floodplain (areas subject to flooding during the occurrence of a 100-year flood) and floodway are identified as Flood Protection Control Areas on the zoning map, pursuant to the Flood Insurance Study prepared by the Federal Emergency Management Agency. This study, along with any accompanying maps and other supporting data, and any revisions thereto, are adopted by reference and declared to be a part of this section of the ordinance.
2. Areas designated as susceptible to flooding during the occurrence of a 100-year flood shall be controlled by both the zoning district in which the area is located and the requirements of this section of the ordinance.

Flood data within this section identify the elevation of the 100-year flood level and the width of the floodway as follows:

In the case of any proposed activity located along other tributaries or bodies of water not covered in these tables, and located in those areas which are identified as being susceptible to flooding, according to the report prepared by the U.S. Department of Agriculture, Soil Conservation Service, "Soil Survey of Boone, Campbell and Kenton Counties, Kentucky", August, 1973, a survey shall be made by a qualified, registered civil engineer establishing the elevation of the 100-year flood and floodway for said areas prior to the issuance of any zoning and building permits.

3. No person, city, county, or other political subdivision of the state shall commence filling of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier, or obstruction of any sort on any area, including making any alteration or relocation of a waterway, located within the floodway which would result in any increase in flood levels during the occurrence of a 100-year flood discharge. In those cases where a watercourse is to be altered or relocated, the flood carrying capacity of said portion of the waterway affected must be maintained. Plans and specifications for such work shall be submitted to the city engineer and the Northern Kentucky Area Planning Commission for review to determine if said encroachment will meet the requirements of this Ordinance. Said plans shall also be submitted to the Kentucky Department of Natural Resources & Environmental Protection, Division of Water Resources, and other applicable agencies, for their review and approval.
4. All land outside the floodway of the bodies of water identified in Subsection C., 2., above, but located within the floodplain, may be used for any purpose for which it is zoned, provided that:
 - a. Any new residential construction, including any expansion or substantial improvements of existing residential structures as herein defined, within said floodplain, shall have the lowest floor elevated to a minimum of two

feet above the level of the 100-year flood. Electrical, heating, ventilation, plumbing, and 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. For all new construction and substantial improvement, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage, in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic exit of floodwaters. Designs for meeting this requirement must be certified by a professional engineer or architect.

- b. Any new non-residential structures, including any expansion or substantial improvements of non-residential structures, within said floodplain, shall have the lowest floor elevated to a minimum of two feet above the level of the 100-year flood or together with attendant mechanical, utility, and sanitary facilities shall be designed and floodproofed so that below the 100-year flood level the structure is water tight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effects of frequency certified by a professional engineer or architect. For all new construction and substantial improvement of elevated non-residential structures, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage, in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a professional engineer or architect.
- c. For all new construction and substantial improvement of elevated non - residential structures, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a professional engineer or architect or meet the following minimum requirements:
 - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (2) The bottom of all openings shall be no higher than one foot above grade; and
 - (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.

5. All utilities constructed to serve structures which are to be located within the floodplain shall be flood protected at a minimum to the elevation of the 100-year flood level.
6. All construction or modification of buildings and structures, including flood-proofing measures and techniques in the flood plain area, as required within this section of the ordinance, shall be in accordance with the applicable design standards of the U.S. Army, Corps of Engineers' publication, entitled "Flood Proofing Regulations", June, 1972 GPO 19730-505-026 Edition, or as amended, and the following requirements:
 - a. All new construction or substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - b. All new construction or substantial improvements shall be constructed with materials and mechanical and utility equipment resistant to flood damage.
 - c. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - d. All new or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - e. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems' discharges from the systems into flood waters.
 - f. On-site waste disposal systems, where permitted, shall be located to avoid impairment to them or contamination from them during flooding.
7. In addition to the above requirements, manufactured homes, as herein defined, shall meet the following standards:
 - a. No manufactured home or recreational vehicle shall be permitted to be placed in a floodway or a Coastal High Hazard Area.
 - b. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (1) Over-the-top ties be provided at each end of the manufactured home, with one additional tie per side at an intermediate location on manufactured homes of less than fifty (50) feet in length and one additional tie per side for manufactured homes of fifty (50) feet in length or more;
 - (2) Frame ties be provided at each corner of the home with four (4) additional ties per side at intermediate points for manufactured homes of less than fifty (50) feet in length and one additional tie for manufactured homes of fifty (50) feet in length or longer;
 - (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds;

- (4) Any additions to the manufactured home be similarly anchored.
- c. For new manufactured home parks and subdivisions; for expansions to existing manufactured home parks and subdivisions; for existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities, or pads equals or exceeds fifty (50) percent of the value of the streets, utilities, or pads before the repair, reconstruction, or improvement has commenced; and, for manufactured homes not placed in a manufactured home park or subdivision require:
 - (1) That all manufactured homes meet all of the requirements for new construction, including elevations and anchoring;
 - (2) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be a minimum of two feet above the base flood level;
 - (3) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above grade;
 - (4) The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse, and lateral movement;
 - (5) Adequate surface drainage and access for a hauler are provided;
 - (6) In the instance of elevation on pilings; (1) lots are large enough to permit steps; (2) piling foundations are placed in stable soil no more than ten (10) feet apart; and (3) reinforcement is provided for pilings more than six (6) feet above the ground level.
- 8. Recreational vehicles may be permitted to be located within the limits of the floodplain, subject to compliance with the following requirements:
 - a. The recreational vehicle must be on the site for less than 180 consecutive days;
 - b. The recreational vehicle must be fully licensed and ready for highway use; or
 - c. That the recreational vehicle meet the elevation and anchoring requirements for manufactured homes, as set forth in Subsection C., 7., above.

A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- 9. Any existing structure or use which is located within the floodplain and which does not conform to the requirements herein shall be nonconforming and subject to the requirements of Section 9.6 of this ordinance, providing, however, any

existing permitted use and structure may be modified, altered, or repaired to incorporate flood proofing measures, where such measures do not raise the level of the 100-year flood.

10. All land designated "Flood Protection Control Area" on the Official Zoning Map, but determined to be above the elevation of the 100-year flood level may be used for any purpose for which it is zoned without further flood protection controls.
11. A survey of the site in question will be required prior to the issuance of any building permit or construction activity that would alter the site in any manner, to establish the existing elevation of the land.
12. After completion of the first floor elevation, as provided in Subsection C., 4., above, a certified copy of said lowest elevation shall be provided to and maintained in the offices of the Zoning Administrator - Building Official.
13. A development plan, as regulated by Section 9.14 of this ordinance, shall be required for any land below the elevation of the 100-year flood level.
14. A zoning permit, as regulated by Section 16.1 of this ordinance shall be required prior to any grading or construction within any area designated as being located within the floodplain.

SECTION 10.4 RIPARIAN PROTECTION REGULATIONS

SECTION 10.4 IS CURRENTLY PENDING

It is the intent of this section to establish riparian buffer areas adjacent to all USGS blueline streams within Kenton County in order to: protect public and private water supplies; trap sediment and other pollutants in surface runoff; promote bank stabilization; protect riparian wetlands; minimize the impacts of flooding; prevent decreases in base flow; protect wildlife habitat; and maintain water quality.

SECTION 10.5 TREE PROTECTION AND LANDSCAPE REGULATIONS

A. PURPOSE

The purpose of this section is to promote and to protect the health, safety and welfare of the community and enhance the aesthetic character of the community by improving the appearance of vehicular use areas and property adjoining public/private road rights-of-way and driveways; establishing standards and procedures for tree protection and replacement planting and preserving existing trees, and requiring screening between land uses as part of new development. In doing so, the city of [city] recognizes the importance of trees as a vital component to counterbalancing the effects of urban development by:

1. Providing cooling shade, reducing noise and glare;
2. Improving air quality through carbon dioxide reduction and replenishing oxygen to the atmosphere;
3. Improving surface drainage and reducing the effects of stormwater drainage flooding;
4. Filtering non-point source pollution from local streams;
5. Stabilizing soil and thereby minimizing erosion; and
6. Providing habitat for wildlife.

B. APPLICABLE SITES: Tree Protection and Landscaping requirements shall apply to the following:

1. All new building development and construction or development requiring a zoning map amendment, except for single and two-family residential.
2. Existing Developed Sites:
 - a. Landscaping Requirements Only Shall Apply: New parking lot construction, including the expansion, moving or relocation of existing parking. This requirement shall only affect those newly paved areas of five (5) spaces or larger, or any paved area larger than 1500 square feet. The number of parking spaces added shall also include any spaces added within one (1) calendar year prior to the building permit application for the new spaces. This requirement shall, in no instance, be deemed as retroactively affecting sites prior to the adoption of this amendment.
 - b. Substantial additions to an existing building: Substantial building additions will be defined per the criteria established below:

Where Existing Structure Is	Substantial Increase An Addition Of
0 - 1,000 sq. ft.	101% or greater
1,001 - 10,000 sq. ft.	40% or greater
10,001 - 25,000 sq. ft.	30% or greater
25,001 - 50,000 sq. ft.	20% or greater
50,001 sq. ft. and above	10% or greater

Perimeter landscaping is required between the addition and adjoining land use or public/private street, per the Landscape Requirements Table. See Figure 10-1 for additional information. If this does not involve new parking lot construction, interior (Vehicular Use Area) landscaping is not required.

- c. Landscaping Requirements Only Shall Apply: When a land use changes to a different land use requiring the construction of additional parking.

C. TREE PROTECTION REGULATIONS: The following regulations address the protection and replanting of trees.

1. **TREE PROTECTION THRESHOLDS:** Tree canopy protection thresholds are assigned by land use category. If the proposed canopy removal exceeds the set threshold levels, more stringent mitigation requirements shall apply (see Subsection D., 2., b). This serves to provide an incentive to conserve tree canopy cover to at least the threshold level.

The following table outlines a tree canopy protection threshold for all land use categories. The tree protection threshold is the percentage of the total area of the development which must remain as tree canopy.

Category of use	Threshold % tree canopy
Mixed use / planned unit development	30%
Residential (2.1 - 7.0 d/u per net acre)	20%
Institutional development	20%
Residential (7.1 d/u per net acre and above)	15%
Commercial and industrial development	15%

Example:

A parcel being developed for commercial use with 100% canopy cover could remove 85% of the existing tree canopy (15% tree canopy cover remaining) and would remain above the threshold. By contrast, a parcel with only 20% tree canopy cover could remove no more than 5% of the existing tree canopy to remain above the threshold of 15% tree canopy.

2. TREE REPLACEMENT

- a. It is recognized that some sites will not have sufficient tree canopy to meet the tree canopy threshold requirements established in Section A. Sites with insufficient canopy shall therefore plant additional trees in order to meet the minimum threshold requirements. For the purposes of calculating the required number of replacement trees, the following criteria shall be applied, representing categories of trees at maturity, not installation sizes:

- a. Each Small Tree = 100 square feet or greater
- b. Each Medium Tree = 400 square feet or greater
- c. Each Large Tree = 750 square feet or greater

- b. If the existing tree canopy on a site is proposed to be cleared below the minimum required threshold outlined in this section, the site shall be replaced at a ratio of 2 acres planted for every acre removed.

D. **LANDSCAPE REGULATIONS:** The following regulations address perimeter landscaping, vehicular use area (off-street parking areas), interior landscaping and landscape screening for dumpsters, per the Landscape Requirements Table (Table 10-1 and Table 10-2).

1. **WHO PROVIDES LANDSCAPING:** Landscaping required to fulfill these regulations shall be provided by the property owner. If an adjacent property has landscaping fulfilling perimeter landscaping requirements, the requirement for perimeter landscaping along the common boundary may be waived if deemed appropriate by the Zoning Administrator.
2. **PLANTING MANUAL AND LANDSCAPE REGULATIONS GUIDELINES:** The legislative body shall have on file a manual that outlines recommended plant materials, illustrations of the landscape ordinance applications and minimum requirements for other landscape materials. This manual shall be used as a guideline to anyone preparing a landscape plan in order to meet the requirements of this section.

The Planting Manual and Landscape Regulation Guidelines include plant lists which can be used for reference purposes when selecting trees and shrubs to meet the requirements of these regulations. The lists are as follows:

PLANT LIST A: SHADE TREES

PLANT LIST B: FLOWERING AND NON - FLOWERING TREES

PLANT LIST C: EVERGREEN/BROADLEAF TREES

PLANT LIST D: DECIDUOUS SHRUBS

PLANT LIST E: EVERGREEN/BROADLEAF SHRUBS

PLANT LIST F: STREET TREES

PLANT LIST G: UNACCEPTABLE SHRUBS AND TREES

Please note that with the exception of Plant List G, Unacceptable Plants, the Plant Lists included in the manual are only suggestions of use groups that have been successful in this region for urban landscaping. The choice of plant materials is not limited to those of the lists, but all plants and trees specified on landscape plans that are not included must have proven acceptability in this region. No shrubs and trees on Plant List G will be permitted.

3. **TYPES OF LANDSCAPING REQUIRED**

- a. **EASEMENTS, RIGHTS-OF-WAY AND SETBACKS:** Landscaping must be placed in the required area between the property line and the front, rear and side yard setbacks, except as permitted herein. Required landscaping may be placed wholly or partially in utility or other easements providing all requirements can be fulfilled and approval is granted by the holder of the easements. Trees placed under overhead utility wires must be from List B. The rights-of-way of any public street may also be utilized for the required landscaping provided that approval is granted by the appropriate government. It must be noted that an Encroachment Permit shall be required from the Kentucky Transportation Cabinet to plant within state right-of-way. When rights-of-ways are used for required landscaping it shall be the responsibility of the property owner to maintain said landscaping and to replace any required landscaping subsequently removed by the Kentucky Transportation Cabinet or local legislative bodies.
- b. **SIGHT DISTANCE:** The placement of landscaping materials must meet the sight distance requirements as required by the latest version of the Kenton County Subdivision Regulations. All landscaping is prohibited within sight distance triangles at intersections, except ground covers and trees that are without limbs, with a ground clearance seven feet.
- c. **JOINT DRIVEWAYS:** If two properties share a driveway or vehicular use area and have a written reciprocal access agreement, no vehicular use area screening shall be required along the paved portion of the common boundary. Interior landscape shall be required on the property submitting plans.
- d. **DUMPSTERS:** Shall be screened on at least three (3) sides according to Table 10-3.

When dumpsters are located less than ten (10) feet from a building on the same property, landscape screening may be waived by the Zoning Administrator for the side of the dumpster facing that building wall, however, fencing shall be required on that side.
- e. **CONFLICTS IN REQUIREMENTS:** When an activity or land use falls under more than one of the categories listed in the table, the most stringent of the requirements shall be applied.

4. PLANTING MATERIALS

- a. **WALLS AND FENCES:** When walls or fences are used to fulfill screening requirements, they shall be indicated on the landscape plan. They are to be of weather-proof materials. This includes the use of synthetic or other construction materials or pressure treated lumber or

painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with wood or synthetic slat material shall not be used to meet the requirements of these regulations.

- b. **PLANTS AND TREES:** All plants are to be healthy and part of the acceptable plants listed in the Planting Manual. A plant manual should be obtained from the legislative body that specifies the recommended plant material.
1. **Quality:** Plant materials used in conformance with provision of this ordinance shall comply with the most current edition of the American Standards for Nursery Stock (ANSI Z60) as prepared and published by the American Association of Nurserymen. In addition all plant materials shall have passed any inspection required under state and/or local regulations.
 2. **Deciduous Trees** (trees which normally shed their leaves in the fall): Shall be species having an average mature crown spread of greater than fifteen (15) feet in Kenton County and having trunk(s) which can be maintained with a minimum of seven (7) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by a grouping of the same so as to create the equivalent of a fifteen (15) foot crown spread. A minimum overall height of six to eight (6-8) feet or a minimum caliper of at least 1-1/2 inch immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet from such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four (4) inches thick reinforced concrete.
 3. **Evergreen Trees:** Shall be a minimum of five (5) feet high with a minimum caliper of 1-1/2 inches immediately after planting.
 4. **Shrubs and Hedges:** Shall be at least 15" - 20" in average height when installed. All plants shall conform to opacity, mature height, and other requirements within four (4) years after the date of the final approval of each planting or replanting. Privet, Ligustrum species cannot meet the opacity requirements and may not be used to satisfy the requirements of this Article. The height of the planting shall be measured from the level of the surface of the vehicular use area at the edge closest to the screening.

5. Grass or Ground Cover: Grass of the fescus (Gramineae) or Bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in Kenton County, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover shall be planted not more than 15 inches on center and in such a manner as to present and have 75% of complete coverage after two complete growing seasons.
- c. EARTH MOUNDS: Earth mounds shall be constructed with slopes which allow easy maintenance of grass or other ground cover, however, no greater than a 3:1 slope (33%). Differences in elevation between areas requiring screening does not constitute an earth mound.
5. MAINTENANCE AND INSTALLATION: All landscaping materials shall be installed according to accepted planting procedures (see Planting Manual). The Owner of the property shall be responsible for the continued property maintenance of all landscaping materials, including existing trees, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three months. Topping trees or cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper for the maintenance of trees as required by this Article. Tree pruning cuts shall be made sufficiently close to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub so that closure can readily start under normal conditions. All branches that are so heavy as to cause bark splitting or peeling are to be pre-cut. Violation of these installation and maintenance provisions shall be grounds for the legislative body to refuse a building occupancy permit, require replacement of the landscape material or institute legal proceedings to enforce the provisions of this Article.
- E. SUBMISSION REQUIREMENTS: The following shall be included as part of the submission of a development plan:
 1. A plan shall be drawn to a scale no smaller than 1" = 100'-0" and shall include all property lines; a north arrow; a scale; all easements; all existing and proposed structures and their uses; dumpsters; all vehicular use areas, labeled as to size and number of parking spaces; the names and addresses of the owners and plan preparers.

- a. **LANDSCAPE PLAN:** In addition to the submission requirements contained within the Planting Manual and Landscape Ordinance Guidelines, Section II, A, a landscape plan shall include existing topography shown in two foot (2') contours or spot elevations where elevation changes occur in areas to be landscaped.
- b. **TREE PROTECTION PLAN:** Shall identify all trees within the disturbed limits that are to be preserved and part of the required tree protection areas. Such trees shall be protected during the construction phase, per guidelines in the Planting Manual and Landscape Ordinance Guidelines, Section II, C. The following information shall be provided:
 1. Existing tree canopy (location and extent expressed as a percentage of the total area of the proposed development).
 2. Proposed tree canopy protection areas.
 3. Proposed tree removal areas.
 4. Post-development tree canopy protection and replacement calculations.
 5. Where landscape plans under Section 12.6., F., 1. of this zoning ordinance are required as a condition of approval of the development plan, the requirements listed above shall be incorporated into the required landscaping plan.
- c. **BUILDING OR ZONING PERMIT:** A building or zoning permit shall not be issued until the required landscape plans have been approved.
- d. **CERTIFICATE OF OCCUPANCY:** A temporary Certificate of Occupancy may be issued even though the required landscaping has not yet been installed. A final Certificate of Occupancy shall not be issued unless either:
 1. All landscaping has been installed and accepted by the Building or Zoning Inspector, or
 2. A full cash bond, irrevocable letter of credit (on an approved bank), or other form of acceptable surety has been posted in an amount equal to the cost of contracting the purchase and installation of the landscaping, plus 10%.

The owner shall have up to six (6) months, as determined by the Zoning Administrator to install the required landscaping. If, after the established time frame, the landscaping is not installed, the legislative body will contract the landscaping using the posted bond. Two one month extensions of the bond may be allowed beyond the established time if it is determined that planting will be detrimental to the plant material.

F. PLANTING AND TREE PROTECTION ADJUSTMENTS

1. The Zoning Administrator shall have the authority to grant a waiver of any of the requirements in this section upon receipt of a written request which outlines the rationale for the planting adjustment. The Zoning Administrator shall review each written request and grant a waiver only: (1) under unusual or extreme circumstances which cause an unreasonable hardship such as the size of the lot; (2) when an innovative or alternative approach can be made which still meets the intent and purpose of this section; or (3) when the requirements of this section are impractical or unreasonable because of the existence of conditions specified in subsection J., 4. Of this section. All decisions made by the Zoning Administrator may be appealed to the Board of Adjustment, pursuant to this ordinance and Kentucky Revised Statutes.
2. **PLANNING COMMISSION - TO HEAR AND DECIDE APPLICATIONS FOR PLANTING AND TREE PROTECTION ADJUSTMENTS**
 - a. An applicant, at the time of filing of the application for a map amendment, Stage I Development Plan review, or Stage II Development Plan review, may elect to have any planting adjustments for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, Stage I Development Plan review, or Stage II Development Plan review, or by the Zoning Administrator as otherwise provided for in this section.
 - b. The planning commission shall review each adjustment request per the requirements of this ordinance and shall forward its findings to the Zoning Administrator. The ruling on the planting adjustment request shall be binding on the Zoning Administrator.
3. **PLANTING ADJUSTMENTS:** If the property owner wishes to request a planting adjustment of the Landscape Requirements of this article, an application shall be filed with the Zoning Administrator.
4. **REVIEWING ADJUSTMENT REQUESTS:** The Zoning Administrator or the planning commission, in its review of requests for adjustments, shall in making its decision consider all of the following criteria:
 - a. The need for the adjustment is due to circumstances typical of the land in the general vicinity of the site or in the same zone.
 - b. The strict application of the Landscape and Tree Protection Ordinance would deprive the applicant of a reasonable use of the land or create an unnecessary hardship.

- c. Circumstances necessitating an adjustment are not the result of an action by the applicant subsequent to the passage of the Landscape and Tree Protection Ordinance.
- d. Adherence to the Landscape and Tree Protection Ordinance will adversely affect the health, safety and welfare of the public or will adversely alter the general character of the general vicinity.
- e. When an innovative or alternative approach can be made which still meets the intent and purpose of this section.
- f. The existence of significant grade separations between adjoining developments or properties.
- g. The horizontal distance between the proposed development and the adjoining property.
- h. The existence of natural features (water bodies, tree lines, creeks or streams) that are proposed to be maintained.
- i. The different land use intensities that can be found within the same land use categories (i.e., a small single tenant office use or a 24 hour gasoline/convenience store can both be developed in a commercial zone).

TABLE 10-1
PROPERTY PERIMETER REQUIREMENTS

DEVELOPING ZONE/USE	ADJOINING ZONE/USE	MINIMUM PLANTING STRIP	PLANT MATERIAL/OPTIONS
Any commercial or professional office zone or land use, or any conditional use	Any residential zone or land use	20 feet	<p>Choose one of the following:</p> <ol style="list-style-type: none"> 1 tree per 35 linear feet, or fraction thereof, from List A* (shade trees), plus double row hedge from list E (evergreen/broadleaf shrubs) 1 tree per 20 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus double row hedge from List E (evergreen/broadleaf shrubs) 1 tree per 40 linear feet, or fraction thereof, from List A (shade trees), plus a hedge from List D, plus a 6 foot wall, fence, or earth mound 1 tree per 40 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus a hedge from List D, plus a 6 foot wall, fence, or earth mound Double row, staggered planting of trees from List C at 15 feet on center

* Plant lists can be found in the "Planting Manual And Landscape Regulation Guidelines"

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.

Table 10-1 (continued)

DEVELOPING ZONE/USE	ADJOINING ZONE/USE	MINIMUM PLANTING STRIP	PLANT MATERIAL/OPTIONS
Any industrial zone or land use	Any residential zone	75 feet side and rear yard	Double row of staggered trees from List C (evergreen/broadleaf trees) at 15 feet on center, plus a 36 foot wide, 6 foot tall, earthen berm
	Any commercial or professional office zone	50 feet side and rear yard	Double row of staggered trees from List C (evergreen/broadleaf trees) at 15 feet on center
			STORAGE YARD: A hedge from List E (evergreen/broadleaf shrubs) facing the front yard only and/or any public/private street plus a 6 foot fence or wall

* Plant lists can be found in the "Planting Manual And Landscape Regulation Guidelines"

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.

Table 10-1 (continued)

DEVELOPING ZONE/USE	ADJOINING ZONE/USE	MINIMUM PLANTING STRIP	PLANT MATERIAL/OPTIONS
Any multi-family residential (3 units per building or greater density) zone or land use	Any single family residential zone or land use	20 feet	Choose one of the following: 1. 1 tree per 45 linear feet, or fraction thereof, from List A* (shade trees), plus a double row hedge from List E (evergreen/broadleaf shrubs) 2. 1 tree per 20 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus a double row hedge from List E (evergreen/broadleaf shrubs) 3. A hedge from List D (deciduous shrubs), plus a 6 foot wall, fence, or earth mound 4. Continuous double row, staggered planting of trees from List C (evergreen/broadleaf trees) at 15 feet on center
Any commercial, professional office or industrial zone or land use	The public right-of-way, public or private street	10% of each yard area must be landscaped	Trees, shrubs, planting beds, and/or perennials in a motif designed by the owner. A minimum of 3 trees shall be planted per 100 linear feet, or fraction thereof, of road frontage. This is not in addition to other required landscaping.

* Plant lists can be found in the "Planting Manual And Landscape Regulation Guidelines"

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.

Table 10-1 (continued)

DEVELOPING ZONE/USE	ADJOINING ZONE/USE	MINIMUM PLANTING STRIP	PLANT MATERIAL/OPTIONS
A junk, salvage, refuge, or parts yard or recycling center	Any residential zone Any commercial or professional office zone Any industrial zone or street (public or private)	75 feet 50 feet 20 feet	Choose one of the following: 1. 1 tree per 35 feet of linear boundary, or fraction thereof, from either List A (shade trees) or List B (flowering and non-flowering trees), plus a single row hedge from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs), plus a 6 foot wall or fence 2. A double row, staggered planting of trees from List C (evergreen/broadleaf trees) at 15 feet on center, plus a 6 foot solid fence or wall
Street trees may be planted along all public or private streets to meet the requirements of these regulations		5 feet	Choose one of the following: 1. 1 tree every 60 feet on center (maximum) from List A (shade trees) 2. 1 tree every 60 feet on center (maximum) from List F (street trees) 3. 1 tree every 60 feet on center (maximum) from List B (flowering and non-flowering trees)

* Plant lists can be found in the "Planting Manual And Landscape Regulation Guidelines"

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.

TABLE 10-2
INTERIOR LANDSCAPE REQUIREMENTS

DEVELOPING ZONE/USE	ADJOINING ZONE/USE	MINIMUM PLANTING STRIP	PLANT MATERIAL/OPTIONS
A Vehicular Use Area (VUA) associated with any zone or land use, except single-family	Any public or private street	10 foot perimeter screening easement	<p>Choose one of the following:</p> <ol style="list-style-type: none"> 1 tree per 40 linear feet, or fraction thereof, from List A* (shade trees), plus 8 shrubs per 40 linear feet, or fraction thereof, from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs) 1 tree per 25 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus 8 shrubs per 40 linear feet, or fraction thereof, from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs)
		If over 25 feet	If the planting strip exceeds 25 feet in width, shrubs are not required
	--PLUS --	--PLUS --	--PLUS --
	in all cases	5% interior landscaped area (2)	1 tree per 250 square feet of interior landscaped area from either List A (shade trees) or List B (flowering and non-flowering trees) (1 tree minimum)

* Plant lists can be found in the "Planting Manual And Landscape Regulation Guidelines"

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.

FIGURE 10-1
REQUIRED PERIMETER LANDSCAPING FOR BUILDING ADDITIONS

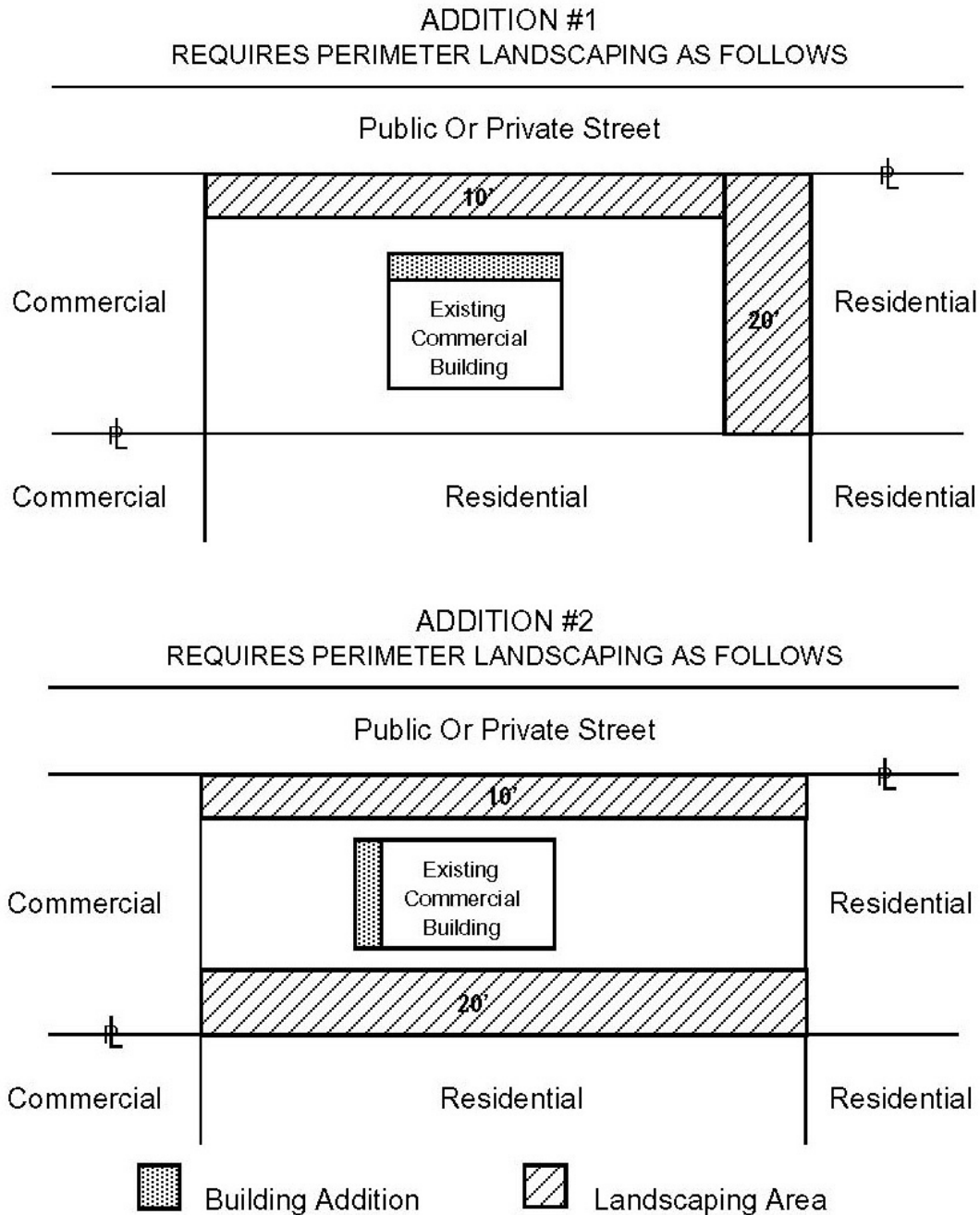
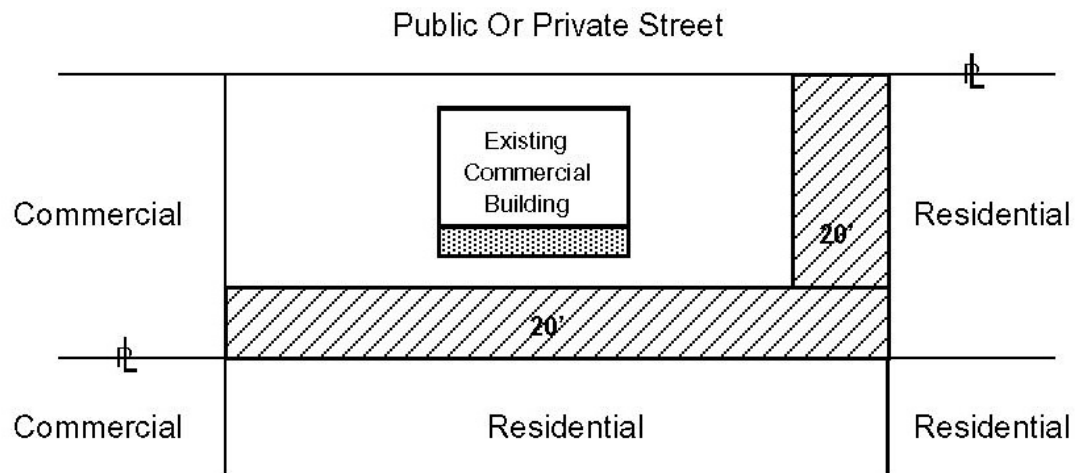


FIGURE 10-1 (continued)
REQUIRED PERIMETER LANDSCAPING FOR BUILDING ADDITIONS

ADDITION #3
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS



ADDITION #4
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

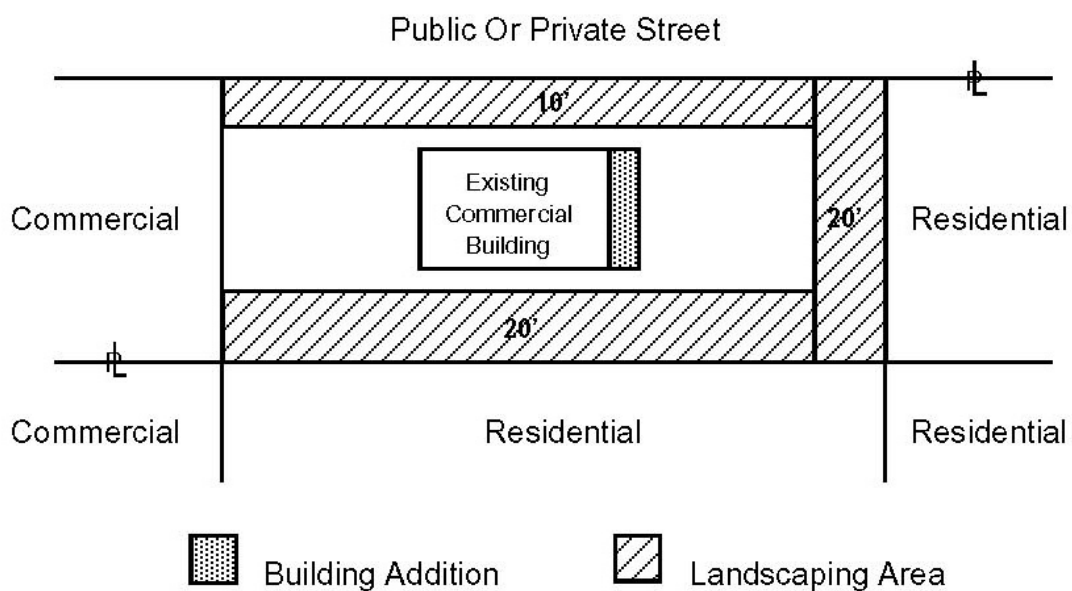


TABLE 10-3
DUMPSTER SCREENING TABLE

DUMPSTER* OCCURS IN	WHICH ADJOINS	REQUIRED SCREENING**
any zone or land use other than residential	any zone or land use other than residential	fencing per manual plant
any residential land use or zone	any zone or land use	fencing per plant manual plus hedge on three sides from list D or E
any zone or land use	any residential land use or zone	fencing per plant manual plus hedge on three sides from list D or E

* Includes dumpsters, compactors, and all other solid or other waste containers

** If a dumpster is oriented towards a street or toward the nearest perimeter of the site, and can be seen from the street or the adjoining property, that side must also be screened

ARTICLE XI

OFF-STREET PARKING, ACCESS CONTROL, AND OFF-STREET LOADING AND/OR UNLOADING REGULATIONS

SECTION 11.0 OFF-STREET PARKING REQUIREMENTS

- A. **GENERAL:** In all zones, off-street parking facilities for use by occupants, employees, and patrons of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this ordinance, shall be provided and maintained as herein prescribed. However, where a building permit has been issued prior to the date of adoption of this ordinance, and provided that construction has not begun within ninety (90) consecutive calendar days of such effective date, off-street parking facilities in the amounts required by this ordinance shall prevail.
- B. **COMPUTATION OF PARKING SPACES:** In determining the number of required off-street parking spaces required, if such spaces result in fractional parts thereof, the number of said required spaces shall be construed to be the next highest whole number.
- C. **ADDITIONAL PARKING SPACES TO BE PROVIDED:** Whenever the intensity of use of any building, structure, or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, change of use, or other units of measurement specified herein, additional parking spaces shall be provided in the amounts hereafter specified for that use, if the existing off-street parking area is inadequate to serve such increase in intensity of use.
- D. **LOCATION OF OFF-STREET PARKING FACILITIES**
1. Off-street parking facilities shall be located as follows:
 - a. **Single-Family Residential Zones**
 - (1) Off-street parking may be permitted in driveways in the front, side, and rear yards of permitted uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking located in the rear yard shall be set back a minimum of ten (10) feet from the rear lot line. No off-street parking area, for permitted uses, located in the front yard in a single-family residential zone, may exceed four hundred (400) square feet (two parking spaces) except, however, the zoning administrator may allow additional off-street parking spaces to be located thereon, provided that the additional parking spaces will not cause the ratio of unpaved area to paved area (parking and driveway areas) in the front yard to be less than 3:1.
 - (2) Off-street parking may be permitted in the side and rear yards of conditional uses in these zones, provided all requirements of this

ordinance are met. Additionally, off-street parking, located in the rear yard, shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in the front yard, only if approved by the Board of Adjustment.

b. Multi-Family Residential Zones

- (1) Off-street parking may be permitted in the side and rear yards of permitted uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking located in the rear yard shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in front yards, only if approved according to an approved development plan.
- (2) Off-street parking may be permitted in the side and rear yards of conditional uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking, located in the rear yard, shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in the front yard, only if approved by the Board of Adjustment.

- c. Special Development Zones - Off-street parking shall be located as designated on the approved development plan.
- d. Commercial and Industrial Zones - Except as herein provided, off-street parking may be permitted in the front, side, and rear yards of these zones, provided that all off-street parking facilities shall be set back a minimum of five (5) feet from any street right-of-way line.
- e. Institutional and Community Commercial Zones - Off - street parking is not permitted within any required minimum front yard, unless approved according to an approved development plan. Off - street parking may be permitted in front, side, and rear yards of permitted uses within these zones, provided that off - street parking facilities are set back a minimum of ten (10) feet from the property line.

2. All off-street parking facilities shall be located on the same lot as the building served, except for the following:

- a. Permitted uses within multi-family and industrial zones may supply off-street parking within three hundred (300) feet from such lot served, upon approval of the zoning administrator, provided that such off-street parking facilities are unable to be provided on the same lot, or contiguous to the same lot, as the building being served. In addition, said off-street parking shall be located in the same zone as the use being served.
- b. Existing single, two, or multi-family dwellings, which are permitted uses herein and occupy a lot of such size that off-street parking could not be provided on the same lot as the use being served, said off-street parking may be permitted to locate within three hundred (300) feet from said dwelling or dwellings, upon approval of the zoning administrator. In

- addition, said off-street parking lot shall be located in the same zone as the use being served.
- c. Off-street parking, as required for a conditional use, may be permitted to locate on a lot other than the lot on which the building or use being served is located, when approved by the Board of Adjustment, provided that said off-street parking is located at the most convenient and visible area nearest to the use or building being served and available at all times without restrictions for said purposes, except as provided for under Section 11.0, E. of this ordinance.
 - d. Permitted uses in the RCO Zone may utilize off-street parking as is available within one thousand (1,000) feet of the building or use being served. Public parking in this area may also be used to fulfill parking requirements. If parking is not exclusively available for the building or use, the owner or operator shall provide a study documenting that adequate parking is available for the use, recognizing the specific peak hour and turnover characteristics of the use in question and other users of the parking facilities.
- E. **COLLECTIVE PARKING PROVISION:** Collective off-street parking facilities may be provided, however, the area for such parking facilities shall not be less than would otherwise be individually required, except as provided for under Section 11.0, E. of this ordinance.
- F. **SHARED PARKING PROVISION:** When any land or building is under the same ownership, or upon submission of satisfactory guarantees of the continued operation and proper maintenance of the shared parking facility, and proposed development is for two (2) or more land uses, excluding residential uses, the number of required off-street parking spaces shall be computed by multiplying the minimum number of parking spaces normally required for each land use by the appropriate percentage, as shown in the following shared parking credit table, for each of the five (5) time periods. The number of required off-street parking spaces is then determined by adding the results in each column. The column total that generates the highest number of parking spaces becomes the minimum parking requirement.

Alternative shared parking standards may be used if a special parking study is submitted in accordance with Section 11.2, B. A special parking study may be submitted if a specific use is not listed below or an applicant wishes to reduce the number of required parking spaces for a use listed below.

SHARED PARKING CREDIT TABLE

LAND USE TYPE	Time Of Operation				
	Weekday		Weekend		Nighttime
	Daytime (6 am - 6 pm)	Evening (6 pm - midnight)	Daytime (6 am - 6 pm)	Evening (6 pm - midnight)	(Midnight - 6 am)
Office/Industrial	100%	10%	10%	5%	5%
Retail/Personal Service	60%	90%	100%	70%	5%
Hotel/Motel	75%	100%	75%	100%	75%
Restaurant					
Drive-in, Carry-out, or Combination	100%	90%	100%	95%	10%
Sit-down	90%	100%	75%	100%	10%
Indoor Theater/Commercial Recreational Establishment	40%	100%	80%	100%	10%
Religious Assembly	10%	80%	100%	80%	10%

1. The following requirements shall apply to any shared parking facility:
 - a. The shared parking facility must be located within six hundred (600) feet walking distance of the entrance of the establishment to be served. Said walkway access shall provide a safe means of pedestrian access to and from the establishment being served.
 - b. Reserved spaces shall not be shared.
 - c. It shall be determined at the time of parking facility plan approval that shared parking is possible and appropriate at the location proposed. Particular attention is needed to assure that sufficient and convenient short-term parking will be available to commercial establishments during the weekday daytime period. The short-term shared parking spaces must be located in the most convenient and visible area of the parking facility nearest the establishment being served.
 - d. Any subsequent change in use shall require the issuance of a new zoning permit and proof that minimum parking requirements, per these regulations, will be met.
 - e. An agreement providing for the shared use of parking, executed by the parties involved, must be filed with the Zoning Administrator, in a form approved by the Zoning Administrator. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, then parking must be provided as otherwise required by this article.

G. COOPERATIVE PARKING

1. Cooperative parking represents an arrangement whereby two (2) or more retail sales and service, personal improvement service, and/or eating and drinking establishment uses provide their required off-street parking in the same parking lot, thereby reducing the number of individual parking lots and the number of curb cuts required to serve such lots. Reduced off-street parking requirements are available as an incentive for providing cooperative parking.
 2. The following reductions in the number of off-street parking spaces required are allowed when multiple uses provide their off-street parking in the same parking lot, as follows:
 - a. A 20% reduction is allowed when 4 or more uses are involved;
 - b. A 15% reduction is allowed when 3 uses are involved; and
 - c. A 10% reduction is allowed when 2 uses are involved.
 3. An agreement providing for the shared use of parking, executed by the parties involved, must be filed with the Zoning Administrator, in a form approved by the Zoning Administrator. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, then parking must be provided as otherwise required by this article.
- H. **DRIVEWAYS NOT COMPUTED AS PART OF REQUIRED PARKING AREA:** Entrances, exits, or driveways shall not be computed as any part of a required off-street parking area, except in the case of single-family residential zones, where access driveways may be used for parking.
- I. **OFF-STREET PARKING SPACE TO BE USED FOR PARKING ONLY:** Any vehicle parking space shall be used for parking only. Any other use of such space, including repair work or servicing of any kind, other than in an emergency, or the requirement of any payment for the use of such space, shall be deemed to constitute a separate commercial, use in violation of the provisions of this ordinance.
- J. **NO BUILDING TO BE ERECTED IN OFF-STREET PARKING SPACE:** No building of any kind shall be erected in any off-street parking area, except a parking garage containing parking spaces equal to the requirements set forth in this section of the ordinance or a shelter house/booth for a parking attendant, provided the number of required spaces are not reduced.
- K. **PARKING PLAN APPROVAL REQUIRED:** Plans for all off-street parking ~~lot~~ facilities, including parking garages, shall be submitted to the zoning administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the city. Such plans shall show the number of spaces and arrangements of parking aisles, location of access points onto adjacent streets, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location of shelters for parking attendant, locations of signs, typical cross-sections of pavement, including base and sub-base, proposed grade of parking lot, storm

drainage facilities, location and type of lighting facilities, and such other information or plans as the circumstances may warrant. Where such parking plans include provisions for access points to adjacent streets, then said plans shall also be prepared in accordance with the requirements of Section 11.3 of this ordinance.

SECTION 11.1 DESIGN AND LAYOUT OF OFF-STREET PARKING AREAS

A. SIZE OF OFF-STREET PARKING SPACES AND ACCESS DRIVES

Parking Angle	Standard Parking Space (maximum 165 sq. ft.)		Minimum Width of Access Drive	Vertical Clearance
	Width (ft.)	Length (ft.)		
Degrees				
0 (Parallel)	9	18	12 ft., one way circulation only	7 ft.
30	9	18	11 ft., one way circulation only	7 ft.
45	9	18	12 ft., one way circulation only	7 ft.
60	9	18	15 ft., one way circulation only	7 ft.
90 (Perpendicular)	9	18	22 ft., one or two way circulation	7 ft.

1. Except as herein provided, the minimum width of access drives or aisles shall be required whether the access drive or aisle provides access to an off-street parking area or individual off-street parking spaces.
2. When any combination of these types of parking is used (facing the same aisle) the most restricted aisle or access drive width requirements shall prevail. In addition, a two (2) foot overhang may be permitted on the external sides of a parking area.
3. If the width of the parking space is increased over nine (9) feet, the drive aisle width can be decreased proportionally (two (2) foot width in drive aisle per one (1) foot increase in space width) except that a drive aisle for two-way traffic may not be decreased below twenty (20) feet in width and a drive aisle for one-way traffic may not be decreased below eleven (11) feet in width.

- B. **ACCESS TO OFF-STREET PARKING SPACES:** Each required off-street parking space shall be connected with a deeded public right-of-way by means of aisles or access drives. The off-street parking area shall be so designed to ensure that all maneuvering into and out of each off-street parking space shall take place entirely within property lines of lots, garages, and/or storage areas.

- C. **OFF-STREET PARKING AREAS IN MULTI-FAMILY, COMMERCIAL, OR INDUSTRIAL ZONES:** All such off-street parking areas shall have a protective wall and/or bumper blocks around the perimeter of said off-street parking area and shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic. All off-street parking areas shall be effectively screened on each side adjoining or fronting on any property situated in a zone permitting single-family residential dwellings, as regulated by Section 9.17 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.
- D. **LIGHTING:** Any lighting used to illuminate off-street parking areas shall not glare upon any right-of-way or adjacent property.
- E. **PAVING OF NEW OFF-STREET PARKING AREAS**
1. All new off-street parking areas shall be paved with asphalt concrete or Portland Cement concrete and shall be designed and constructed in accordance with Appendix A of this ordinance. Alternative hard surface paving systems, including decorative pavers, may be used, provided that the system and materials used will have the same or greater load bearing strength as asphalt concrete or cement concrete specified in Appendix A of this ordinance. The zoning administrator may, however, allow parking lots to be paved with gravel for a period of up to one (1) year to allow settling when such lot is constructed on a former building site, or when weather conditions prevent immediate paving with a hard surface. Under no circumstances shall an off-street parking area be used for more than one (1) year without being paved in accordance with the above requirements.

The above regulations shall not supercede the requirements for alternative off-street area design, such as storm water best management practices, that may be required by another governmental agency.
 2. In any residential zoning district, where the depth of the front yard is one hundred (100) feet or more, an access drive serving single-family residential uses may be paved with gravel. Any subsequent subdivision of property, creating front yards of less than one hundred (100) feet in depth, shall require such drives to be paved with asphalt concrete or Portland Cement concrete. This provision shall not apply to flag lots, as herein defined.
- F. Except as herein provided, no use of land, or construction thereon, which involves or is intended for the transaction of any business between the occupant of a motor vehicle and any employer, or other person or machine, at a designated location within a building, shall be permitted unless an area no less than eleven (11) feet wide and one hundred (100) feet long is paved and restricted to the use of motor vehicles waiting in line to approach the designated location at which such transactions may be conducted.

SECTION 11.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS: The amount of required off-street parking for uses, buildings, or additions, and changes in intensity of uses thereto, shall be determined according to the following requirements, and the space, so required, shall be stated in the application for a zoning and building permit and shall be reserved for such use. Where more than one use is located in the same building, each individual use shall be in accordance with the off-street parking requirements of this section of the ordinance, except as provided for under Section 11.0, E. of this ordinance.

Use	Minimum Number of Vehicle Parking Spaces Required
RESIDENTIAL USE GROUP	
Group Living	1 space per 2 employees, or 1 space per 4 beds; whichever is greater
Household Living	
Manufactured Home	2 spaces per dwelling unit
Mobile Home	
Mobile Home Park	
Multi-Family Residential Dwelling	1 bedroom units: 1 space per unit 2 or more bedroom units: 2 spaces per unit
Single-Family Residential Dwelling (attached)	2 spaces per dwelling unit
Single-Family Residential Dwelling (detached)	
Single-Family Residential Dwelling (lot line)	
Two-Family Residential Dwelling	
Qualified Manufactured Housing Unit	
PUBLIC AND CIVIC USE GROUP	
Colleges and Universities	Upon receiving a development application for a use subject to the special parking study standards of this section, the zoning administrator must apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking study prepared by the applicant.
Convention Center/Training Facility	Fixed seating: 1 space for every 3 seating accommodations Without fixed seating: 1 space for every 3 persons based on maximum capacity
Cultural Exhibits and Libraries	3 spaces per 1,000 square feet of gross floor area
Day Care or Day Care Center	
Babysitting Service	None, other than what is required for the residential use
Day Care, Type 1	1 space per 6 children/adults, or 1 space per 400 square feet of gross floor area, whichever is greater
Day Care, Type 2	
Family Day Care Home	1 space, plus the required spaces for the residential use
Hospital	1 space per bed
Lodge or Private Club	Fixed seating: 1 space per 4 seating accommodations in the main assembly area Without fixed seating: 1 space per 4 persons based on the maximum design capacity

Use	Minimum Number of Vehicle Parking Spaces Required
Recreation and Open Space	Upon receiving a development application for a use subject to the special parking study standards of this section, the zoning administrator must apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking study prepared by the applicant.
Postal Service	5 spaces per 1,000 square feet of gross floor area, plus 1 space per 2 employees on duty during the largest shift, plus 1 space per company vehicle operating from the premises
Religious Assembly	Fixed seating: 1 space per 5 seating accommodations Without fixed seating: 1 space per 5 persons, based on maximum design capacity
Safety Services	1 space per 2 employees on duty during the largest shift
Schools	Elementary and junior high schools: 2 spaces per classroom, plus 1 space per 8 seats in the auditorium or assembly hall; High schools: 1 space per 5 seats in the assembly hall of greatest capacity on the school grounds, or 1 space per 9 students, whichever is greater
Social Service Agency	3 spaces per 1,000 square feet of gross floor area
Utilities	1 space per 2 employees
COMMERCIAL USE GROUP	
Animal Services	2.5 spaces per 1,000 square feet of gross floor area, excluding space used for animal pens or other non-public areas
Body-Art Services	2 spaces per 1,000 square feet of gross floor area
Building Maintenance Services	
Business Equipment Sales and Service	
Business Support Services	
Communication Service Establishment	
Construction Sales and Services	2 spaces per 1,000 square feet of gross floor area, plus 1 space per 1,000 square feet of outdoor storage and display area
Eating/Drinking Establishment	1 space per: a) 50 square feet of gross floor area in a drive-in restaurant; b) 250 square feet of gross floor area in a carry-out restaurant; c) 100 square feet of gross floor area or 4 seating accommodations based on maximum capacity, whichever is greater in a combination restaurant; or d) 250 square feet of gross floor area or 4 seating accommodations based on maximum capacity, whichever is greater in a sit-down restaurant

Use	Minimum Number of Vehicle Parking Spaces Required
Entertainment – Indoor	
Theater/Cinema	1 space per 4 seating accommodations
Bowling Alley	4 spaces per lane
Dance Halls, Pool and Billiard Halls, and Exhibition Halls without Fixed Seating	10 spaces per 1,000 square feet of gross floor area used for dancing or assembly, or 1 space per 4 persons based on maximum capacity, whichever is greater, plus 1 space per 2 employees on duty during largest shift
All Other	Fixed seating: 1 space per 4 seating accommodations Without fixed seating: 1 space per 4 persons based on maximum capacity
Entertainment - Outdoor	Upon receiving a development application for a use subject to the special parking study standards of this section, the zoning administrator must apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking study prepared by the applicant.
Financial Services	2 spaces per 1,000 square feet of gross floor area
Food and Beverage Sales, Retail	
Fortune Telling Service	
Funeral and Internment Services	Fixed seating: 1 space per 4 seating accommodations in the main chapel or public assembly areas, plus 1 space per funeral vehicle and employee Without fixed seating: 1 per 50 square feet of gross floor area or 1 space per 4 persons, based on maximum capacity, in the main chapel or public assembly areas, whichever is greater, plus 1 space per funeral vehicle and employee
Gasoline Stations	1 space per gas pump island, plus 2 spaces per working bay, plus 2 spaces per 1,000 square feet of gross floor area of retail sales and service
Greenhouse/Nursery	2.5 per 1,000 square feet of gross floor area
Lodging	
Bed and Breakfast	1 space per guest room, plus the required spaces for the residential use
Hotel/Motel	1 space per guest room, plus 2.5 spaces per 1,000 square feet of gross floor area of meeting areas and/or restaurant
Medical Services	3 spaces per 1,000 square feet of gross floor area
Office	
Personal Improvement Service	4 spaces per 1,000 square feet of gross floor area
Residential Storage Warehouse	1 space per 25 storage units, plus 3 spaces per 1,000 square feet of gross floor area of office space
Retail Sales and Service	4 spaces per 1,000 square feet of gross floor area

Use	Minimum Number of Vehicle Parking Spaces Required
Sexually Oriented Business	Upon receiving a development application for a use subject to the special parking study standards of this section, the zoning administrator must apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking study prepared by the applicant.
Vehicle Sales and Service	
Auto Supply/Accessory Sale	2.5 spaces per 1,000 square feet of gross floor area
Car Wash	1 space per washing and drying stall
Vehicle/Equipment Sales (Includes Auto, Boat, and RV)	1 space per 1,000 square feet of gross floor area of sales and display areas
Body Shop	2.5 spaces per 1,000 square feet of gross floor area, plus 1 space per bay
Vehicle Repair (no shops/painting)	3 spaces per bay
INDUSTRIAL USE GROUP	
Junk/Salvage Yard	1 space per employee
Manufacturing, Production, and Industrial Service	1 space per 2 employees on largest shift for which the building was designed, plus 1 space per company vehicle operating from the premises
Mining/Excavation	1 space per 2 employees on largest shift
Recycling Facilities	1 space per employee, plus 1 space per vehicle operating from the premises
Warehouse and Freight Movement	
Waste Related Service	
OTHER USE GROUP	
Marine-Related Use	Upon receiving a development application for a use subject to the special parking study standards of this section, the zoning administrator must apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking study prepared by the applicant.

A. If a specific use is not listed:

1. Upon receiving a development application for a use subject to the special parking study standards of this section, the zoning administrator must apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking study prepared by the applicant.
2. The special parking study must include estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the Zoning Administrator, and include other reliable

data collected from uses or combination of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study must document the source of data used to develop the recommendations.

B. Alternative Minimum Parking Requirements

1. Alternative minimum off-street parking requirements and land banking of required off-street parking may be authorized by the Planning Commission, or its duly authorized representative, subject to the following conditions:
 - a. A reduction in the number of off-street parking spaces may be authorized when the applicant shows that the minimum required number of spaces, as set forth below, is substantially in excess of the parking needed to reasonably serve the employees, patrons, and other persons frequenting the proposed development. The Planning Commission, or its duly authorized representative, shall determine the actual number of spaces to be constructed based upon evidence submitted by the applicant in a special parking study.

The special parking study must include estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the Planning Commission, or its duly authorized representative, and include other reliable data collected from uses or combination of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study must document the source of data used to develop the recommendations.

The special parking study may include provisions for off-site parking, parking cash-out, in-lieu of fees, business improvement districts, access to mass transit, access to public parking lots or garages, or other considerations, provided sufficient proof is provided to indicate such provisions are adequate to justify a reduction in the parking standards.

- b. Land bank provisions shall be provided on a development plan showing how the additional number of spaces otherwise required could subsequently be provided on the site. The additional parking area shall maintain all required yards, setbacks, and driveways for subject property shall meet all requirements of this code. The additional parking areas design may be a surface lot or parking garage, as determined on the development plan.
 - c. Sufficient usable space shall be reserved upon the subject property for the future construction of such additional spaces as may be necessary to accommodate any differential between the number of spaces to actually be constructed as part of the proposed development and the number of spaces required by this ordinance. The reservation of said spaces and the purpose

- therefore, shall be shown upon the approved development plan and shall be a component of any future submittal involving the subject property
- d. Deed restrictions for the subject property shall be recorded setting forth the area to be land banked and a statement of the purpose of such land bank, and binding any future assigns or heirs to said restrictions and any other conditions that may be required by the Planning Commission, or its duly authorized representative. A copy of the recorded restrictions shall be provided to the Planning Commission, or its duly authorized representative.

C. LARGE-SCALE OFF-STREET PARKING LOTS

1. **INTENT:** The intent of these regulations are to lessen the impact of large parking surfaces typically associated with large-scale developments by: reducing the “sea of asphalt” feel by promoting a more aesthetically pleasing design; increasing pedestrian safety by promoting pedestrian friendly features within the parking areas; and reducing the environmental impact of large impervious surfaces by promoting alternative construction methods.
2. **APPLICABILITY:** These regulations shall apply to any development that is required to provide four hundred (400) or more off-street parking spaces, including retail sales and service uses whose principal structure fits the definition of large scale retail establishment as defined in Section 2.8 of this ordinance.
3. **DEVELOPMENT STANDARDS**
 - a. **Parking in the Front Yard:** No more than sixty (60) percent of the required parking shall be permitted within the front yard of the principal building(s) and the primary abutting streets unless the principal building(s) and/or parking lots are screened from view by outlot developments and/or additional landscaping, berms, street walls, or any combination thereof.
 - b. **Parking Cap:** No more than 125% of the required parking shall be provided on the site. Any percentage of parking over 100% shall be constructed of a pervious surface, open grid matrix, or reinforced turf
 - c. **Pods of Parking:** No single parking area shall exceed 200 off-street parking spaces unless divided into two (2) or more distinct sub-areas separated from each other by landscaping, access drives or streets, pedestrian walkways, buildings, or any combination thereof.
 - d. **Internal Circulation Systems:**
 - i. Clearly marked pedestrian paths that are delineated by landscaping, a raised surface, and/or consist of different materials than the rest of the parking lot must be provided within the off-street parking areas
 - ii. Off-street parking areas shall include sidewalks that connect transit stops, parking areas, and public sidewalks.

- e. If a physical hardship exists on a site based on the strict application of these regulations, because of topographic or other situations, the Zoning Administrator may make adjustments to these regulations to suit the site in question. The adjustments shall be the minimum needed to meet the intent of these regulations.
- D. **BICYCLE IMPROVEMENTS:** A sufficient number and type of bicycle racks and associated facilities shall be provided at the entrance to each development/building. The parking shall be located so as to provide safety, security, and convenience for bicycle riders. As such, these facilities shall be located a safe distance from pedestrian and vehicular traffic. The following requirements shall apply to multi-family residential, office, commercial, and industrial uses located along collector and arterial streets within (jurisdiction):
- 1. Provide at least two (2) spaces for each twenty-five (25) vehicular off-street parking spaces required, with a minimum of four (4) spaces for each development entrance/building. At least two (2) spaces must be provided within seventy-five (75) feet of the primary entrance. No more than fifty (50) bicycle parking spaces shall be required for any individual development.
 - 2. Locate parking facilities outside of vehicular or pedestrian traffic ways, by providing either a minimum three (3) foot separation, or a curb or other physical barrier.
 - 3. Parking facilities shall be constructed of durable, strong materials that can be permanently anchored to the ground and designed to allow the easy use of locks.

SECTION 11.3 ACCESS CONTROL REGULATIONS

A. PURPOSE

The location and design of access points shall be in accordance with the following access control regulations in order to: Promote greater safety of passage between streets, sidewalks, and land; improve the convenience and ease of movement of travelers and pedestrians on streets and sidewalks; permit reasonable speeds and economy of travel, and increase and protect the capacity of streets. These regulations shall apply to all street classifications as outlined in the adopted comprehensive plan, or in the case of new or proposed streets, as identified on the submitted development plan.

B. PROVISION OF ACCESS POINTS

- 1. Access to individual lots, dwelling units or parking areas shall be provided through a shared access point with adjacent properties. Shared access shall be provided through the use of a public or private street, access drive or a driveway. All streets and driveways shall connect to the public street system on the adjacent street having the lowest functional classification, which meets applicable spacing standards and other conditions as identified in Section 13.3., D., 4.

2. When shared access is not possible, one (1) driveway per lot shall be permitted to the adjacent street having the lowest functional classification and which meets applicable spacing standards and other conditions as identified in Section 13.3., D., 4.
3. Access points shall be further regulated as follows:

Access proposed	Access requirements
A parcel of land or development proposing multiple access points.	Not permitted unless otherwise approved by the planning commission's duly authorized representative after completion of a Traffic Impact Study. Traffic Impact Studies shall be completed in accordance with the Traffic Impact Study requirements set forth in Section 4.5 and document the necessity of multiple access points to ensure the safety and capacity of the roadway.
A parcel of land which has no means of access to meet the requirements of this section of the zoning ordinance.	<ol style="list-style-type: none"> a. One (1) restricted access point shall be permitted. Such access point shall be considered temporary and shall be terminated, reduced or caused to be relocated by the zoning administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a public or private street, access drive, or driveway. Temporary access points shall be noted on the development plan or site plan submitted for a zoning permit and also on the deed of the property in question. b. A single or two-family residential dwelling with no means of access to meet the requirements of this section of the zoning ordinance shall be permitted one (1) full access point on local streets or (1) restricted access point on collector or arterial streets.

D. CONDITIONS FOR THE PROVISION OF ACCESS POINTS

The following regulations shall apply unless otherwise approved by the planning commission's duly authorized representative after completion of a Traffic Impact Study which shall document that the proposed improvements will not adversely impact the safety or capacity of the primary roadway, with the exception of sight distance requirements, which must be met. Requirements for Traffic Impact Studies are outlined in Section 4.5.

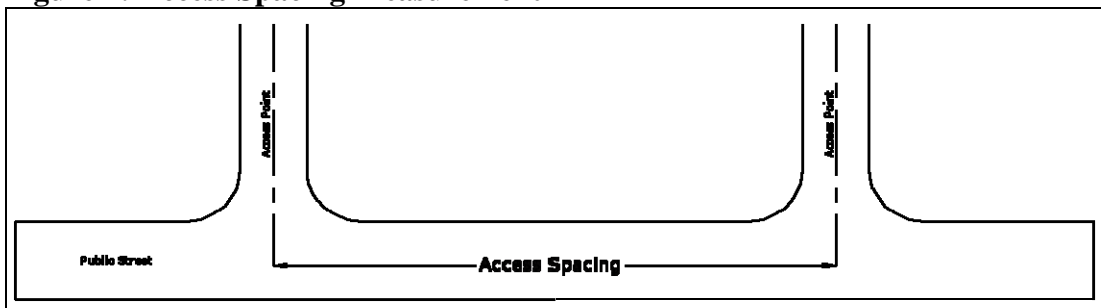
1. **Sight Distance**
The location of access points shall comply with sight distance requirements from both the primary and intersecting roadway appropriate to intersection traffic control. Sight distance requirements are set forth in the Kenton County Subdivision Regulations.
2. **Alignment**
The centerline of all access points should intersect at a ninety (90) degree angle where possible and in no case shall the angle of intersection be less than seventy-five degrees unless otherwise approved by the planning commission or its duly authorized representative after completion of a Traffic Impact Study.
3. **Access Spacing**
 - a. All proposed access points shall meet the minimum spacing standards in Table 1.
 - b. Spacing standards shall be determined as measured from centerline of the access point to centerline of the access point as shown in Figure 1.
 - c. No access point shall be permitted within 300 feet from the edge of pavement of an arterial street nor within the limits of auxiliary left or right turn lanes at intersections.

Table 1: Access Spacing Standards

Functional Classification	Signalized Intersection Spacing	Full Access	Partial Access
Arterial	2,400	2,400/1,200*	1,200/600*
Collector	1,200	600	300
Local (not applicable to residential uses)	1,200	150	150

* For roadways with speed limits greater than or equal to 45mph, use larger values. For roadways with speed limits less than 45 mph, use lower values.

Figure 1: Access Spacing Measurement



4. **Coordination of Access Points**

Access points shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with, and between, adjacent properties to maximize the efficient utilization of access points. Coordination of Access points shall be regulated as follows:

- a. Access points on opposite sides of a street: Such access points shall be located directly opposite each other. Where 'T' type intersections are used, a minimum centerline offset of 150 feet shall be maintained on local streets. A minimum centerline offset capable of accommodating required left and right turn lanes shall be maintained on collector and arterial streets. When no turn lanes are required, a minimum centerline offset of 200 feet on collector and arterial streets shall be maintained.
- b. Access points on the same side of the street: In cases where access spacing greater than the minimum would prohibit future access to adjacent parcels, access points may not exceed the minimum spacing requirements, except where topographical or exceptional physical conditions exist.
- c. In cases where access coordination is not possible, turning movement restrictions may be imposed by the planning commission's duly authorized representative.

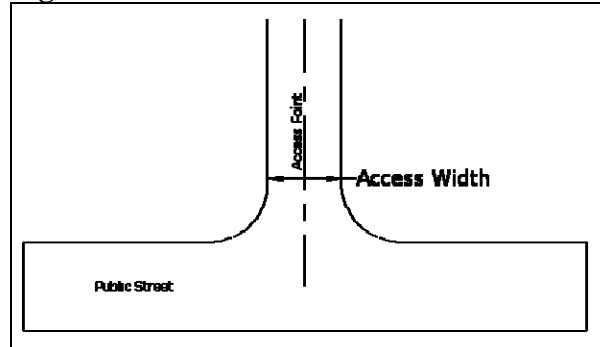
5. Access Width

Driveways intended for residential uses shall meet the access width requirements identified in Table 2. All other access points shall not be less than twelve (12) feet nor more than forty-eight (48) feet in width. Access width shall be measured from the edge of pavement to edge of pavement, excluding the curb radius as shown in Figure 3.

Table 2: Minimum Required Driveway Widths

Number of Residences served	Driveway Width
1	9*
2	12
3	16
4	16
*Driveways 150 feet or longer than shall be a minimum 12 feet wide	

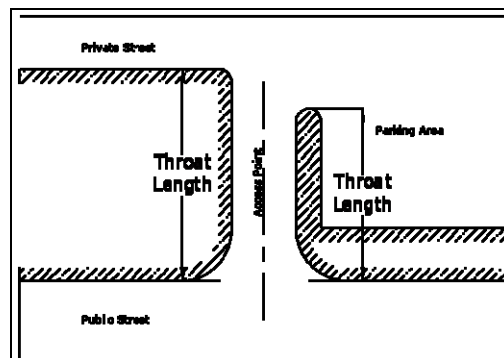
Figure 3: Access Width Measurement



7. Access Throat Length

- a. Access throat length shall be maintained to avoid the overlapping of driveway entrance and parking lot circulation conflicts. Access throat length shall be measured from the edge of the intersecting roadway to the edge of pavement on the parking lot access or adjacent drive as shown in Figure 4.
- b. Minimum access throat lengths shall not be required for residential uses or when access is provided by an access drive.
- c. A minimum throat length of 50 feet shall be required for access points which intersect a public street, or as otherwise required to accommodate exiting queue lengths as determined by a Traffic Impact Study.
- d. Access throat length shall be separated from vehicular and pedestrian movements adjacent to parking facilities and drives through the construction of a raised median, landscaping, or other non-traversable feature.

Figure 4: Throat Length Measurement



E. TRAFFIC CONTROL

1. Installation of any traffic control measures on an existing public street shall not be permitted unless otherwise approved by the planning commission's duly authorized representative after completion of a Traffic Impact Study.
2. Except as herein provided, turning movements prohibited at partial access points or restricted access points shall be controlled through the use of proper channelization. Channelization shall be constructed in the form of a raised non-traversable median in the center of the primary roadway, sufficiently designed to obstruct the prohibited movement.
3. When the construction of a median on the primary street is not possible, the prohibited movements shall be controlled through the use of a raised non-traversable channelizing island constructed on the access point approach. The channelizing island shall be of sufficient size and design so as to obstruct the prohibited movement. The channelizing island shall be designed and constructed in accordance with the Standard Construction Drawings as contained within the Kenton County Subdivision Regulations.

F. PROVISION OF AUXILIARY TURN LANES

At access points where vehicles turning to and from the roadway will substantially affect roadway operation or safety, auxiliary turn lanes, appropriate to the type of access, shall be constructed. The need for and design of auxiliary turn lanes shall be determined by auxiliary turn lanes warrants and design standards defined or identified by the Kentucky Transportation Cabinet.

G. PROVISION OF ACCESS EASEMENT AND ACCESS DRIVES FOR NON-RESIDENTIAL USES

Except as herein provided, each parcel located directly adjacent to or abutting a street classified as either an arterial or collector in the comprehensive plan, shall provide an easement and shared driveway or private street connecting to adjacent properties. The access easement shall be unobstructed from physical features constructed on the parcel. When adjacent parcels are previously developed or existing easements and/or access roads exist, the access easement shall be provided in coordination with existing interconnected access provision on the adjacent parcels. When adjacent parcels are not developed, the easement shall be provided at a location capable of 1) providing cross access to adjacent parcels and 2) meeting all applicable access spacing standards specified in Section 11.3., D., 4.

H. APPROVAL OF ACCESS POINTS

Plans for all access points, and modifications to existing access points including plans to use existing access points where a change of use for any parcel is proposed shall be included on the development plan and submitted to the Planning Commission, or its duly

authorized representative for review. The submitted development plan shall identify the proposed access point including typical cross-sections of pavement, the base and subbase, proposed grade, storm drainage, and any other information as the circumstances may warrant.

I. APPROVAL OF ACCESS POINTS ALONG STATE MAINTAINED ROUTES

Plans for all access points to be constructed along a state maintained route shall be submitted to the Kentucky Transportation Cabinet for review and approval prior to the time as plans are submitted to the zoning administrator, as provided for in Article XIV of this ordinance. No access point plans shall be approved, or permits issued, for construction by the zoning administrator, until said access point plans have been approved by, and encroachment permits obtained from the Kentucky Transportation Cabinet.

J. PEDESTRIAN ACCESS POINTS

1. Development along arterial or collector streets shall provide pedestrian access points which shall connect to any adjacent public sidewalk and transit stops. If no public sidewalk exists along the adjacent arterial or collector street at the time a new development is proposed, a sidewalk shall be provided, along with the required pedestrian access points.
2. Development along arterial or collector streets shall provide pedestrian access within abutting rights-of-way and across driveways with striping or contrasting pavements, or raised surfaces that meet Kenton County Subdivision Regulations.
3. Any expansion or improvement of an existing parking area shall be required to be in compliance with these regulations, if the following applies:
 - a. The new parking area is directly adjacent to the arterial or collector street;
 - b. A public sidewalk or transit stop already exists along the arterial or collector street; and
 - c. The expansion will add ten (10) or more off-street parking spaces which are to be located adjacent to an arterial or collector street. If a public sidewalk already exists, then pedestrian access points shall be provided.
4. The requirements of this Section may be waived if sufficient proof is presented that there is not adequate room and/or adequate need for pedestrian access points. This Section shall not take precedence over the requirements contained within Section 4.7.

SECTION 11.4 OFF-STREET LOADING AND/OR UNLOADING REGULATIONS

- A. GENERAL:** For all buildings and structures erected, altered, or extended, and all uses of land established as specified herein, after the effective date of this ordinance, off-street loading and/or unloading facilities shall be provided as required by the regulations herein.

However, where a building permit has been issued prior to the date of the adoption of this ordinance, and provided that construction has not begun within ninety (90) days of such effective date, off-street loading and/or unloading facilities in the amounts required by this ordinance shall prevail.

B. SPACES REQUIRED

Use	Building Floor Area (gross sq. ft.)	Required Loading Spaces	Space Size (feet)
Public and Civic	1 - 9,999	none	N/A
	10,000 +	1 + 1 per 50,000 sq. ft. above 50,000 sq. ft.	14 X 35
Commercial (except Retail Sales)	1 - 9,999	none	N/A
	10,000 +	1 + 1 per 50,000 sq. ft. above 50,000 sq. ft.	14 X 35
Retail Sales	1 - 4,999	none	N/A
	5,000 +	[1]	[1]
Industrial	1 - 4,999	none	N/A
	5,000 +	1 up to 40,000 sq. ft. + 1 additional up to 100,000 sq. ft. + 1 per 100,000 sq. ft. above 100,000 sq. ft.	14 X 35; 14 X 60 for building over 20,000 sq. ft.

[1] The following standards apply:

Building Floor Area (gross sq. ft.)	Required Loading Spaces	Space Size (feet)
5,000 - 10,000	1	14 X 35
10,001 - 25,000	2	14 X 35
25,001 - 40,000	2	14 X 60
40,001 - 100,000	3	14 X 60
100,001 - 250,000	4	14 X 60
+ 250,000	4 + 1 per 200,000 above 250,000	14 X 60

1. If it is determined by the zoning administrator, based on existing conditions of the proposed site, the design of the building, and the completed needs study, that additional off-street loading and/or unloading spaces are needed to accommodate the facilities than could be reasonably provided, the zoning administrator shall require that additional off-street parking areas, properly designed to handle the parking of trucks, including the maneuvering of the trucks to and from the space, be provided for the storage of trucks waiting to be loaded and/or unloaded.
2. If, after approval by the zoning administrator of the number of spaces and any storage of truck parking needed to accommodate the off-street loading and/or unloading of trucks for a specific use, a need exists, based on operation of the specific use, to provide additional off-street loading and/or unloading spaces or storage of trucks than was previously determined, the zoning administrator may require that corrective action be taken to eliminate any deficiencies as follows:
 - a. Limit the time and interval of arrival and departure of trucks, commensurate with the need

- b. Require additional off-street loading and/or unloading spaces, or require that adequate off-street parking areas be provided for the storage of trucks waiting to be loaded and/or unloaded
- C. **ADDITIONAL LOADING AND/OR UNLOADING SPACES TO BE PROVIDED:** Whenever the intensity of use of any building, structure, or premises is increased through addition of gross floor area, change of use, or increased activity, additional off-street loading and/or unloading spaces shall be provided in accordance with the requirements of Section 11.4, B., of this ordinance, if it is determined by the zoning administrator that the existing spaces are not adequate to serve such increase in intensity.
- D. **LOCATION OF OFF-STREET LOADING AND/OR UNLOADING AREA:** All off-street loading and/or unloading spaces shall be located on the same lot as the use served. However, permitted uses located in industrial zones may provide off-street parking areas for the storage of trucks waiting to be loaded and/or unloaded within three hundred (300) feet from each lot served, upon the approval of the zoning administrator, provided that said off-street storage of trucks are unable to be provided on the same lot, or contiguous to the same lot, as the use being served and further provided that said storage of trucks is located in the same zone as the use being served. Off-street loading and/or unloading areas may be located in the side and rear yards, provided that all off-street loading and/or unloading facilities shall be set back a minimum of ten (10) feet from the rear lot line and minimum side yard clearances are maintained.
- E. **DRIVEWAYS NOT COMPUTED AS PART OF REQUIRED LOADING AND/OR UNLOADING AREA:** Entrances, exits, or driveways shall not be computed as any part of a required off-street loading and/or unloading space.
- F. **OFF-STREET LOADING AND/OR UNLOADING SPACE TO BE USED FOR LOADING AND/OR UNLOADING ONLY:** Any off-street loading and/or unloading space shall be used for loading and/or unloading only. Any other use of such space, including repair work or servicing of any kind, other than in an emergency, or the requirement of any payment for the use of such space, shall be in violation of the provisions of this ordinance.
- G. **NO BUILDING TO BE ERECTED IN OFF-STREET LOADING AND/OR UNLOADING SPACE:** No building of any kind shall be erected in any off-street loading and/or unloading space.
- H. **OFF-STREET LOADING AND/OR UNLOADING SPACE SHALL NOT BE REDUCED:** The required parking spaces, as set forth and designated in this ordinance, shall not be reduced, except as provided for in this ordinance.
- I. **LOADING AND/OR UNLOADING PLAN APPROVAL REQUIRED:** Plans for all off-street loading and/or unloading facilities shall be submitted to the zoning administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the legislative body. Such plans shall show the number and location of off-street loading and/or unloading spaces, including necessary maneuvering

areas of trucks, dock and apron approach, arrangements of access aisles, location of access points onto adjacent streets, provisions for truck circulation, location of curbs on or adjacent to the property, utilities, location of signs, typical cross-sections of pavement, including base and subbase, proposed grade of lot, storm drainage facilities, location and type of lighting facilities, and such other information or plans as the circumstances may warrant. Where such loading and/or unloading plans include provisions for access points to adjacent streets, then said plans shall also be prepared in accordance with the requirements of Section 11.3 of this ordinance.

SECTION 11.5 DESIGN AND LAYOUT OF OFF-STREET LOADING AND/OR UNLOADING AREAS

- A. **VERTICAL CLEARANCE:** Each off-street loading and/or unloading space shall have a vertical clearance of at least fifteen (15) feet.
- B. **ACCESS:** Each required off-street loading and/or unloading space shall be designed with direct access, via an approved access drive, to a deeded right-of-way which offers efficient ingress, egress, and safety for trucks. Access drives or aisles shall be laid out with a width of at least twelve (12) feet for one-way circulation and at least twenty-two (22) feet for two-way circulation, with intersection radii not to be less than fifty (50) feet.

Off-street loading and/or unloading space shall be so designed and constructed so that all maneuvering for loading and/or unloading can take place entirely within the property lines of the premises being served. Such off-street loading and/or unloading space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk or street.

- C. **OTHER DESIGN FEATURES:** Docks are to be designed to facilitate efficient loading and/or unloading. Platform heights shall be forty-four (44) inches for light pickup and delivery trucks and forty-eight (48) to fifty-two (52) inches for heavy trucks and trailers. The dock area shall be at least twice the total body floor area of the largest number of trucks that can be docked at one time. Minimum dock overhead clearance (including pipes, lights, etc.) shall be twelve (12) feet.
- D. **PAVING OF OFF-STREET LOADING AND/OR UNLOADING AREAS:** All off-street loading and/or unloading areas, including spaces, maneuvering, and storage areas for truck parking shall be paved with asphalt concrete or portland cement concrete and shall be designed and constructed in accordance with Appendix A of this ordinance.
- E. **LIGHTING:** Any lighting used to illuminate off-street loading and/or unloading areas shall not glare upon any right-of-way or adjacent property.
- F. **SCREENING AND LANDSCAPING:** All off-street loading and/or unloading areas, including storage of parked trucks, shall be effectively screened on each side adjoining or fronting on any property situated in a residential zone, as regulated by Section 10.5 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to

not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

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ARTICLE XII

FENCES, WALLS, AND OBSTRUCTIONS TO VIEW REGULATIONS

SECTION 12.0 SIGHT TRIANGLES: Site triangles and clearance distances are regulated by the Kenton County Subdivision Regulations.

SECTION 12.1 CLASSIFICATION OF FENCES AND WALLS

A. The following shall be the classification of fences and walls for this ordinance:

- Class 1: Masonry walls
- Class 2: Wood or other materials (including woven wire and chain link), more than eighty percent (80%) open
- Class 3: Wood or other materials (excluding woven wire and chain link), more than fifty percent (50%) open, but less than eighty percent (80%) open
- Class 4: Solid fences, wood or other materials less than fifty percent (50%) open
- Class 5: Hedges
- Class 6: Barbed wire or sharp pointed fences
- Class 7: Earthen or concrete walls

SECTION 12.2 AGRICULTURAL AND RESIDENTIAL ZONES

- A. Fences and/or walls within the agricultural and residential zones shall conform to the following requirements:

Zones	Fence or Wall Class	Maximum Fence Height by Yard/Setback Type (feet)		
		Front Yard	Side Yard	Rear Yard
Agricultural	1	-	8	8
	2	8	8	8
	3	8	8	8
	4	-	8	8
	5	3	8	8
	6	-	8[A]	8[A]
	7	See Section 14.7		
Residential	1	-	4	7
	2	-	4.5	7
	3	-	4[B]	7
	4	-	4	7
	5	3	4	7
	6	-	-	-
	7	See Section 14.7		
Conditional Uses in Residential Zones	1	4	6	7
	2[C][D]	4	6	7
	3[D]	4	6	7
	4	4	6	7
	5	4	6	7
	6	-	-	-
	7	See Section 14.7		
[A] Barbed wire or sharp points must start at least 5 feet above grade				
[B] The wooden slats on these fences must be a minimum of 3 inches wide				
[C] Tennis court or baseball fences can be 12 feet in height				
[D] General purpose recreation areas may be enclosed with fences up to 8 feet in height				

SECTION 12.3 SPECIAL DEVELOPMENT ZONES

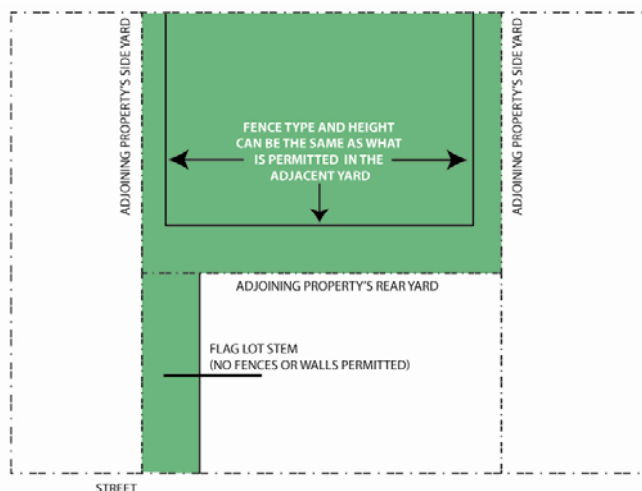
- A. The location, height, and type of all fences and/or walls within any special development zone or any overlay zone shall be as set forth and depicted on the approved development plan.

SECTION 12.4 COMMERCIAL AND INDUSTRIAL ZONES: Fences and/or walls within all commercial and industrial zones shall conform to the following requirements:

Zones	Fence or Wall Class	Maximum Fence Height by Yard/Setback Type (feet)		
		Front Yard	Side Yard	Rear Yard
Commercial	1	4	6	6
	2	4	6	6
	3	4	6	6
	4	4	6	6
	5	4	6	6
	6	-	-	-
	7	See Section 14.7		
Industrial	1[A]	6	7	7
	2[A]	6	7	7
	3[A]	6	7	7
	4[A]	6	7	7
	5[A]	6	7	7
	6[B]	6	7	7
	7	See Section 14.7		
[A] Barbed wire may be put on top of fence classes 1-5, as long as such fence is located in an industrial zone and the barbed wire is at least 5 feet above grade				
[B] Barbed wire or sharp points must start at least 5 feet above grade				

SECTION 12.5 FENCES ON FLAG LOTS: No fence or wall is permitted in any portion of the stem of a flag lot. Fences around the remainder of the flag lot may be the same size and type as those that are permitted in the yard of the adjacent property directly abutting the flag lot.

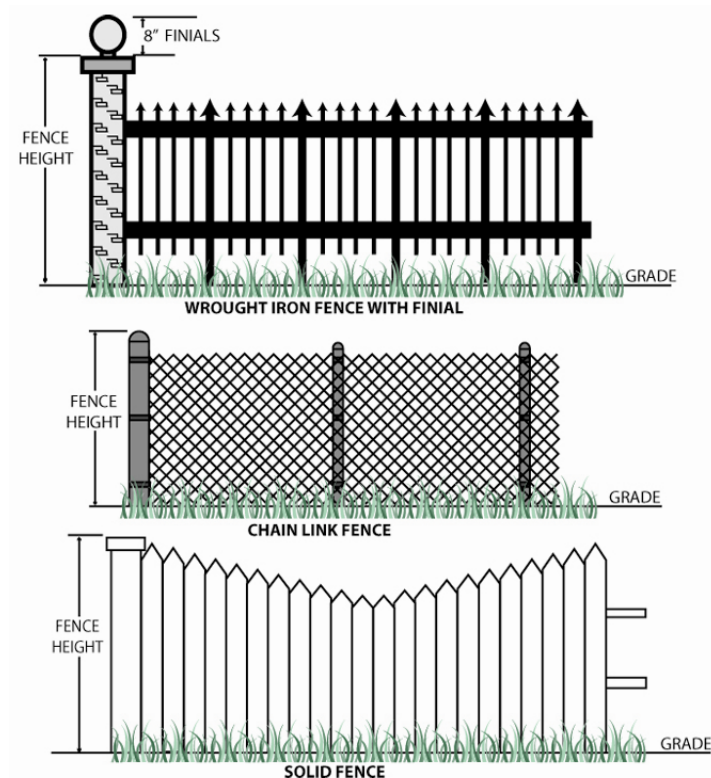
Figure 12-1



SECTION 12.6 MEASUREMENT OF ALL FENCE AND/OR WALL HEIGHTS AND/OR LOCATIONS

- A. All fences and/or wall heights shall be measured along the fence or wall locations.
- B. All locations for distance measurements shall be measured from lot lines.
- C. Fence post finials are permitted to extend a maximum of eight (8) inches above the maximum height of the permitted fence

Figure 12-2

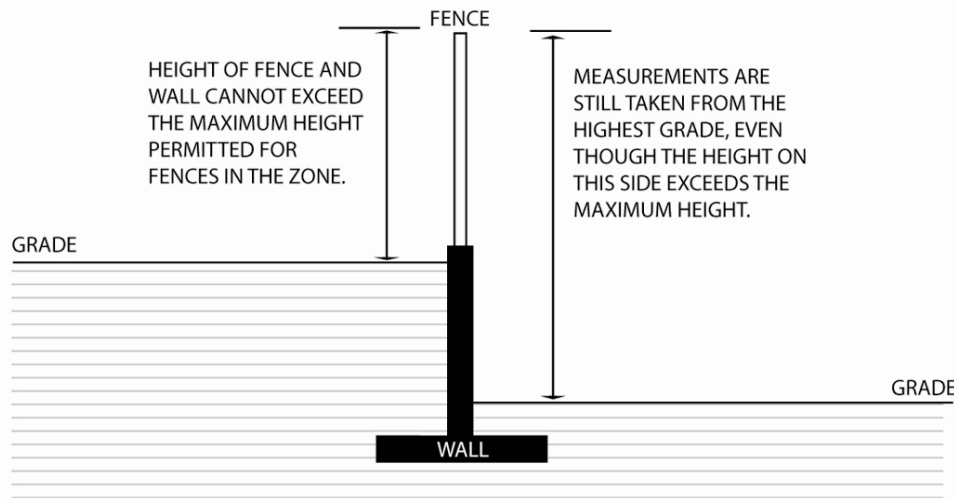


SECTION 12.7 RETAINING WALLS

- A. A retaining wall is any wall that is not laterally supported at the top, and that resists lateral soil loads and/or other imposed loads.
- B. RETAINING WALL STANDARDS
 - 1. Materials: When retaining walls are used, the following materials shall be used:
 - a. Native stone and equivalent cultured/imitation stone
 - b. Brick

2. Walls greater than four (4) feet in height must be designed and approved by a registered professional engineer. Walls greater than six (6) feet in height must be terraced or offset to prevent sheer vertical walls.
- C. **HEIGHT OF FENCES ATOP RETAINING WALLS:** A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to the level of the highest finished grade. The fence portion must be of the class and height permitted within this ordinance for the applicable zone.

Figure 12-3



SECTION 12.8 ELECTRIFIED FENCES: No fence and/or wall carrying an electrical charge shall be permitted in any zone except when such fence and/or wall is used in conjunction with an agricultural use. Such fence must be set back at least five (5) feet from any property line.

SECTION 12.9 PERMIT REQUIRED FOR ERECTION OF FENCES: No fence and/or wall shall be erected, except as exempted or specified within this ordinance, until all required fees have been paid and the necessary permits have been issued, in accordance with Article XIV of this ordinance.

SECTION 12.10 STRUCTURAL ELEMENTS OF FENCES: Fences and/or walls shall be constructed so that all structural members shall be located on the inside of the fence and/or wall. The inside shall be the side which faces the property owned by the person building the fence and/or wall.

SECTION 12.11 DILAPIDATED FENCES: All fences and/or walls shall be kept in a state of good repair.

ARTICLE XIII

SIGN REGULATIONS

SECTION 14.1 SHORT TITLE: This Article shall be known as the Sign Article of the *(insert name of legislative body)*.

SECTION 14.2 PURPOSE AND INTERESTS SERVED

A. The purpose of this Article is to establish a comprehensive scheme for the regulation of signs within the jurisdiction of the *(insert name of legislative body)*. These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts. More specifically, it is the purpose of this Article to:

1. Implement the plans and planning policies of the *(insert name of legislative body)*, together with any subsequent adopted amendments;
2. Provide liberally for the free expression of ideas through signs in residential and other areas;
3. Encourage the effective use of signs as a means of communication and to facilitate way-finding in the area planned and regulated by *(insert name of legislative body)*;
4. Balance the desire and need of individuals to express their creativity in signs with the desire to maintain a pleasing visual environment for residents and the many visitors who come to the area each year;
5. Protect and enhance the value of properties and to have signage appropriate to the planned character and development of each area in the *(insert name of legislative body)*;
6. Balance the need for information for motorists and pedestrians with the need for traffic safety by limiting signs or characteristics of signs that may be particularly distracting to drivers;
7. Provide clear and objective sign standards;
8. Provide a clear and efficient review procedure for sign applications; and
9. Enable fair and consistent enforcement of the regulations set forth in this Article.

SECTION 14.3 TEMPORARY SIGNS

A. One temporary sign will be permitted on each lot in a non-residential zone, subject to the following standards and conditions:

1. It shall not exceed twelve (12) square feet in area;
2. It shall be attached at all four corners or otherwise firmly affixed to a wall of the principal building or it may be freestanding;
3. If it is freestanding, it shall be supported by one or more posts or similar devices in the ground and shall not exceed six (6) feet in height;

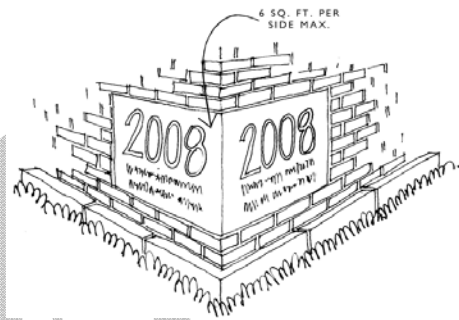
4. In no case shall such a sign be affixed to a tree or other natural feature, a fence, a utility pole, or a fixture or structure on the property other than the principal building;
5. If freestanding, it shall be set back a minimum of ten (10) feet from any property line;
6. It shall not be separately illuminated;
7. If the message relates to an event, such sign shall be removed within seven (7) days following the conclusion of the event;
8. Such a sign may bear any noncommercial message or a commercial message related to a commercial activity lawfully conducted on the lot where the sign is located; the sale or lease of the premises shall be considered a lawful use of any premises for purposes of this regulation.

SECTION 14.4 SCOPE, AUTHORITY AND APPLICABILITY

- A. SCOPE: This Article is adopted pursuant to KRS 100.
- B. AUTHORITY: This Article regulates signs, as defined herein, when mounted, located, or displayed on property located within the (*incorporated/unincorporated*) limits of the (*insert name of legislative body*), on land that is either private land or public land over which the (*insert name of legislative body*) has land use regulatory authority.
- C. APPLICABILITY, GENERAL: This Article shall apply to all signs erected, placed, painted, installed or otherwise made visible on private or public property in the (*insert name of legislative body*), except as otherwise provided herein. All signs displayed in the (*insert name of legislative body*) shall comply with all requirements of this Article and all other applicable law. Permits shall be required for all signs in the (*insert name of legislative body*), except as specified herein. No sign, outdoor advertising, structure, billboard or display shall be erected, installed, located or maintained in any zoning district of the (*insert name of legislative body*), except in conformity with these regulations. New signs, additional signs, relocations or structural alterations of existing signs also require sign permits.
- D. COMPLIANCE REQUIRED: It shall be unlawful and a violation of this Article for any person to fasten, place, paint, or attach in any way: any sign, handbill, poster, advertisement, or notice of any kind, or cause the same to be done in or upon any curb-stone, lamp post, utility pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest room, bus stop kiosk or shed, station building, tree, or in or upon any portion of any public sidewalk, street, or sign, except as specifically allowed within this Article.
- E. EXEMPTIONS: The following signs or sign elements are exempt from the provisions of this Article but are subject to any other applicable laws and regulations:
 1. Any sign installed in a building or enclosed space and not legible from the public right-of-way or from private or public property other than the property on which it is located;

2. Any sign with a sign area of less than four square feet in area and less than four feet in height (if freestanding), that is not separately illuminated and that is not legible from the public right-of-way or from private or public property other than the property on which it is located;
 3. Signs on mass transit vehicles operating in or passing through the (*insert name of legislative body*); and
 4. Signs on vehicles and watercraft which are regularly used in the operation of a business; signs on vehicles which are parked for long periods of time, which are not operational and/or which are not regularly used in the operation of a business at the same location where the vehicle is most frequently parked shall be considered detached signs and subject to regulation under this Article. For purposes of this subsection, a “long period of time” shall be a continuous period of 30 days or separate periods that total 40 days or more out of any 60-day period.
- F. **SIGNS SUBJECT TO OTHER STANDARDS:** Signs listed in this Section shall be exempt from the permit requirements of this Article; but, shall, to the maximum extent allowed by law, be subject to the other standards of this Article. Where a sign is erected pursuant to a statute or a court order, the sign may exceed the size standards of this Article or otherwise deviate from the standards set forth in this Article to the extent that the statute or court order expressly required the larger size or other deviation. In all other respects, such signs shall conform to the standards of this Article. This subsection shall apply to the following types of signs:
1. Signs conforming to the Manual of Uniform Traffic Control Devices and bearing no commercial message;
 2. Signs bearing no commercial message and installed by employees or officials of the (*insert name of legislative body*), Kenton County, a state or federal agency in the course of their governmental duties;
 3. Signs required by a state or federal statute;
 4. Signs required by an order of a court of competent jurisdiction;
 5. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the use; and
 6. Signs installed by a transit company with a franchise or other right to operate in the (*insert name of legislative body*), where such signs are installed along its routes and relate to schedules or other information about the transit route.
- G. **SIGNS ALLOWED WITHOUT A PERMIT:** The following signs or sign-like devices are allowed in all zoning districts without a sign permit and are not to be included in determination of the allowable numbers, type and area of a sign that requires a sign permit. If a sign otherwise falling under this Section is electrified, it will require an electrical permit. Signs subject to this Section shall conform to the requirements specified:
1. Address Numbers used for the purpose of identifying the address of any building shall not be counted toward allowed sign area;

2. Detached signs smaller than four square feet in area and less than four feet in height, and containing no commercial message (e.g., “Enter” or “Exit” signs);
3. Detached signs smaller than seven square feet, allowed in residential zoning districts in accordance with Sections 14.7 and 14.8;
4. Temporary signs not greater than twelve (12) square feet, allowed in non-residential zones;
5. Wall signs containing no commercial message and not larger than four square feet in area;
6. Cultural decorations or displays of noncommercial nature, mounted on private residential property, which pertain to cultural observances;
7. Cornerstones, foundation stones and memorial signs or tablets displaying the names of buildings and date of erection, when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material, provided that no such sign shall exceed six square feet in area nor shall any such sign be separately illuminated;
8. Symbols that do not bear or include any commercial message and that are integrated into the architecture of a building;
9. Gravestones not containing a commercial message, when erected in a lawful cemetery or graveyard; and
10. Graphic images which are visible only from aircraft flying above.



H. OTHER ACTIONS ALLOWED WITHOUT A PERMIT: The following signs and actions related to signs shall be exempt from the permit requirements of this Article but shall be subject to all other standards of this Article.

1. Changing of the advertising copy or message on an existing painted or printed sign, marquee, changeable copy sign or a similar compliant sign, whether electrical, illuminated, electronic message center or non-illuminated painted message, provided that the copy on an electronic message board shall not change more frequently than allowed under Section 14.5, D.;
2. Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural alterations;
3. Installation of permanent signs smaller than four square feet where such signs are allowed by this Article, contain no commercial message and involve no electrical installation; and
4. Installation of temporary signs not larger than four square feet, where such signs are allowed by this Article and conform with this Article in all respects.

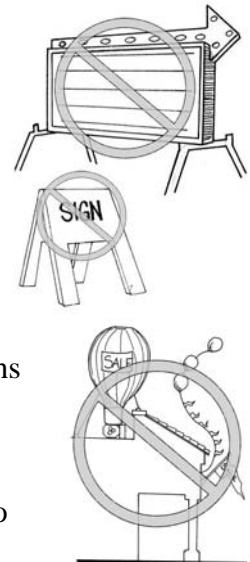
I. PRODUCT DISPLAYS, SALES DEVICES, MENU BOARDS

1. Nothing in this Article shall prohibit or limit the outdoor display of products where allowed under the zoning ordinance, although a particular product may be a thing which would be prohibited by this Article if used as a sign and although one or more such products may have on them permanent labels that might otherwise fall under this Article. This Article shall, however, apply to any sign, banner, pennant, or other attention-attracting device affixed to a product displayed outdoors. For example, the label “Chevrolet” on an automobile or “John Deere” on a tractor shall not be considered a sign for purposes of this Article, but a separate sign attached to such a product shall be considered a sign and subject to regulation.
2. Signs on gasoline pumps, vending machines, news racks and similar machines and devices used for the sale or dispensing of products shall be allowed without a sign permit if they do not flash and if they are either not legible from any public right-of-way, public property or private property other than the site on which the sign is located; or they consist entirely of letters, numerals or symbols that are less than four inches in height. All other signs on vending machines, gas pumps, news racks and similar machines and devices shall be considered “signs” and shall be subject to all of the regulations of this Article.
3. In districts where drive-through and drive-up facilities are allowed, menu boards or other instructional or informational devices related to the drive-through or drive-up facilities shall be allowed without a sign permit, provided that such device is less than 12 square feet in size, and that the only words, numerals, symbols or pictures on such device that are legible from any location other than the site on which it is located shall include no commercial message but shall simply identify the device as a “menu,” “directory,” “instructions,” “information” or something similar. If such a menu board or other device is larger than four square feet or if it is electrified, it shall require a permit.

SECTION 14.5 PROHIBITED SIGN TYPES

- A. Unless specifically authorized by another section of this Article, or by other law, the following sign types are prohibited at all times and in all zones.

1. New billboards;
2. Portable signs, including folding portable signs and flashing portable signs;
3. Pennants, banners, streamers, balloons, and similar devices;
4. Animated, projecting, revolving, and moving signs, including those which create the appearance of animation, projection, revolving or other movement, or utilize flashing or intermittent lights, or lights of changing degrees of intensity; automatic changeable copy signs that conform with section 14.5, D. are not subject to this limitation;
5. Signs which are not traffic, control or safety signals, but by their shape, color, or manner of mounting or display, appear to



- be traffic, control or safety signals, and thus create confusion for drivers and pedestrians, as well as signs which create or constitute traffic hazards;
6. Signs on vacant lots bearing commercial messages other than those messages related to the sale or lease of the property;
 7. Signs for which a separate structure is mounted on a roof or parapet; this provision does not prevent signs which are integral to the building; and
 8. Signs using sounds, music, sound effects, noises, or other sound or noise-making or transmitting device or instruments.



SECTION 14.6 INSTALLATION, DESIGN AND CONSTRUCTION STANDARDS

A. LOCATION

1. No sign shall be located closer than five feet to any property line.
2. No sign shall be located so that it obstructs access to or from a doorway, fire escape or required escape window.
3. No sign shall be located so that it blocks the free air flow through windows in residential units.
4. No sign located within a clear sight triangle shall obstruct the vision of motorists or pedestrians between a height of 30 inches and 108 inches off the ground.
5. No sign shall be located within eight vertical feet or four horizontal feet of overhead electrical or other wires.

- B. NO PROJECTIONS OVER STREETS OR ALLEYS: Projecting signs are allowed in some zoning districts. No sign shall project over a public right-of-way unless the sign owner has obtained an encroachment permit for such sign. No sign shall project over any portion of a right-of-way used as a street, alley or other way for vehicular travel; encroachment permits are limited to allowing projecting signs to extend over sidewalks.

C. SIGN MAINTENANCE

1. The sign owner shall be liable to maintain such sign, including its illumination sources, in neat and orderly condition and good working order at all times and to prevent the development of any deterioration in the safety of such sign.
2. Nothing in this Article shall prohibit the routine maintenance of any nonconforming sign or the changing of the copy or content of any nonconforming sign, except where such maintenance or change in copy would increase the degree of its nonconformity.

D. FLASHING SIGNS, MOVING SIGNS, AND CHANGEABLE COPY SIGNS

1. General Rule: Signs that move, flash or simulate movement are prohibited except as allowed under this section. A changeable copy sign is considered a different classification of sign under this Article; conversion of an existing sign to a changeable copy sign or to add changeable copy elements to it is allowed only if

the modified sign will conform with all standards in this Section and with all other applicable standards related to the location, height, size and other characteristics of the sign.

2. Rules for Changeable Copy Signs Allowed under this Article: Automatic changeable copy signs shall be allowed only in those districts in which “changeable copy sign, automatic” is listed as a permitted sign type and shall be subject to the following additional restrictions:
 - a. Such technology shall be programmed so that the message or image on the sign changes no more often than every eight seconds.
 - b. There shall be no effects of movement, flashing, scintillation, or similar effects in the individual images.
 - c. Changes of image shall be substantially instantaneous as seen by the human eye and shall not use fading, rolling, window shading, dissolving or similar effects as part of the change.
 - d. Video technology in signs shall use automatic level controls to reduce light levels at night and under cloudy or other darkened conditions, in accordance with the following standards.
 - (1) All electronic or digital display unit message boards shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the electronic board based on ambient light conditions.
 - (2) Maximum brightness levels for electronic or digital display boards shall not exceed 5,000 nits when measured from the billboard’s face at its maximum brightness, during daylight hours and 500 nits when measured from the board face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset.
 - e. Any sign using electronic or electro-mechanical technology for changeable copy message boards, which malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing therein motion, movement, flashing or any other similar effects, shall be repaired or disconnected within 48 hours by the owner or operator of such billboard.
 - f. The area of a sign consisting of electronic or electro-mechanical message board elements shall not constitute more than 200 square feet of a sign.
 - g. The following limitations shall apply to the location of signs using electronic or electro-mechanical technology for a message board:
 - (1) A sign on which the electronic or electro-mechanical message board includes 100 or more square feet of sign area shall not be erected within 500 feet of property falling in one of the (*insert name of legislative body*) residential zoning districts, although this restriction shall not apply to mixed use districts and commercial districts allowing residential uses.

- (2) A sign on which the electronic or electro-mechanical message board includes 20 or more square feet of sign area but less than 100 square feet of sign area shall not be erected within 200 feet of property falling in one of the (*insert name of legislative body*) residential zoning districts, although this restriction shall not apply to mixed use districts and commercial districts allowing residential use.
- (3) A sign on which the electronic or electro-mechanical message board includes less than 20 square feet of sign area shall not be erected within 100 feet of property zoned and used exclusively for single family uses; it is the express intent of this provision to allow the use of such technology on signs for institutional uses located in residential districts, provided that the required separation is maintained between the sign and any property zoned and exclusively used for a single-family use.

SECTION 14.7 SIGNS ALLOWED IN CONSERVATION, AGRICULTURAL AND RURAL DISTRICTS (*insert zone designations*)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be illuminated.
2. For permitted uses other than single-family residences, one wall sign per use, not more than two (2) square feet in area is allowed, provided that such sign contains no commercial message and is not illuminated.

B DETACHED SIGNS

1. Each occupied lot shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the sale of agricultural products, the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.
2. Signs related to the sale of personal property (not including agricultural products) shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. INCIDENTAL SIGNS

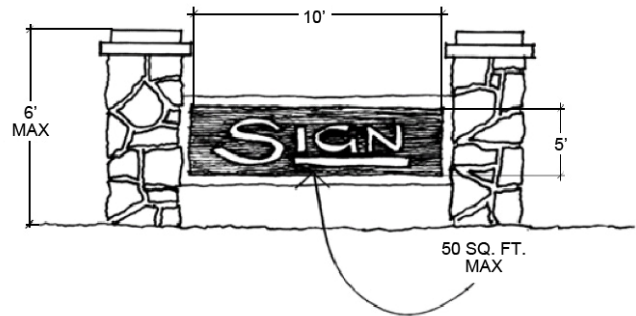
1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

D. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:
 - a. Installation of a permanent neighborhood identification sign;
 - b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
 - c. A period of two (2) years from the date of installation.

E. PERMANENT ENTRANCE SIGNS

1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include a masonry wall, landscaping or other similar materials or features. Such signs shall only be located at the principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.



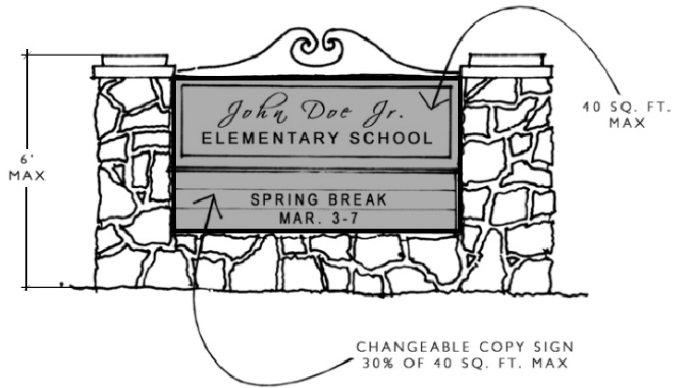
F. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty

(40) square feet in area.

This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.



G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.8 SIGNS ALLOWED IN SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICTS (*insert zone designations*)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be separately illuminated.
2. For permitted uses other than single-family residences, one wall sign per use not more than two (2) square feet in area is allowed, provided that such sign contains no commercial message and is not illuminated.

B. DETACHED SIGNS

1. Each occupied lot in a residential district shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The permanent sign shall not contain a commercial message, and no more than two (2) signs on a lot in a residential district at any one time, including all wall signs, detached signs, temporary signs, and others, may contain commercial messages. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

2. Signs related to the sale of personal property shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. INCIDENTAL SIGNS

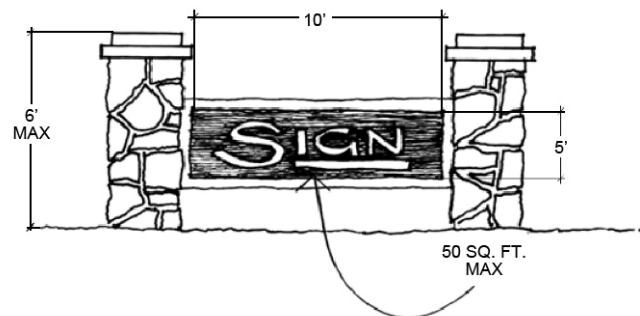
1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

D. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:
 - a. Installation of a permanent neighborhood identification sign;
 - b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
 - c. A period of two (2) years from the date of installation.

E. PERMANENT ENTRANCE SIGNS

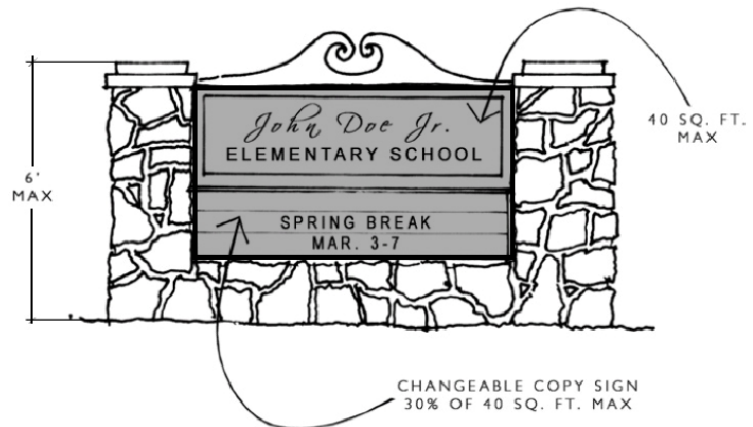
1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include a masonry wall, landscaping or other similar materials or features. Such signs shall only be located at the



principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.

F. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.



2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.9 SIGNS ALLOWED IN MULTI-FAMILY RESIDENTIAL DISTRICTS (insert zone designations)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be separately illuminated.
2. For permitted uses other than single-family residences, one wall sign per use not more than two (2) square feet in area is allowed, provided that such sign contains no commercial message and is not illuminated.
3. For any building containing three or more dwelling units sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance. Such sign shall bear no commercial message. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message.

B. DETACHED SIGNS

1. Permanent detached signs are allowed in these zoning districts subject to the following limitations. The principal detached sign may contain a commercial message related to the rental, lease or occupancy of the premises. No other commercial message is allowed on the permanent signs allowed under this table.

	Principal	Directory	Additional
Maximum number	One per street frontage per site	One per vehicle entrance	One per public entrance per building
Maximum size	25 square feet	Six square feet	Six square feet
Maximum height	6 feet	4 feet	4 feet
Minimum setback from nearest property line	5 feet from front property line; 10 feet from any other property line	15 feet	25 feet
Permitted illumination	External or internal, direct or concealed source	Concealed source only	Concealed source only
Changeable copy	Not allowed	Not allowed	

2. In addition to these permanent detached signs, each separately owned or controlled lot in such a residential district shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The permanent sign shall not contain a commercial message, and no more than two (2) signs on a lot in a residential district at any one time, including all wall signs, detached signs, temporary signs, and others, may contain commercial messages. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.
3. Signs related to the sale of personal property shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. INCIDENTAL SIGNS

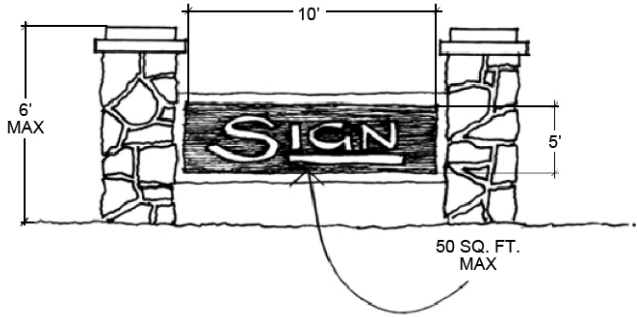
1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this

regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

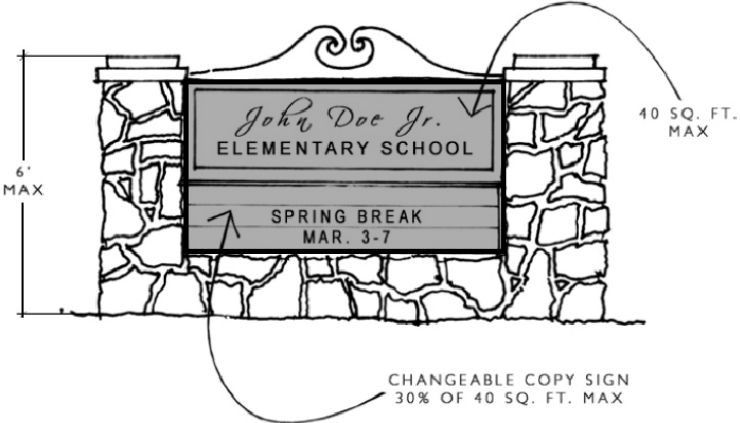
D. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) dwelling units in a proposed development. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:
 - a. Installation of a permanent neighborhood identification sign;
 - b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
 - c. A period of two (2) years from the date of installation.

E. PERMANENT ENTRANCE SIGNS

1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include a masonry wall, landscaping or other similar materials or features. Such signs shall only be located at the principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.
 

F. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may
 

include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.10 SIGNS ALLOWED IN INSTITUTIONAL DISTRICTS (*insert zone designations*)

A. WALL SIGNS

1. Each institutional use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

B. DETACHED SIGNS

1. Each institutional use may have one detached sign, not to exceed forty (40) square feet in area and eight (8) feet in height. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

C. DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. To improve wayfinding on institutional sites with multiple buildings, the following detached signs are allowed in addition to those allowed under subsection B of this Section. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each three separate buildings or per vehicle entrance, whichever is more. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

D. BANNERS

1. Any institutional use on a site larger than five acres may erect banners on the site, subject to the following conditions:

- a. Such banners shall be anchored to a pole or building at the top and bottom, so that the end of the banner does not flap in the wind, like a flag or pennant;
- b. Such banners may be attached to poles serving another purpose, such as supporting parking lot or street lights, or to separate poles used only for the banners;
- c. If the banners are attached to separate poles, those poles shall not exceed 24 feet in height, and no two such poles shall be closer to one another than 75 feet, measured in a straight line;
- d. Such banners shall not exceed 16 square feet in area on one side;
- e. Each such banner may contain a message on each side. Messages on such banners may include messages related to the activities or services of the institution or other non-commercial messages. No such banner shall in any case include any commercial message unrelated to the institutional use;
- f. Such banners shall not be separately illuminated; and
- g. Such banners may be visible from the public right-of-way but shall not be legible from any location except the site used by the institution.

E. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

F. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.11 SIGNS ALLOWED IN OFFICE DISTRICTS (*insert zone designations*)

A. WINDOW AND WALL SIGNS

1. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

	Window	Wall	Total
Maximum size	25 percent of window area on that building wall	See total	Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located
Maximum number	Area limit only	One per building	N/A

	Window	Wall	Total
		street frontage	
Permitted illumination	No separate illumination	Indirect white light	N/A
Changeable copy	Not allowed	Not allowed	N/A

For any building containing three or more offices or other tenants sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance. Such sign shall bear no commercial message related to activities, goods or services not offered on the premises. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message related to commercial activities not conducted on the premises.

B DETACHED SIGNS

1. Permanent detached signs are allowed in these zoning districts subject to the following limitations.

	Principal	Directory	Other
Maximum number	One per street frontage per site	One per vehicle entrance	One per public entrance
Maximum size	25 square feet	Six square feet	Six square feet
Maximum height	8 feet	4 feet	4 feet
Minimum setback from nearest property line	5 feet from front property line; 10 feet from any other property line	15 feet	25 feet
Permitted illumination	External or internal, direct or concealed source	Concealed source only	Concealed source only
Changeable copy	Automatic allowed; may cover up to 25 percent of sign face	Not allowed	Only manual changeable copy is allowed; may cover entire sign face

C. DIRECTORY (WALL) SIGNS

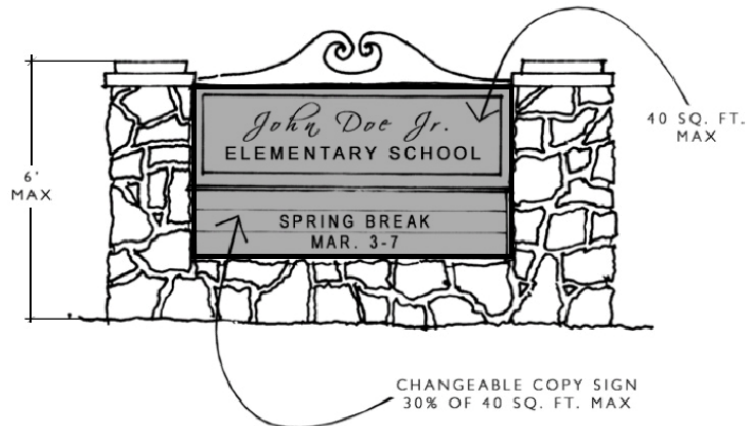
1. One directory sign on a wall, not exceeding six square feet in area, is allowed per public entrance for a nonresidential building. Such sign shall not be legible from the public right-of-way and shall be illuminated by direct white light only.

D. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.
2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.



F. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.12 SIGNS ALLOWED IN GENERAL BUSINESS AND COMMERCIAL DISTRICTS

A. WINDOW AND WALL SIGNS

1. NC and NSC Zoning Districts (*insert all other applicable zone designations*)
 - a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

	Window	Wall	Total
Maximum size	25 percent of window area on that building wall	See total	Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located
Maximum number	Area limit only	One per building street frontage	N/A
Permitted illumination	No separate illumination	Illumination from a concealed source only	N/A
Changeable copy	Not allowed	Not allowed	N/A

2. HC, HC-2 and HC-3 Zoning Districts (*insert all other applicable zone designations*)

- a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

	Window	Wall	Total
Maximum size	25 percent of window area on that building wall	See total	Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located
Maximum number	Area limit only	One per building street frontage	N/A
Permitted illumination	External or internal, concealed or direct source	External or internal, concealed or direct source	N/A
Changeable copy	Not allowed	Automatic allowed; may cover up to 25 percent of area of sign face	N/A

3. LHS and LSC Zoning Districts (*insert all other applicable zone designations*)

- a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

	Window	Wall	Total
Maximum size	25 percent of window area on that building wall	See total	Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is

	Window	Wall	Total
			located
Maximum number	Area limit only	One per building street frontage	N/A
Permitted illumination	No separate illumination	Concealed source only	N/A
Changeable copy	Not allowed	Automatic allowed; may cover up to 25 percent of area of sign face	N/A

4. SC Zoning District (*insert all other applicable zone designations*)

- a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

	Window	Wall	Total
Maximum size	25 percent of window area on that building wall	See total	Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located
Maximum number	Area limit only	One per building street frontage	N/A
Permitted illumination	No separate illumination	Concealed source only	N/A
Changeable copy	Not allowed	Automatic allowed; may cover up to 25 percent of area of sign face	N/A

B. POLE OR GROUND SIGNS

1. NC and NSC Zoning Districts (*insert all other applicable zone designations*)

- a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

	Principal	Other
Maximum number	One per street frontage	One per vehicle entrance in NSC district; not allowed in NC district
Maximum size	25 square feet	Six square feet
Maximum height	20 feet	4 feet
Minimum setback	5 feet	25 feet

	Principal	Other
from nearest right-of-way		
Minimum setback, other	Five feet from any other property line; 50 feet from nearest single-family residential district	Five feet from any other property line; 15 feet from nearest single-family residential district
Permitted illumination	Concealed source only	Concealed source only
Changeable copy	Not allowed	Not allowed

2. HC, HC-2 and HC-3 Zoning Districts (*insert all other applicable zone designations*)

- a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

	Principal	Other
Maximum number	One per street frontage	One per vehicle entrance
Maximum size	60 square feet	Four square feet
Maximum height	20 feet	4 feet
Minimum setback from nearest right-of-way	5 feet	5 feet
Minimum setback, other	Five feet from any other property line; 50 feet from nearest single-family residential district	Five feet from any other property line; 15 feet from nearest single-family residential district
Permitted illumination	External or internal, exposed or concealed source	Concealed source only
Changeable copy	Automatic allowed; may cover up to 25 percent of sign face allowed	Not allowed

3. LHS and LSC Zoning Districts (*insert all other applicable zone designations*)

- a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

	Principal	Other
Maximum number	One per street frontage	One per vehicle entrance
Maximum size	40 square feet	Four square feet
Maximum height	20 feet	4 feet
Minimum setback from nearest right-of-way	5 feet	5 feet
Minimum setback, other	Five feet from any other property line; 50 feet from nearest single-family residential district	Five feet from any other property line; 15 feet from nearest single-family residential district
Permitted	External or internal, exposed or	Concealed source only

	Principal	Other
illumination	concealed source	
Changeable copy	Automatic allowed; may cover up to 25 percent of sign face allowed	Not allowed

4. SC Zoning District (*insert all other applicable zone designations*)
- a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

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	Principal	Other
Maximum number	One per street frontage	One per vehicle entrance
Maximum size	Two square feet per 1000 square feet of gross leasable area, not to exceed 300 square feet per sign	Eight square feet
Maximum height	30 feet	10 feet
Minimum setback from nearest right-of-way	15 feet	5 feet
Minimum setback, other	20 feet from any other property line; 50 feet from nearest single-family residential district	Five feet from any other property line; 15 feet from nearest single-family residential district
Permitted illumination	External or internal, exposed or concealed source	Concealed source only
Changeable copy	Automatic allowed; may cover up to 25 percent of sign face allowed	Not allowed

C. DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. HC, HC-2 and HC-3 Zoning Districts (*insert all other applicable zone designations*)
 - a. To improve wayfinding on multi-user sites, the following detached signs are allowed in addition to those allowed under subsection B of this Section. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each ten separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.
2. LHS and LSC Zoning Districts (*insert all other applicable zone designations*)
 - a. To improve wayfinding on multi-user sites, the following detached signs are allowed in addition to those allowed under subsection B of this Section. One detached sign not legible from the right-of-way, not exceeding six square feet in area and not exceeding six feet in height shall be allowed for each ten separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a

minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy, and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

3. SC Zoning District (*insert all other applicable zone designations*)

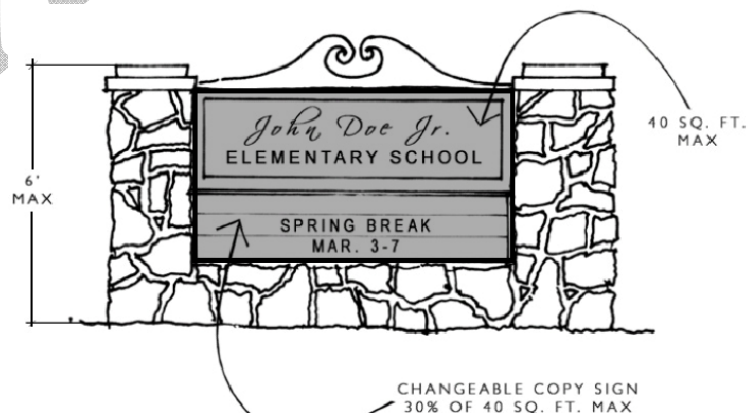
- a. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each ten separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

D. WALL SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. For any building containing three or more uses of any type sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance providing access to such uses. Such sign shall bear no commercial message related to activities, goods or services not offered on the premises. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message not related to commercial activities on the premises.

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.
2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not



be illuminated.

F. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.13 SIGNS ALLOWED IN DOWNTOWN DISTRICT (*insert all other applicable zone designations*)

A. WALL AND WINDOW SIGNS

1. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

	Window	Wall	Total
Maximum size	25 percent of window area on that building wall	See total	Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located
Maximum number	Area limit only	One per street frontage	N/A
Permitted illumination	No separate illumination	Illumination from a concealed source only	N/A
Changeable copy	Not allowed	Not allowed	N/A

B. ADDITIONAL WALL SIGNS ON TALL BUILDINGS

1. In addition to wall signs permitted for all buildings in these districts, any building that is taller than five stories or 50 feet, whichever is less, may have one additional wall sign on each building facade, subject to the following limitations:

- a. Such sign shall be located at or above the highest story on the building but shall not extend above the top of the wall of the building, including parapets and architectural extensions;
- b. No such sign shall exceed 150 square feet in area, plus an additional one square foot in area for each one foot by which the top of the sign exceeds 50 feet above the sidewalk;

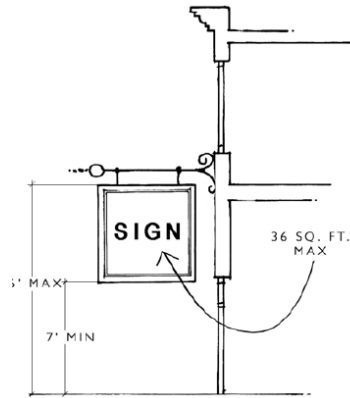
Example: A building that is 50 feet tall is allowed a 150-sq. ft. sign at the top of the building; a building that is 75 feet tall, with the top of the sign located at the top of the building, is allowed a 175 s.f. sign at the top of the building (150 s.f. plus (75 minus 50) s.f.);

- c. The wall signs allowed under this sub-section are allowed in addition to the wall signs allowed under sub-section A of this section, but the total area of wall signs on one face of the building shall in no case exceed 20 percent of the building face;
- d. Lighting for the signs allowed under this sub-section shall be by concealed source only; and
- e. Signs allowed under this sub-section shall not include any form of changeable copy.

C. PROJECTING SIGNS

1. In addition to permitted wall signs, but as an alternative to a ground sign, each business establishment with a ground-floor entrance in these zoning districts shall be allowed a projecting sign, subject to the following standards and limitations:

	Projecting
Maximum size	36 square feet or the maximum size possible in conformance with other standards in this Section, whichever is smaller; measurement is for one face, but sign may have two equal faces
Maximum number	One per business establishment with a ground-floor entrance
Height of bottom of sign	Not less than seven feet or more than nine feet, measured from sidewalk
Maximum height of top of sign	16 feet above sidewalk, or bottom of second-floor window(s) or top of wall, whichever is less
Permitted illumination	Internal, external, direct, indirect, exposed or any combination
Changeable copy	Automated allowed; may cover up to 50 percent of any sign face
Maximum projection from face of building	Six feet, or two-thirds of the distance from the façade of the building to the street-side edge of the sidewalk, whichever is less



a. Cumulative Area Limitation

- (1) The total area of any wall and/or window signs and any projecting sign on one street frontage of a building shall not exceed two square feet of sign area per lineal foot of building frontage.

b. Other Limitations

- (1) A projecting sign shall be placed on the middle 10 percent of the building face where the sign is to be installed, measured horizontally, provided it does not interfere with any architectural feature of the building, and the sign may not be closer than 15 feet to another projecting sign, except on a corner lot, where a projecting sign may be placed at the corner of the building.
- (2) A projecting sign may not project over a street, alley or driveway.
- (3) An application for a permit for a projecting sign shall bear the seal of an architect or engineer registered in the Commonwealth of Kentucky.

D. POLE OR PRINCIPAL GROUND SIGNS

1. Intent/Purpose

- a. The downtown district generally consists of buildings that are built at or near the sidewalk, leaving no space for a pole or principal ground sign. This section is intended to apply to those establishments that have lawfully been set back far enough from one or more right-of-way lines, thus making it more difficult for drivers and pedestrians to see wall signs on the building.

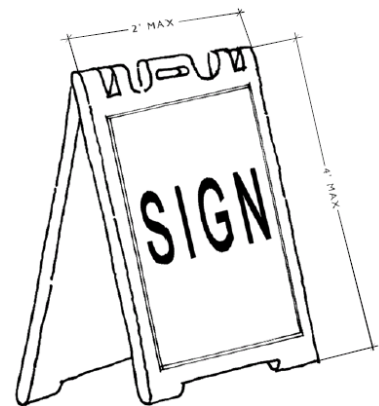
2. Where Allowed

- a. Any site on which the principal building is set back twenty (20) or more feet from a right-of-way line along the entire length of the building facing

that right-of-way shall be allowed a pole or principal ground sign in accordance with this Section, except that no site may have both a principal ground sign and a projecting sign on the same street frontage. One pole or principal ground sign, not exceeding 12 square feet in area or 20 feet in height is allowed per street frontage of a nonresidential building. Such sign shall be set back from the public right-of-way a minimum of ten feet, from any other property line a minimum of five feet, and from a residential zoning district a minimum of 50 feet. Such sign shall not contain changeable copy and may be illuminated only from a concealed source.

E. SIDEWALK SIGNS

1. In the Covington downtown and Mainstrasse zoning districts, sidewalk signs shall be allowed, subject to the following standards and limitations:
 - a. One such sign shall be allowed for each business establishment with a public entrance onto a public sidewalk, provided that such sign can be placed in a way that conforms with the other standards of this subsection;
 - b. The sidewalk sign shall be placed only on the sidewalk directly in front of the establishment;
 - c. A sidewalk sign shall be an A-frame or other self-supporting design, without separate structural members;
 - d. A sidewalk sign shall not be more than four feet in height or two feet in width;
 - e. A sidewalk sign shall be placed so that it does not block any public entrance or required emergency exit from a building and so that, when considering the sign in combination with other obstacles such as parking meters, street signs, newspaper vending boxes, fire hydrants, planters and bus stop benches, there is a clear passage of at least six feet;
 - f. A sidewalk sign may have two faces, neither of which shall exceed six square feet in area. If a sidewalk sign of this size cannot be placed in front of the establishment in such a way that it meets the requirements of the immediately preceding paragraph, then the sidewalk sign shall be reduced in size to allow such standards to be met, or no sidewalk sign shall be allowed;
 - g. A sidewalk sign may contain provisions for manual changing of copy, including blackboards and whiteboards, but shall not include electronic changeable copy;
 - h. A sidewalk sign may be placed on the sidewalk only during hours when the establishment to which it pertains is open for business; a sidewalk sign located in front of a business that is not open shall be considered an



abandoned sign and may be removed by (insert name of legislative body) without notice and without liability for its value;

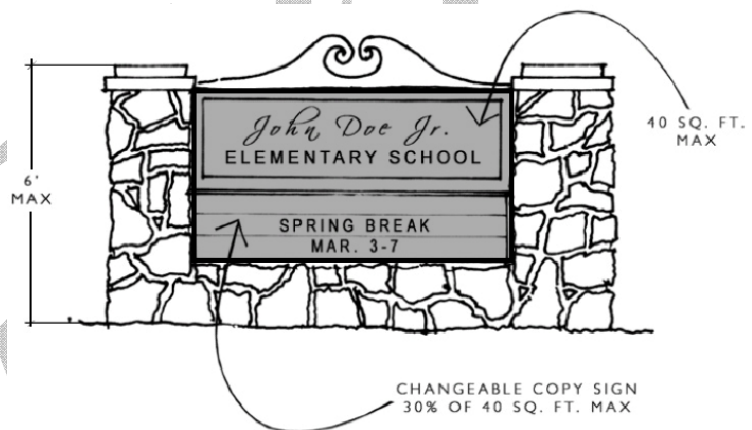
- i. A sidewalk sign may not be separately illuminated or electrified in any way; and
- j. A sidewalk sign may bear any noncommercial message or a commercial message related to goods or services available in the premises that fronts on the sidewalk.

F. INCIDENTAL SIGNS

- 1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

G. INSTITUTIONAL SIGNS

- 1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated. Where the physical characteristics of the site or the application of setback and clear site triangle provisions do not permit a detached sign, the institutional use shall be allowed an additional wall sign equal in size to the detached sign to which it would otherwise be entitled.
- 2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.



H. TRAFFIC CONTROL SIGNS

- 1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.14 SIGNS ALLOWED IN HISTORIC DISTRICTS

A. SIGNS ALLOWED

1. The signs allowed on a site in a Historic Preservation Overlay District shall be the same as those allowed in the underlying zoning district, as limited and modified by this Section.

B. REVIEW PROCESS

1. Purpose
 - a. New buildings, additions to buildings and significant alterations to buildings in the Historic Preservation Overlay District are all subject to review by the Urban Design Review Board. Larger signs and lighted signs are often as large a factor in defining the physical character of a streetscape as are buildings. Thus, to maintain the historic and visual integrity of the historic districts, it is essential that such signs also be subject to review.
2. Process
 - a. The application and review process for review of a proposed sign shall be the same as that for buildings and building modifications under §12.15 of the Covington Zoning Ordinance, with the following modification. If an application for a certificate of appropriateness for a sign is complete, the Urban Design Review Board shall act on that application at its first meeting occurring at least ten days after the receipt of such application or within sixty days, whichever first occurs. If a decision is not provided within such period, the application as submitted shall be deemed approved.
3. Review Criteria
 - a. The review criteria for an application for an application certificate for a proposed sign shall be the following:
 - (1) The size, scale and design of the sign shall be compatible with the size, scale and design of the property, building or site upon which it is to be located, as set forth in the Covington Design Guidelines;
 - (2) The sign's materials shall be compatible with the period and style of the property, building or site, in accordance with the Covington Design Guidelines;
 - (3) The sign shall not use lighting or technology that appears significantly different from lighting used on signs in the period that defines the building or the site, unless the Urban Design Review Board or another official review body has allowed the use of

different lighting or technology on other signs in the same block, in which case lighting and/or technology similar to that previously allowed on the same block may be used;

- (4) The sign's location shall not obscure any significant architectural features of the building or site, as defined and clarified by the Covington Design Guidelines;
- (5) The sign's installation shall not irreparably damage any cornice, ornament or similar architectural detail and shall be the least damaging method feasible for the property, building or site, in accordance with the Covington Design Guidelines; and
- (6) The size, height and number of signs allowed shall in no case exceed the size, height and number allowed for the underlying zoning district.

SECTION 14.15 SIGNS ALLOWED IN INDUSTRIAL DISTRICTS (*insert zone designations*)

A. WALL SIGNS

- 1. Permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

	Window	Wall	Total
Maximum size	Not allowed	Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located	Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located
Maximum number	Not allowed	One per street frontage	N/A
Permitted illumination	Not allowed	Illumination from a concealed source only	N/A
Changeable copy	Not allowed	Not allowed	N/A

B. POLE OR PRINCIPAL GROUND SIGNS

- 1. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

	Principal	Directory
Maximum number	One per street frontage	One per vehicle entrance and one per public entrance per building
Maximum size	IP: 40 square feet	Six square feet

	Principal	Directory
	I-1 and I-2: 80 square feet	
Maximum height	IP: 10 feet I-1 and I-2: 20 feet	Six feet
Minimum setback from nearest right-of-way	15 feet	15 feet
Minimum setback, other	20 feet from any other property line; 100 feet from nearest single-family residential district	20 feet from any other property line; 50 feet from nearest single-family residential district
Permitted illumination	Concealed source only	Concealed source only
Changeable copy	Automatic allowed; may cover up to 25 percent of sign face allowed	Not allowed

C. DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

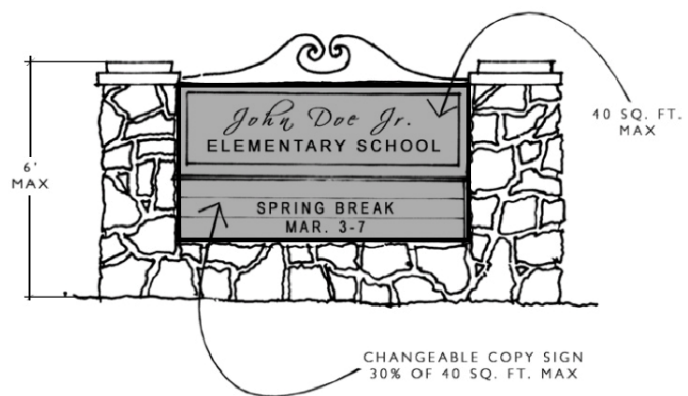
- To improve wayfinding on multi-user sites, the following detached signs are allowed in addition to those allowed under subsection B of this Section. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each four separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

D. INCIDENTAL SIGNS

- Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

E. INSTITUTIONAL SIGNS

- Any school, house of worship, recreation center or other institutional use permitted in the zoning



district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

F. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.16 MASTER SIGNAGE PLANS

A. PURPOSE AND INTENT

1. It is the purpose of the *(insert name of legislative body)* to require owners, lessees and managers of sites containing multiple signs requiring permits to plan and design signs that are compatible with the buildings on the site, thus enhancing the appearance of the site and of the streetscape that includes it. This Section spells out specific criteria for review for compliance with the section, but the *(insert name of legislative body)* recognizes that the consideration of issues of design necessarily requires some exercise of judgment, within the specific criteria set out in this Section. Although the *(insert name of legislative body)* has provided a remedy of appeal for an applicant aggrieved by an action on a proposed master signage plan, it is the intent of the *(insert name of legislative body)* that the primary remedy for such an applicant is the erection and installation of all of the signs allowed by right, under other sections of this Article. It is thus the intent of the *(insert name of legislative body)*, that, to the extent that it can guide the scope of review of a court considering an appeal, a court considering an appeal under this Section reverse or remand the decision of the *(insert official's title)* only if it finds that such action is arbitrary and capricious.

B. APPLICABILITY

1. The owner of any site that includes more than one tenant or occupant shall apply for approval of a Master Signage Plan before applying for a sign permit for any detached sign.

C. PROCEDURE

1. The submittal of a Master Signage Plan shall be considered a Stage II Development Plan.
2. The owner(s) shall apply to the planning commission's duly authorized representative.

3. Where an application for approval of a Master Signage Plan is submitted simultaneously or as part of another Stage II Development Plan, the two shall be processed together. Where an application includes properties not under common ownership, all property owners shall sign the application or shall submit documents granting the applicant the authority to process such an application.
4. The planning commission's duly authorized representative shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of this Section, for Master Signage Plans, other applicable elements of this Article, and other applicable regulations, and its conformity with any approved Stage I Development Plan for the property. In approving the Master Signage Plan, the planning commission's duly authorized representative may authorize minor adjustments from the Stage I Development Plan.
5. If a Master Signage Plan application is denied, the applicant may submit a new application with a revised plan at any time.
6. Any person aggrieved by the action of the planning commission's duly authorized representative on a Master Signage Plan may appeal the decision by filing an application with the Planning Commission.

D. APPLICATION CONTENTS

1. The application for approval of a Master Signage Plan shall contain at least the following information. Where the application is submitted simultaneously with an application for a Stage II Development Plan approval, the Master Signage Plan may refer to portions of the Stage II Development Plan application or approved Stage I Development Plan for related requirements:
 - a. If the site has not been improved, all information required by Section 9.20, B. for a Stage II Development Plan;
 - b. If the site has been improved, as-built conditions, showing all buildings and other improvements and all parking areas and vehicle entrances;
 - c. A proposed design plan showing signage design at a scale of $\frac{1}{2}'' = 1$ ft.
 - d. Computation of the maximum area for all signs, the height of signs and the number of detached signs allowed on the development site(s) included in the plan under this Article, including incentives authorized below;
 - e. For properties with multiple tenants or multiple occupants entitled to signs, an allocation of the allowed signage among the eligible tenants or users;
 - f. An accurate indication on the plot plan of the current or proposed location of each present and future sign of any type, whether requiring a permit or not, except that signs not requiring permits need not be shown;
 - g. The color schemes and design features (excluding specific messages) for proposed signs; and
 - h. The signatures of all owners or their authorized agents in such form as the legislative body may require.

E. AMENDMENTS

1. A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms to all requirements of this Section in effect at the time of submittal.

F. PROVISIONS FOR NONCONFORMING SIGNS

1. A Master Signage Plan for a property already containing signs on the date of submission of the application shall include a schedule for bringing all signs on the development site into conformance with the Master Signage Plan by a specified date. The conformance schedule included in such Master Signage Plan shall be considered a condition of approval of the Master Signage Plan.

G. CRITERIA FOR APPROVAL

1. A Master Signage Plan shall be approved if and only if the planning commission's duly authorized representative finds that the proposed plan meets all of the standards set out in this Article. If the planning commission's duly authorized representative finds that the proposed plan substantially meets such standards, it may approve the proposed plan subject to conditions that will cause it to meet these standards. Otherwise, the planning commission's duly authorized representative shall deny the application for plan approval:
 - a. Each proposed sign conforms with all applicable standards of this Article;
 - b. The total amount of signage proposed for any building, wall, site, or portion of a site, conforms with all applicable standards of this Article;
 - c. The proposed plan contains all of the information required by subsection D of this Section
 - d. The proposed allocation of allowed signage among eligible tenants, which shall be proportional to one of or a combination of the following criteria:
 - (1) The number of public entrances to space leased to or controlled by each tenant or occupant;
 - (2) The linear feet of frontage of the space leased to or controlled by each tenant or occupant along the wall(s) containing public entrances; and/or
 - (3) The façade area of the building elevation(s) containing the public entrances to the spaces leased to or controlled by each tenant or occupant.
 - e. All proposed signs shall be part of a common design scheme, meeting at least the following criteria:
 - (1) The materials and design of all wall signs shall follow one design scheme;
 - (2) The materials and design of freestanding signs bearing commercial messages shall follow one design scheme, which may or may not be the same as the design scheme for wall signs;

- (3) Each design scheme shall require consistency among signs for at least three of the following criteria: lighting design; color schemes; materials; shape; proportion; and/or type faces;
- (4) If the design schemes for the wall signs and freestanding signs are different, they shall have in common at least two of the following criteria: lighting design; color schemes; materials; proportion; and
- (5) The design scheme for freestanding signs shall use building materials, colors and, where applicable, architectural design features consistent with the materials, colors and architectural design features of the principal building on the site.

H. EFFECT

1. After approval of a Master Signage Plan, no permit shall be issued for a sign on the site(s) subject to the Master Signage Plan except in accordance with such plan, and no sign shall be erected, placed, painted, or maintained, except in accordance with such plan, and such plan may be enforced in the same way as any provision of this Article. In case of any conflict between a provision of a Master Signage Plan and one or more provisions of this Article, this Article shall prevail.

I. SPECIAL SEVERABILITY PROVISIONS

1. The severability provisions of Section 14.19, A., 11., are limited by this subsection. If any procedural aspect of this Section is found by a court of competent jurisdiction to be unconstitutional, it is the intent of the (*insert name of legislative body*) that this entire Section, but only this Section, should be stricken as unconstitutional, but that any plans previously approved under it should remain in effect, allowing the signs shown on such plans as lawful nonconforming signs, regardless of whether such signs have been erected on the date of such decision. If any substantive part of the standards and criteria for approval of this Section is found by a court of competent jurisdiction to be unconstitutional it is the intent of the (*insert name of legislative body*) that such part be stricken and that the rest of this Section remain in full force and effect, in accordance with the principles set out in more detail in Section 14.19, A., 11.

SECTION 14.17 PERMIT REQUIREMENTS AND PROCEDURES

- A. Unless a particular sign is exempt from the permit requirement under an explicit provision of this Article or other applicable law, then a permit for such sign is required.

1. WHEN REQUIRED

- a. Replacements

- (1) If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location, subject to all requirements enumerated herein.

b. Maintenance

- (1) If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.

c. Relocation of Signs

- (1) If any sign is removed from one location and erected at a new location, a new permit shall be obtained.

d. Alteration

- (1) Alteration or enlargement of any sign shall require a permit the same as for a new sign. Any change in technology for a sign shall be considered an alteration; this shall expressly apply but not be limited to the conversion of a sign to changeable copy technology of any type.

2. APPLICATION

- a. No permit shall be granted until and after an application has been filed with the designated administrative official, showing the plans and specifications, including application fees, dimensions, materials, and details of construction of the proposed structure and meeting all provisions of this Article.

3. APPLICATION FORM

- a. The (*insert official's title*) shall prepare and provide a form to be used as an application for a sign permit. The same form may constitute a permit, when duly approved. Multiple signs may be listed on a single permit only when they are all on the same lot or parcel, or are part of a single, comprehensive development.

4. INFORMATION ON APPLICATION

- a. The sign application form shall include the following information:
 - (1) Name and contact information for the applicant, and if separate, the name, address and consent of the property owner;
 - (2) Street address and Property Identification Number (PIDN) of the site;

- (3) Accurate site plan to scale describing the design, dimensions, proposed placement, structural and electrical characteristics and appearance of the sign(s), including the location of existing buildings, signs and other structures on the same site as the proposed sign(s);
- (4) If the plans and drawings require an engineer's or architect's seal, signature or certificate, such shall show current Kentucky registration or licensure;
- (5) Any signs or other structures to be removed or relocated;
- (6) Dimensions and heights of all existing and proposed sign(s);
- (7) Information regarding electrification, trenching, demolition, plumbing, temporary street closure, or encroachment into the public right of way;
- (8) Any known uncorrected violations of zoning laws on the site;
- (9) Name, address and any licensing/bonding information for any sign contractors;
- (10) Technical drawings, specifications, structural safety calculations for the sign structure;
- (11) An expressed representation that the sign will not be used for the display of offsite commercial messages;
- (12) The graphic design or proposed message of the sign is optional with the applicant;
- (13) If the sign is subject to any of the safety codes (building, electrical, etc.), then all information required to determine compliance with such codes or to satisfy the requirements of such codes;
- (14) The length of each occupant's/tenant's lineal wall frontage;
- (15) Workers' compensation and liability documents and occupational licenses for all contractor's.

5. INITIAL REVIEW

- a. Unless a given sign is exempt from the permit requirement, all sign permit applications shall be reviewed by the (*insert official's title*), and approved or denied on the basis of whether the proposed sign satisfies all requirements of this Article, and all other applicable laws, rules and regulations. If it does, then the permit shall be issued. If it does not, then the denial notice shall specify the point(s) of noncompliance. Decisions on sign permit applications shall be made in writing by the (*insert official's title*), and are subject to the appeal procedures provided herein. When applicable, permits under building and electrical codes then in effect are also required; sign permits may be approved subject to compliance with building and electrical code requirements.

6. COMPLETENESS

- a. Initial review of an application will be for the purpose of determining if the application is complete. If the application is found incomplete, written

notice of the finding of incompleteness will be given to the applicant within fifteen working days of submission, detailing the points of incompleteness. Notice is deemed effective when mailed or personally delivered. After notice of incompleteness, the applicant shall have thirty calendar days in which to resubmit the application, with all noted items of incompleteness cured. If the application is resubmitted within that time, no additional fee shall be required, and the application, if complete, shall then be processed in accordance with this Section. If no notice of incompleteness is timely provided, the application shall be deemed complete as of the last day on which the notice of incompleteness could have been given.

7. TIME FOR DECISION

- a. The (*insert official's title*) shall render a decision on each complete sign permit application within five working days of when the application was complete.

8. NONCOMPLIANCE WITH PERMIT

- a. All signs shall conform to the requirements of the permit, and all other applicable laws. Any sign not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed as a misrepresentation of facts on the application and a violation of this Article. Any noncomplying sign which is not removed or corrected within the required time shall be deemed public nuisances and a violation of the zoning ordinance, and may be abated in the same manner as any public nuisance or zoning ordinance violation.

SECTION 14.18 APPEALS

- A. Decisions on sign permit applications, as well as directives, orders, notices and all other sign-related decisions of the (*insert official's title*) may be appealed to the Board of Adjustment.

1. INITIATION OF APPEAL

- a. An appeal under this Article may be initiated by following the procedures set forth in KRS §100.261, within the time allowed by that section.

2. HEARING ON APPEAL

- a. Within 60 working days of timely receipt of a notice of appeal, the Board of Adjustment shall hear the appeal in an open, public, duly noticed hearing. The appellant and all other persons wishing to be heard shall be allowed to present evidence and argument. The Board will base its

decision on the law and the evidence presented at the hearing. The Board will issue a written decision within 30 calendar days of the hearing, and the written decision shall state the decision and the facts and law supporting the decision.

3. WAIVER OF TIME

- a. Any of the timeliness requirements of this Section may be waived by the appellant.

4. JUDICIAL REVIEW

- a. The decision of the Board of Adjustment is final. Further review may be had in Kenton County Circuit Court, pursuant to the Kentucky law of civil procedure.

5. STATUS PENDING APPEAL

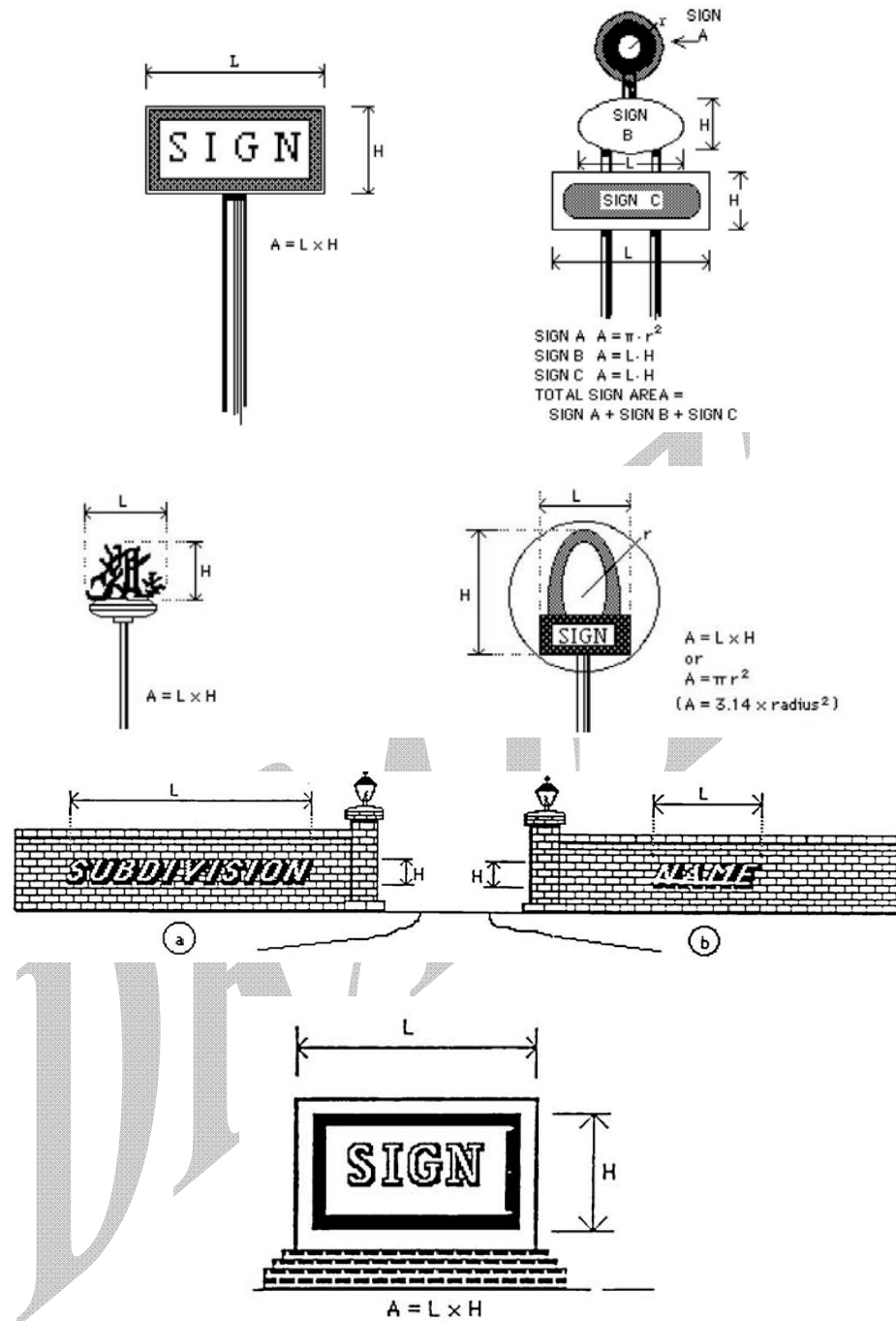
- a. While any sign related matter is on appeal, the status quo of the subject sign(s) shall be maintained, except when, by virtue of physical condition, the sign poses an immediate threat to the public health, safety and welfare, in which case the threat may be abated in the same manner as any other immediate threat to the public health, safety and welfare.

SECTION 14.19 DEFINITIONS AND MEASUREMENTS

A. MEASUREMENTS

1. Area of Signs Other than Wall Signs

- a. The gross surface area of a sign, except wall signs, is the entire area contained within a single continuous perimeter enclosing the extreme limits of such sign. For detached signs composed of more than one sign cabinet or module, the gross surface area shall include the sum of the area in each cabinet or module only. If a sign has more than one face, the gross surface area shall be equal to the maximum area of the sign face or faces visible from any ground position along any public right-of-way at any one time.



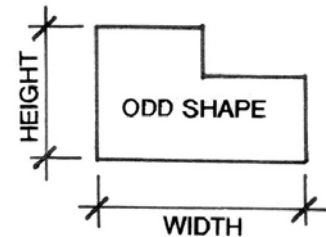
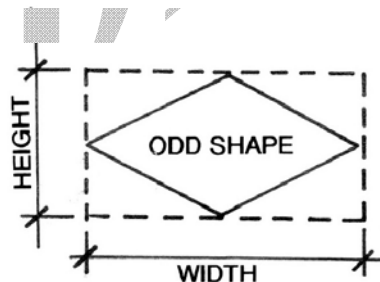
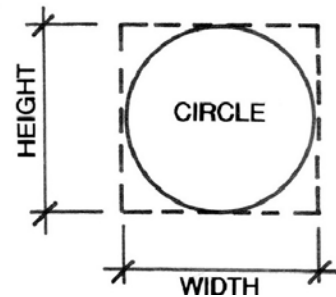
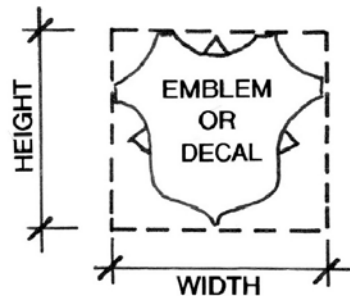
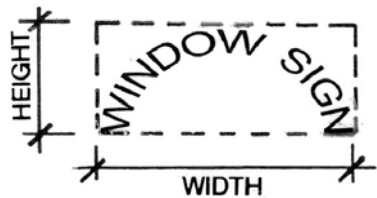
- b. The perimeter of a sign will not include lighting fixtures, pole covers, landscaping, framing, decorative roofing, moldings or aprons or other architectural or decorative embellishments, provided they contain no written copy, logos or symbols.

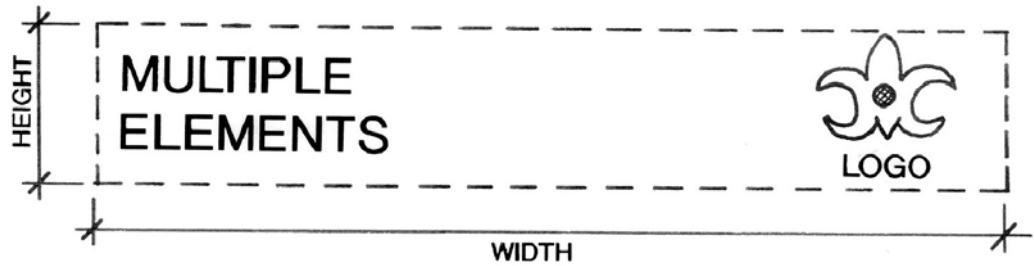
2. Area of Wall Signs

- a. The gross surface area of a wall sign is the entire area contained within a single continuous perimeter composed of any straight line geometric figure(s) which encloses the extreme limits of the advertising message(s). If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, color or embellishment, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter. The combined area of the individual figures shall be considered the total sign area.

3. Computation of Area of Multifaced Signs

- a. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.





4. Measurement of Height of Sign

- a. Sign height shall be measured from the elevation at the base of the sign to the highest point of the highest element of the sign, excluding any incidental structural element, such as an uplift cable for a projecting sign. Where the sign is located on a mound or berm, the average elevation of the land 20 feet to each side of the sign shall be used as a basis for measuring height.

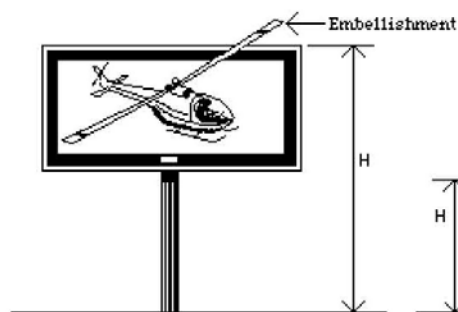
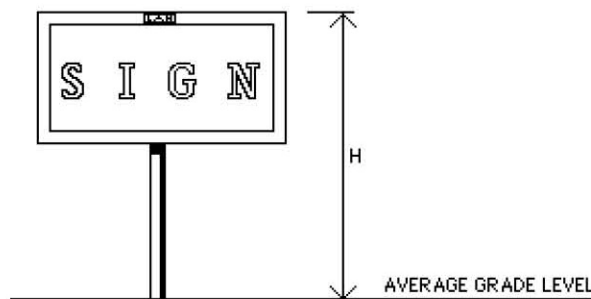


fig. 3
HEIGHT OF SIGN



fig. 4
HEIGHT OF SIGN

SECTION 14.20 POLICIES AND RULES OF CONSTRUCTION

- A. This Article shall be administered, enforced and construed in accordance with the following policies.

1. DISCRETIONARY REVIEW

- a. When one or more signs are part of a project or development, or a variance, conditional use permit, exception or special use permit is sought for sign(s), which requires discretionary review, then the sign shall be reviewed without regard to the graphic design or visual image on the display face of the sign, and discretion shall be restricted to structural, location and other non-communicative aspects of the sign. This provision does not override the billboard policy.

2. MESSAGE NEUTRALITY

- a. It is the *(insert name of legislative body)* policy to regulate signs in a constitutional manner.

3. REGULATIONS ON OFF-SITE MESSAGES

- a. This Article distinguishes in some cases between commercial messages that relate to products or services not offered at the location of the sign (“off-site commercial messages”). The purpose of that distinction is to acknowledge the need of businesses for identification and notice of their businesses at a business location while limiting the proliferation of commercial messages generally. There is no intent to limit noncommercial messages in any way with this distinction.

4. BILLBOARD POLICY

- a. New billboards, as defined herein, are prohibited. The *(insert name of legislative body)* completely prohibits the construction, erection or use of any billboards, other than those which legally exist within the regulatory zoning jurisdiction of the *(insert name of legislative body)*, or for which a valid permit has been issued and has not expired, as of the date on which this provision is first adopted. No permit shall be issued for any billboard which violates this policy, and the *(insert name of legislative body)* will take immediate enforcement or abatement action against any billboard constructed or maintained in violation of this policy. In adopting this provision, the *(insert name of legislative body)* affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this Article. The *(insert name of legislative body)* intends for this billboard policy to be severable and separately enforceable even if other provision(s) of this Article may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid or unenforceable.

5. MESSAGE SUBSTITUTION

- a. Subject to the property owner's consent, a noncommercial message of any type may be substituted in whole or in part for the message displayed on any sign for which the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. In addition, any on-site commercial message may be substituted, in whole or in part, for any other on-site commercial message, provided that the sign structure or mounting device is legal without consideration of message content. This provision does not create a right to increase the total amount of signage on a parcel, lot or land use; does not affect the requirement that a sign structure or mounting device be properly permitted; does not allow a change in the physical structure of a sign or its mounting device; and does not allow the substitution of an off-site commercial message in place of an on-site commercial message or a noncommercial message.

6. REGULATORY INTERPRETATIONS

- a. All regulatory interpretations of this Article are to be exercised in light of the (*insert name of legislative body*) message neutrality and message substitution policies. Where a particular type of sign is proposed in a permit application, and the type is neither expressly allowed nor prohibited by this Article, or whenever a sign does not qualify as a "structure" as defined in the building code then in effect, then the (*insert official's title*) shall approve, conditionally approve or disapprove the application based on the most similar sign type that is expressly regulated by this Article, in light of the policies stated in this Section.

7. NONCOMMUNICATIVE ASPECTS

- a. All rules and regulations concerning the non-communicative aspects of signs, such as location, size, height, illumination, spacing, orientation, etc., stand enforceable independently of any permit or approval process.

8. MIXED USE ZONES AND OVERLAY ZONES

- a. In any zone where both residential and non residential uses are allowed, the sign-related rights and responsibilities applicable to any particular parcel or land use shall be determined as follows: residential uses shall be treated as if they were located in a zone where a use of that type would be allowed as a matter of right, and nonresidential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or similar discretionary process.

9. PROPERTY OWNER'S CONSENT

- a. No sign may be displayed without the consent of the legal owner(s) of the property on which the sign is mounted or displayed. For purposes of this policy, "owner" means the holder of the legal title to the property and all parties and persons holding a present right to possession, control or use of the property. The signature of the property owner or authorized agent will be required on all applications for sign permits.

10. LEGAL NATURE OF SIGN RIGHTS

- a. As to all signs attached to real property, the signage rights, duties and obligations arising from this Article attach to and travel with the land or other property on which a sign is mounted or displayed. This provision does not modify or affect the law of fixtures, sign-related provisions in private leases regarding signs (so long as they are not in conflict with this Article or other law), or the ownership of sign structures. This provision does not apply to hand held signs or other images which are aspects of personal appearance.

11. SEVERABILITY

- a. Generally
 - (1) If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as limited by Section 14.19, A., 11., b.
- b. Severability Where Less Speech Results
 - (1) Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section or elsewhere in this Article or this Code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article is declared unconstitutional, such declaration shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise additional standards.

c. Severability of Provisions Pertaining to Prohibited Signs

- (1) Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section, or elsewhere in this Article or in this Code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or any other laws declared unconstitutional by valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under Section 14.4 of this Article. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or of any part of the Zoning Ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as expressly provided in Section 14.19, A., 11., b.

d. Severability of Prohibition on Off-premise Signs

- (1) If any part section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article and/or an other provisions of this Article or other provisions of Zoning Ordinance or this Code are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the limitations on off-premise signs as contained herein.

ARTICLE XIV

DEVELOPMENT REVIEW AND ADMINISTRATIVE PROCEDURES

SECTION 14.0 APPLICABILITY AND GENERAL PROVISIONS

- A. **PURPOSE:** The purpose of this article is to provide the procedures and general standards for review of development, development activity and other applications that are submitted for review under this zoning ordinance.
- B. **SUMMARY OF PROCEDURES:** Table 15-1 provides a summary of the Review and Approval Procedures of this article. In the event of a conflict between the summary table and the detailed procedures set forth in this article, the detailed procedures will govern.
- C. **APPLICATION REQUIREMENTS**
1. **Application Submittal Requirements:** Applications required under this zoning ordinance shall be submitted in a form and in such numbers as required by the official responsible for accepting the application.
 2. **Pre-Application Meetings:** All applicants for development approvals described in this article are encouraged to arrange a pre-application meeting with the Zoning Administrator or Planning Commission staff before completing and filing the required application.
 3. **Application Filing Fees:** Applications shall be accompanied by the fee amount that has been established by the Planning Commission, Legislative Body, or Board of Adjustment, as applicable.
 4. **Application Completeness**
 - a. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information, and is accompanied by the required application fee.
 - b. If an application is determined to be incomplete, the official responsible for accepting the application shall provide notice to the applicant along with an explanation of the application's deficiencies.
 - c. No further processing of the application will occur until the deficiencies are corrected.
 - d. If the deficiencies are not corrected by the applicant within sixty (60) calendar days, the application will be considered withdrawn.

Table 15-1 Summary of Review and Approval Procedures - Reference Table

Procedure	Section #	Zoning Administrator	Building Inspector	Planning Commission	Board of Adjustment	Code Enforcement Board	Legislative Body
Zoning Text Amendment				<R>			FA
Zoning Map Amendment				<R>			FA
Comprehensive Plan Amendment				FA			
Stage I Dev Plan				<R>			FA
Stage II Dev Plan				FA			
Zoning Permits		FA			<A>		
Building Permit			FA				
Certificate of Occupancy			FA				
Conditional Use Permit					<FA>		
Variances					<FA>		
Change of Nonconforming status					<FA>		
Zoning Violations		FA			<A>	<A>	
R - Review and Recommendation							
FA - Final Action							
A - Authority to hear and decide appeals to decision-making body's action							
<> - Public hearing required							

SECTION 14.1 NOTICE OF PUBLIC HEARINGS

- A. **APPLICABILITY:** All meetings of the Planning Commission, Board of Adjustment, and Legislative Body are public meetings and subject to the notice requirements under Kentucky Revised Statutes Chapter 424.
- B. **TYPES OF PUBLIC NOTICE**
1. Forms of notice required for various public hearings may include mailed notice, published notice provided via newspaper of general circulation, and posted notice by signs located on the subject property. Public hearing notices shall be in accordance with KRS Chapter 424. The public notice requirements for development applications are summarized in Table 15.2.
 2. **Published Notice:**
 - a. Pursuant to KRS 424, notice of the time and place of all required public hearings must be published at least once in a newspaper of general circulation in the county. The required notice must appear in the newspaper a minimum of seven calendar days and maximum of 21 calendar days before the public hearing.
 - b. Any published notice must include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of 2 streets on either side of the property that intersect the street on which the property is located.
 - c. When the property in question is located at the intersection of 2 streets, the notice must designate the intersection by name of both streets rather than name the 2 streets on either side of the property.
 3. **Mailed Notice:**
 - a. For Text Amendments: Notice of all required public hearings shall be given at least 7 days in advance of the public hearing by first class mail to the applicant.
 - b. For Map Amendments, Conditional Use Permits (if adjoining a residential zone): Notice of all required public hearings shall be given at least 14 days in advance of the public hearing by first class mail, with certification by the Planning Commission Secretary or other officer of the Planning Commission/Board of Adjustment that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. Where the property adjoins a street or alley, property abutting the opposite side of such street or alley will be considered adjoining property.

- b. It is the duty of the person proposing the amendment to furnish to the Planning Commission the names and addresses of the owners of all adjoining property.
 - c. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail must be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to 2 or more co-owners of an adjoining property who are listed in the Property Valuation Administrator's records as having the same address.
 - d. If the subject property adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing must be given at least 14 days in advance of the hearing by first class mail to certain officials as follows:
 - (i) If the adjoining property is part of a planning unit, notice must be given to that planning unit's Planning Commission.
 - (ii) If the adjoining property is not part of a planning unit, notice must be given to the mayor of the city in which the property is located, or if the property is an unincorporated area, notice must be given to the judge/executive of the county in which the property is located.
 - e. All procedures for public notice and publication, as well as for adoption, must be the same for an amendment, as for the original enactment of a zoning regulation.
4. Posted Notice:
- a. Notice of all required public hearings on map amendments must be posted conspicuously on the subject property for at least 14 consecutive days immediately prior to the hearing. The posting must consist of one or more signs, constructed of durable material, and clearly depicting the following information:
 - (i) the words "ZONING CHANGE" (3-inch high lettering);
 - (ii) the existing and proposed zoning classifications of the property (3-inch high lettering);
 - (iii) the date, place, and time of the public hearing (one-inch high lettering); and
 - (iv) the address, including telephone number, of the Planning Commission where additional information regarding the hearing may be obtained.

Table 14.2
Required Public Notice for Development Applications

Application	Applicant	Application Deadline	Notice of public hearing (per Subsection 14.1., B)		
			Mailed	Published	Sign Posted
Zoning Text Amendment	Legislative Body or Planning Commission	21 days	<ul style="list-style-type: none"> Not less than 7 days to the applicant. 	No less than 7 nor more than 21 days in the newspaper of largest circulation	No
Zoning Map Amendment (i.e. Zone Change)	Legislative Body or Planning Commission	35 days	<ul style="list-style-type: none"> Not less than 30 days to an owner of every parcel of property the classification of which is proposed to be changed. Not less than 14 days to the applicant and adjoining property owners. 	No less than 7 nor more than 21 days in the newspaper of largest circulation	Yes
Zoning Map Amendment	Property owner	21 days	<ul style="list-style-type: none"> Not less than 14 days to the applicant and adjoining property owners 	No less than 7 nor more than 21 days in the newspaper of largest circulation	Yes
Comprehensive Plan adoption, amendment, readoption	Any person or entity	21 days	<ul style="list-style-type: none"> Not less than 14 days to planning commission/CEO if located adjacent to another city, county or planning unit. 	No less than 7 nor more than 21 days in the newspaper of largest circulation	No
Administrative appeal to the Board of Adjustment	Any person or entity	Within 30 days following final action.	<ul style="list-style-type: none"> Not less than 7 days to the appellant and administrative official 	No less than 7 nor more than 21 days in the newspaper of largest circulation	No

Table 14.2
Required Public Notice for Development Applications

Application	Applicant	Application Deadline	Notice of public hearing (per Subsection 14.1., B)		
			Mailed	Published	Sign Posted
Appeals from final action of the Board of Adjustment, Planning Commission or Legislative Body	Any person or entity	Within 30 days following final action.	No notice required		
Conditional use permit (BOA)	Any person or entity	Per local bylaws	<ul style="list-style-type: none"> • Not less than 14 days to applicant, Board members and the city; to Mayor/CEO if located adjacent to another city, county or planning unit • Adjoining property owners (only if adjoining a residential zone) 	No less than 7 nor more than 21 days in the newspaper of largest circulation	No
Change of a non-conforming use	Any person or entity	Per local bylaws	<ul style="list-style-type: none"> • Not less than 14 days to applicant, Board members and the city; to Mayor/CEO if located adjacent to another city, county or planning unit 	No less than 7 nor more than 21 days in the newspaper of largest circulation	No
Variances	Any person or entity	Per local bylaws	<ul style="list-style-type: none"> • Not less than 14 days to applicant, Board members and the city; Mayor/CEO if located adjacent to another city, county or planning unit 	No less than 7 nor more than 21 days in the newspaper of largest circulation	No

- C. **CONTINUATION OF PUBLIC HEARINGS:** A public hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuance is set for a specified date and time and that date and time is announced at the time of continuance. If a public hearing is tabled or deferred for an indefinite period of time or postponed more than 3 months from the date of the originally scheduled public hearing, new public notice shall be given (in accordance with the notice requirements of the respective procedure) before the rescheduled public hearing. The party requesting the postponement is responsible for paying the cost of re-notification, and payment of re-notification costs shall be made before the item is placed on the agenda.
- D. **BURDEN OF PROOF OR PERSUASION:** In all cases, the burden is on the applicant to show that an application complies with applicable review or approval criteria.
- E. **CERTIFICATES OF LAND USE RESTRICTION:** A “Certificate of Land Use Restriction”, when required in accordance with the provisions of this article, shall be filed in the office of the County Clerk by the Planning Commission, Legislative Body, and/or Board of Adjustment, whichever decision-making body imposes the land use restriction, pursuant to KRS 100.3681 through 100.3684. The decision-making body that imposes the restriction is authorized to collect a fee from the applicant to cover the costs of recordation and the costs of completing and filing the certificate.

SECTION 14.2 COMPREHENSIVE PLAN AMENDMENTS

1. **INITIATION:** The Kenton County Planning Commission is required by statute to prepare a comprehensive plan, which serves as a guide for public and private actions and decisions to assure the development of public and private property in Kenton County is carried out in the most appropriate way. All zoning regulations must be in conformance with the comprehensive plan. In certain cases, an amendment to the comprehensive plan can be made given the following requirements are met:
- a. A thorough review of the minimum plan elements is conducted per the requirements of KRS 100.187 and that the area evaluated, if not the entire county or other local political jurisdiction, is agreed upon by both the applicant and NKAPC staff.
 - b. Research requirements for the proposed amendments shall include all the minimum requirements per KRS 100. 191
 - c. At least one public meeting shall held within or near the study area at a location and time convenient for area residents at least two weeks prior to consideration by either the Northern Kentucky Area Planning Commission or the Kenton County Planning Commission.
2. **PUBLIC HEARING NOTICE – OTHER NOTIFICATIONS:** Per Table 14.2 - Required Public Notice for Development Applications and other requirements for plan updates, as necessary, per KRS 100.193.

3. **PLANNING COMMISSION HEARING / ACTION:** Amendments to the comprehensive shall be submitted to the Northern Kentucky Area Planning Commission for recommendation to the Kenton County Planning Commission. The Kenton County Planning Commission, after receipt of the recommendation, must hold at least one (1) public hearing after the required notice has been given. The Planning Commission shall take final action to either approve or disapprove the proposed amendment and shall state the reasons for its recommendation.

SECTION 14.3 ZONING TEXT AMENDMENTS

- A. **INITIATION:** A Zoning Text Amendment may only be initiated by the Legislative Body or the Planning Commission.
- B. **REQUIRED PUBLIC HEARING NOTICE:** Per Table 14.2 - Required Public Notice for Development Applications.
- C. **PLANNING COMMISSION HEARING / ACTION:** The Planning Commission shall hold at least one (1) public hearing after the required notice has been given. The Planning Commission shall recommend approval, approval with conditions, or disapproval, and shall state the reasons for its recommendation. In the case of a proposed text amendment originating with the Legislative Body, the Planning Commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed text amendment. It shall take an affirmative vote of a majority of the Legislative Body to adopt the proposed text amendment.
- D. **LEGISLATIVE BODY ACTION:** The Legislative Body must take final action on the proposed text amendment by a simple majority vote. Pursuant to KRS 147.705, the Legislative Body shall, within 60 days after adoption of any zoning text amendment, furnish a copy of the adopted amendment to the Northern Kentucky Area Planning Commission.

SECTION 14.4 ZONING MAP AMENDMENTS (ZONE CHANGES)

- A. **INITIATION**
 1. A Zoning Map Amendment may be initiated by the Legislative Body, the Planning Commission, or the owner of the property in question (or his/her authorized agent). An application for a map amendment shall be signed by all owners of the property to be rezoned, including all persons who may jointly own the property and the property owner's authorized agent, if applicable.
 2. Completed applications shall be signed by a representative of the Legislative Body and submitted to the Kenton County Planning Commission for review and recommendation.

3. Map amendment applications proposing rezoning to any commercial, industrial or multi-family residential zoning classification shall be accompanied by a Stage I Development Plan, prepared in accordance with Section 14.5. The Zoning Administrator is authorized to waive the submission of data requiring detailed engineering studies until such time as the zoning map amendment has been approved. Stage I Development Plans are not required with applications submitted by the Planning Commission or the Legislative Body.

B. **REQUIRED PUBLIC HEARING NOTICE:** Per Table 14.2 - Required Public Notice for Development Applications.

C. **MINIMUM AREA:**

1. No zoning map amendment application may be accepted if the proposed map amendment would create a free-standing zone that is less than five (5) acres.
2. In computing the area of a proposed rezoning, all of the following shall be counted:
 - a. The area of public rights-of-way within the interior of the area proposed to be rezoned;
 - b. One-half the area of public rights-of-way abutting the area proposed to be rezoned; and
 - c. The area of any land contiguous with the area proposed to be rezoned if such contiguous land area already bears the zoning classification sought in the rezoning, whether or not such contiguous land area is within the zoning jurisdiction of the city,
3. For the purposes of this subsection, land will be considered to be contiguous even when separated by a street, alley, or corporate boundary line.

D. **CONCURRENT PROCESSING OF VARIANCES AND CONDITIONAL USE PERMITS**

1. In accordance with KRS 100.203, at the time of filing an application for a zoning map amendment, an applicant may elect to:
 - a. Have any necessary variances or conditional use permits for the subject property be heard and finally decided by the planning commission at the public hearing on the proposed map amendment, or
 - b. Have any necessary conditional use permits or variances for the subject property be heard and finally decided by the Board of Adjustment in accordance with Section 14.11 and Section 14.12.

2. A zoning map amendment application that includes proposed variances or conditional use permits must be accompanied by a Stage I Development Plan, in accordance with the applicable requirements of Section 14.5.
3. In acting on variances and conditional use permits processed concurrently with zoning map amendments, the planning commission is granted all the powers and duties otherwise exercised by the Board of Adjustment, pursuant to KRS 100.231, 100.233, 100.241, 100.243, 100.247, and 100.251.
4. Any judicial proceedings to appeal the planning commission's actions in granting or denying any variance or conditional use permit must be taken pursuant to KRS 100.347(2).

D. PLANNING COMMISSION HEARING / ACTION

1. The Planning Commission shall hold at least one (1) public hearing after the required notice has been given. The Planning Commission shall make findings of fact and recommend approval, approval with conditions, or disapproval. The Planning Commission's recommendation shall be based on the review criteria contained in Subsection E. The Planning Commission's recommendation, along with a summary of evidence and testimony submitted by proponents and opponents, shall be forwarded to the Legislative Body.
2. A tie vote shall be subject to further consideration by the Planning Commission for a period not to exceed thirty (30) days. If, after thirty (30) days, the tie vote has not been broken, the application shall be forwarded to the Legislative Body without a recommendation of approval or disapproval. It shall take a majority of the entire Legislative Body to override the recommendation of the Planning Commission, and it shall take a majority of the entire Legislative Body to adopt a zoning map amendment whenever the Planning Commission forwards an application without a recommendation of approval or disapproval due to a tie vote.
3. The Legislative Body's approval of a zoning map amendment that includes a Stage I Development Plan may incorporate any conditions imposed by the Planning Commission. However, should the Legislative Body take action to impose different conditions than were reviewed and recommended by the Planning Commission, then the conditions must be resubmitted to the Planning Commission for further review and recommendation in accordance with the process required for the initial review.
4. It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment whenever the planning commission forwards the application to the fiscal court or legislative body without a recommendation of approval or disapproval due to a tie vote.

Unless a majority of the entire legislative body or fiscal court votes to override the planning commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the planning commission, the ordinance of the fiscal court or legislative body adopting the zoning map amendment shall be deemed to have passed by operation of law.

5. Pursuant to KRS 147.705, the Legislative Body shall, within 60 days after adoption of any zoning ordinance or zoning map amendment, forward a copy of the adopted amendment to the Northern Kentucky Area Planning Commission.

E. REVIEW CRITERIA FOR ZONING MAP AMENDMENTS

1. Before any zoning map amendment is recommended for approval, approval with conditions, or is approved, the Planning Commission or Legislative Body, as applicable, must find that the proposed amendment is consistent with the adopted comprehensive plan, or in the absence of such a finding, that one or more of the following apply:
 - a. That the existing zoning classification given to the property is inappropriate, and that the proposed zoning classification is appropriate; and/or
 - b. There have been major changes of an economic, physical, or social nature in the area involved that were not anticipated in the adopted comprehensive plan and that have substantially altered the basic character of the area.
2. Required findings must be in writing and accompanied by a written report that explicitly describes the reasons for such findings. The findings and written report must be recorded in the minutes and records of the Planning Commission and the Legislative Body, as applicable.

- F. AMENDMENTS TO DEVELOPMENT PLANS:** Any amendments to approved Stage I Development Plans, except for those minor adjustments which are permitted by the Zoning Administrator as noted in Section 14.5., B., must be resubmitted to the planning commission as amended Stage I Development Plans applications.

SECTION 14.5 DEVELOPMENT PLAN REQUIREMENTS - STAGE I AND II

- A. STAGE I DEVELOPMENT PLAN REQUIREMENTS:** The Stage I Development Plan shall identify and provide, where applicable, the following information:
1. Plan(s) of the subject property, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet, that identifies and provides the following information:

- a. The total area in the project;
- b. The present zoning of the subject property and all adjacent properties;
- c. All public and private rights-of-way and easement lines located on the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned;
- d. Existing topography and approximate delineation of any topographical changes shown by contour with intervals not to exceed five (5) feet;
- e. Delineation of all existing and proposed residential areas in the project with a statement indicating net density of the total project:
 - (1) Detached housing - location and approximate number of lots, including approximate lot sizes and dimensions;
 - (2) Attached housing - location and description of the various housing types (i.e., townhouses, fourplex, apartment, etc.) and the approximate number of units by housing type;
- f. Delineation of all existing and proposed nonresidential uses in the project:
 - (1) Commercial and industrial uses - location and type of all uses, including approximate, gross floor area;
 - (2) Open Space/Recreation - the approximate amount of area proposed for common open space, including the location of recreational facilities
 - (3) Other public and semi-public uses - location and type of all uses, including approximate acres, gross floor area, and height of buildings;
- g. Location of all existing and proposed pedestrian walkways,
- h. Location of all existing and proposed off-street parking and loading and/or unloading areas, identifying the approximate number of spaces;
- i. Location of all existing and proposed streets;
- j. Location of all existing and proposed water, sanitary sewer, and storm drainage lines;
- k. Other information that may be determined necessary for description and/or to insure proper integration of the proposed project in the area.

The aforementioned information may be combined in any suitable and convenient manner so long as the data required is clearly indicated. A separate plan or drawing for each element is not necessary, but may be provided at the option of the applicant.

B. STAGE II DEVELOPMENT PLAN REQUIREMENTS: The Stage II Development Plan shall conform to the following requirements:

- 1. The planning commission, in reviewing a Stage II Development Plan, may authorize minor adjustments from the approved Stage I Development Plan (if applicable), provided that the adjustments do not significantly affect the spatial relationship of structures, significantly change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount or usability of open space or recreation areas, or permit activities that do not comply with this zoning ordinance. Adjustments constituting major

adjustments to the Stage I Development Plan must be resubmitted to the planning commission for a review and recommendation in accordance with Section 14.4.

2. Plan(s) of the subject property drawn to a scale of not smaller than one (1) inch equals one hundred (100) feet that identifies and provides the following information:
 - a. The existing and proposed finished topography of the subject property shown by contours with intervals not to exceed five (5) feet. Where conditions exist that may require more detailed information on the proposed topography, contours with intervals of less than five (5) feet may be required by the planning commission.
 - b. All housing units on the subject property:
 - (1) Detached housing - Location, arrangement, and number of all lots, including lot dimensions and setbacks, and maximum height of buildings;
 - (2) Attached housing - Location, height, and arrangement of all buildings, indicating the number of units in each building, and, where applicable, location, arrangement and dimensions of all lots;
 - c. Location, height, arrangement, elevation, and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions;
 - d. Location and arrangement of all common open space areas, and recreational facilities, including lot dimensions. Methods of ownership and operation and maintenance of such lands shall be identified;
 - e. Landscaping features, including identification of planting areas and the location, type, and height of walls and fences;
 - f. Location of signs indicating their orientation and size and height;
 - g. All utility lines and easements:
 - (1) Water distribution systems, including line sizes, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;
 - (2) Sanitary sewer system, including pipe sizes, width of easements, gradients, type of pipes, invert elevations, location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances;

- (3) Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of retention and/or sedimentation basins, and data indicating the quantity of storm water entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of storm water generated by development of the subject area, and the quantity of storm water to be discharged at various points to areas outside the subject property;
 - (4) Other utilities (e.g., electric, telephone, etc.) including the type of service and the width of easements;
 - h. Location of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking and loading and/or unloading spaces;
 - i. Circulation System:
 - (1) Pedestrian walkways, including alignment, grades, type of surfacing, and width;
 - (2) Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details, and typical cross sections;
 - j. Provisions for control of erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction;
 - k. A schedule of development, including the staging and phasing of:
 - (1) Residential area, in order of priority, by type of dwelling unit;
 - (2) Streets, utilities, and other public facility improvements, in order of priority;
 - (3) Dedication of land to public use or set aside for common ownership; and
 - (4) Non-residential buildings and uses, in order of priority.
- 3. The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated.

SECTION 14.6 ZONING PERMITS

A. APPLICABILITY

1. No land shall be used, or building or other structure shall be erected, moved, added to, structurally altered, or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a zoning permit, issued by the Zoning Administrator. No zoning permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the Board of Adjustment.
2. A zoning permit is also required for the demolition or partial demolition of any structure.

B. APPLICATION: All applications for zoning permits shall contain the following:

1. A completed application form, filed by the owner of the subject property and the property owner's authorized agent, if applicable.
2. The required fee for a zoning permit, as provided for in Article I of this ordinance.
3. A Stage II Development Plan, per Section 14.5., B., of this ordinance.

C. ZONING ADMINISTRATOR ACTION:

1. The Zoning Administrator shall either approve or disapprove the application. If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval. Such disapproval shall be attested by the Zoning Administrator's signature. The other copy, similarly marked, shall be retained by the Zoning Administrator.
2. If approved, one (1) copy of the submitted plans shall be returned to the applicant, marked "Approved". Such approval shall be attested by the Zoning Administrator's signature. The other copy, similarly marked, shall be retained by the Zoning Administrator. The Zoning Administrator shall also issue a zoning permit to the applicant at this time and shall retain a duplicate copy.
3. No zoning permit may be issued except in conformity with the provisions of this zoning ordinance, except after written orders from the Board of Adjustment. In the case of demolitions, no zoning permit may be issued unless the proposed use of the site after demolition is in conformity with the provisions of this zoning ordinance, except after written orders from the Board of Adjustment.
4. Failure to obtain a zoning permit shall be a violation of this ordinance and punishable under Article XVI of this ordinance.

D. EXPIRATION: Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days

after the time the work is commenced. The Zoning Administrator is authorized to grant in writing, one or more extensions of time, for periods of not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

SECTION 14.7 INTERPRETATION OF ZONING REGULATIONS

- A. All questions of interpretation and enforcement shall be first presented to the Zoning Administrator.
- B. Pursuant to KRS 100.271, where the literal terms of this ordinance are not clear, and unless this ordinance provides otherwise, the Zoning Administrator shall exercise reasonable discretion in the interpretation of this ordinance.
- C. In determining what are permitted uses within any zone, it shall be recognized that the uses set forth are to serve as a guide to determine the type of uses to be permitted and are not intended to be exclusive. However, the Zoning Administrator shall, as nearly as possible, follow the literal intent of the permitted uses set forth herein.

SECTION 14.8 BUILDING PERMITS

- A. **APPLICABILITY:** Any owner or authorized agent who intends to construct, enlarge, remodel or change the occupancy of a building, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the building inspector. No building permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the Board of Adjustment.
- B. **TIME LIMIT OF APPLICATION:** An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- C. **EXPIRATION:** Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- D. **TEMPORARY STRUCTURES AND USES:** The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official

is authorized to grant extensions for demonstrated cause. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

SHADED SECTIONS ARE PROPOSED TO BE DELETED (per Building Dept input 01/08)

B. APPLICATION FOR BUILDING PERMITS: All applications for building permits shall be accompanied by:

- 1 A completed application form, provided by the building inspector.
- 2 An approved zoning permit.
- 3 The required fee for a building permit, as provided for in Section XX of this ordinance.
- 4 An approved Stage II Development Plan per the requirements of Section 15.5.
- 5 Plans in duplicate, indicating information required by the building code and/or building inspector, as may be necessary to determine conformance with, and provide for the enforcement of, the building code and the Kentucky Revised Statutes.

C. ISSUANCE OF BUILDING PERMIT:

1. The building inspector shall either approve or disapprove the application. If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval. Such disapproval shall be attested by the building inspector's signature. The other copy, similarly marked, shall be retained by the building inspector.
2. If approved, one (1) copy of the submitted plans shall be returned to the applicant marked "Approved". Such approval shall be attested by the building inspector's signature. The other copy, similarly marked, shall be retained by the building inspector. The building inspector shall also issue a building permit to the applicant at this time and shall retain a duplicate copy.

D. COMPLIANCE: It shall be unlawful to issue a building permit, or an occupancy permit, to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this ordinance.

E. BUILDING PERMITS ISSUED PRIOR TO THE ADOPTION OF THIS ORDINANCE: Building permits issued in conformance with the building code of the Legislative Body prior to the date of adoption of this ordinance, whether consistent or inconsistent with this ordinance, shall be valid for a period of one hundred eighty (180) consecutive calendar days from the time of issuance of the building permit. If construction in connection with such a permit has not been started within such a one hundred eighty (180) consecutive calendar day period, the building permit shall be void and a new building permit, consistent with all provisions of this ordinance and the building code, shall be required.

For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation.

F. EXPIRATION:

1. If the work described in any building permit has not begun within ninety (90) consecutive calendar days from the date of issuance thereof, said permit shall expire and be cancelled by the building inspector and no construction shall be permitted until a new building permit has been obtained, except, an extension may be permitted if sufficient evidence can be demonstrated why the work described in the building permit was not begun.
2. For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation. If after the work described in the building permit has been started, the building permit shall expire after a period of 180 days, provided that an extension may be permitted if sufficient evidence can be demonstrated why the work described in the building permit was not completed during the requisite time period.

G. BUILDING PERMIT BASED ON APPROVED PLANS: Building permits will be issued on the basis of applications and plans approved by the building inspector. The building permit will only permit the use, arrangement, and construction set forth in the approved zoning permit, applications and plans. Use, arrangement, or construction that deviates from the approved zoning permit, applications, plans will be deemed in violation of this zoning ordinance.

H. WORK BEGUN WITHOUT A BUILDING PERMIT: Pursuant to KRS.267, if no building permit has been issued and a builder begins or continues to build, a stop work order may be issued and/or a restraining order may be obtained upon application to a court of record. The lack of a building permit will be prima facie evidence for the issuance of a restraining order.

SECTION 14.9 CERTIFICATES OF OCCUPANCY

A. APPLICABILITY: No land is to be used and no building or part thereof may be occupied, converted, enlarged, or structurally altered, wholly or partly, without a certificate of occupancy, which must be part of the building permit issued by the Building Inspector. No certificate of occupancy will be issued except upon a determination by the Building Inspector that the land or building, or part(s) thereof and the proposed use(s) therein, are conform with the provisions of this zoning ordinance

B. APPLICATION:

1. Application for a certificate of occupancy must be filed by the property owner, property owner's authorized agent, or lessee of the subject property. Applications must be filed with the Building Inspector

2. All applications for certificates of occupancy must be accompanied by:

- a. A complete application form provided by the Building Inspector.
- b. An approved zoning permit.
- c. An approved building permit, if required by this zoning ordinance.
- d. The required fee for a certificate of occupancy.
- e. Plans in duplicate approved by the Building Inspector and including any additional information required by the Building Code and Building Inspector, as may be necessary to determine conformance with and provide for the enforcement of the Building Code and the Kentucky Revised Statutes.

C. BUILDING INSPECTOR ACTION

1. Issuance of Certificates of Occupancy

- a. The Building Inspector must either approve or disapprove the application for a certificate of occupancy. If disapproved, one copy of the submitted application must be returned to the applicant marked "disapproved," with a description of the reasons for such disapproval. The other copy, similarly marked, must be retained by the Building Inspector.
- b. If approved, one copy of the application must be returned to the applicant marked "approved". The other copy, similarly marked must be retained by the Building Inspector. Once approved, the Building Inspector must issue a certificate of occupancy to the applicant. The certificate must be attested by the Building Inspector's signature. The second copy, similarly marked, must be retained by the Building Inspector.
- c. A certificate of occupancy may not be issued unless the proposed use of a building or land conforms to the applicable provisions of this zoning ordinance and to plans for which the building permit is issued, if applicable.

2. Certificates of Occupancy for Existing Uses

- a. A certificate of occupancy is required for all uses of land or buildings existing at the time of enactment of this ordinance, which have not previously been issued a certificate of occupancy.
- b. Applications for certificates of occupancy for existing uses must be filed with the Building Inspector by the owner or lessee of the subject property, the property owner's authorized agent, or lessee of the land or building occupied by the use within six consecutive calendar months of the effective date of this zoning ordinance.
- c. For existing uses that conform with the provisions of this ordinance, the Building Inspector must issue a certificate of occupancy for any land or building existing at the time of enactment of this zoning ordinance,

certifying, after inspection, the extent and type of use of the land or building.

3. Certificates of Occupancy for Lawful Nonconforming Uses

- a. A certificate of occupancy is required for all lawful nonconforming uses of land or buildings created by this ordinance.
- b. Applications for certificates of occupancy for lawful nonconforming uses of land and buildings must be filed with the Building Inspector by the owner of the subject property, the property owner's authorized agent, or lessee of the of the land or building occupied by the use within six consecutive calendar months of the effective date of this zoning ordinance.
- c. For lawful nonconforming uses, the Building Inspector must issue a certificate of occupancy on application and such certificate must identify the extent to which the nonconforming use exists at the time of issuance of the certificate.

4. Compliance: It is unlawful to issue a certificate of occupancy or building permit to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this zoning ordinance.

- D. EXPIRATION OF CERTIFICATES OF OCCUPANCY: If land or a building for which a certificate of occupancy has been issued is not occupied within six months of the date of issuance of the certificate of occupancy, it will expire and be of no further effect. Once a certificate of occupancy expires, the land or building may not be occupied until a new certificate of occupancy has been obtained.

SECTION 14.10 BOARD OF ADJUSTMENT

A. ESTABLISHMENT

1. The Board of Adjustment shall consist of 3, 5, or 7 members, all of whom shall be citizen members and not more than 2 of whom may be citizen members of the Planning Commission.
2. The Mayor shall be the appointing authority of the Board of Adjustment, subject to the approval of the Legislative Body.
3. The term of office for the Board of Adjustment is 4 years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one, 2, 3 , and 4 years, respectively.
4. Vacancies on the Board of Adjustment shall be filled within 60 calendar days by the appropriate appointing authority. If the authority fails to act within that time, the Planning Commission shall fill the vacancy. When a vacancy occurs, other

than through expiration of the term of office, it shall be filled for the remainder of that term.

5. All members of the Board of Adjustment shall, before entering on their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, notary public, clerk of court, or justice of the peace, in the zone or county in which they reside.
6. Reimbursement for expenses or compensation or both may be authorized for members on the Board of Adjustment.
7. Any member of the Board of Adjustment may be removed by the Mayor, subject to the approval by the Legislative Body, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The Mayor/Judge Executive exercising the power to remove a member from the Board of Adjustment shall submit a written statement to the Planning Commission setting forth the reasons and the statement shall be read at the next meeting of the Board of Adjustment which shall be open to the general public. The member so removed will have the right of appeal from the removal to the circuit court of the county in which he or she resides.
8. The Board of Adjustment shall elect annually a Chairperson, Vice Chairperson, and Secretary, and any other officers it deems necessary, and any officer will be eligible for reelection at the expiration of this term

B. MEETINGS

1. The Board of Adjustment shall conduct meetings at the call of the Chairperson, who shall give written or oral notice to all members of the Board of Adjustment at least seven days prior to the meeting, which notice shall contain the date, time, and place for the meeting, and the subject or subjects which will be discussed.
2. A simple majority of the total membership of the Board of Adjustment, as established by regulation or agreement, will constitute a quorum.
3. Any member of the Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself or herself from voting on the question.
4. The Board of Adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the Board of Adjustment. A transcript of the minutes of the Board of Adjustment shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.
5. The Board of Adjustment will have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government.

6. The Board of Adjustment will have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.
7. The Chairperson of the Board of Adjustment will have the power to administer an oath to witnesses prior to their testifying before the Board of Adjustment on any issue.
8. The Board of Adjustment may appoint one or more of its members to act as hearing examiner to preside over a public hearing or public meeting and make recommendations to the Board of Adjustment based upon a transcript or record of the hearing.

C. **POWERS AND DUTIES:** The Board of Adjustment has the following powers and duties:

1. To hear and decide on applications for zoning variances.
2. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, grant, or refusal made by a Zoning Administrator in the enforcement of this zoning ordinance.
3. To hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein.
4. To hear and decide, in accordance with the provisions of this zoning ordinance and the adopted comprehensive plan, requests for the change from one nonconforming use to another or the enlargement or extension of certain nonconforming uses, pursuant to KRS 100.253.

D. **DECISIONS**

1. In exercising its powers and duties, the Board of Adjustment may, so long as such action is in conformity with the provisions of this zoning ordinance, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as made by the Zoning Administrator, from whom the appeal is taken.
2. A majority of Board of Adjustment members present and voting will be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, so long as such action is in conformity with the provisions of this zoning ordinance; or to decide in favor of the applicant on any matter on which it is required to pass under this zoning ordinance; or to effect any variation in the application of this zoning ordinance.
3. The details of the decision of the Board of Adjustment shall be forwarded to the Zoning Administrator.

SECTION 14.11 VARIANCES

A. **APPLICATION**

1. An application for a variance shall be filed by the owner of the subject property or the property owner's authorized agent.

2. Applications shall be filed with the Zoning Administrator.
 3. Applicants for a zoning map amendment and a variance for the same property may elect to have any necessary variance applications be heard and decided by the Planning Commission in accordance with Section XX.XX
- B. REQUIRED PUBLIC HEARING NOTICE: Per Table 15.2 - Required Public Notice for Development Applications.
- C. BOARD OF ADJUSTMENT ACTION
1. The Board of Adjustment shall hold at least one public hearing on all applications for variances.
 2. In acting on applications for variances, the Board of Adjustment is authorized to approve or deny the application. If the Board of Adjustment approves the application, it may impose any reasonable conditions or restrictions on any variance it decides to grant. Violation of such conditions or restrictions, when made part of the terms under which the variance is granted, will be deemed a violation of this zoning ordinance.
 3. Before any variance is granted, the board of adjustment shall find that the granting of the variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
 4. The board shall deny any request for a variance arising from circumstances that are the result of willful violations of this ordinance by the applicant subsequent to the adoption of this ordinance from which relief is sought.
 5. Use and density variances prohibited: The Board of Adjustment is not authorized to grant a variance to permit a use of any land, building, or structure that is not permitted by this zoning ordinance in the zone in question, or to alter the density of dwelling-unit requirements in the zone in question.
 6. A variance applies to the property for which it is granted and not to the individual who applied for it. A variance runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.
 7. Pursuant to KRS 147.705, within 60 days, the Board of Adjustment's decision on zoning variance matters shall be furnished to the Northern Kentucky Area Planning Commission.

SECTION 14.12 CONDITIONAL USE PERMITS

- A. **APPLICABILITY:** The Board of Adjustment has the authority to hear and decide applications for conditional use permits to allow the proper integration into the community of uses that are specifically named in the zoning regulations that may be suitable only in specific location in the zone only if certain conditions are met.
- B. **APPLICATIONS**
1. An application for a conditional use permit shall be filed by the owner of the subject property or the property owner's authorized agent. In the case of joint ownership of a property, an application for a conditional use permit shall be signed by all the owners of the property.
 2. Applications shall be filed with the Zoning Administrator.
 3. Applicants for a zoning map amendment and a conditional use permit for the same property may elect to have any necessary conditional use permits be heard and finally decided by the Planning Commission in accordance with Section XX, E., 9.
- C. **REQUIRED PUBLIC HEARING NOTICE:** Per Table 15.2 - Required Public Notice for Development Applications.
- D. **BOARD OF ADJUSTMENT HEARING/ACTION**
1. The Board of Adjustment shall hold at least one public hearing on conditional use permit applications.
 2. Following the Board of Adjustment's public hearing, the Board of Adjustment shall make findings of fact and take action, by simple majority vote, on the conditional use permit application, based on the review and decision-making criteria in Subsection E.
 3. In acting on conditional use permit applications, the Board of Adjustment is authorized to approve, approve with modifications, or deny the application. If the Board of Adjustment approves the application, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request may be initiated, or conditions of a continuing nature.
 4. Any conditions imposed on the conditional use permit shall be recorded in the Board of Adjustment's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, a certificate of land use restriction shall be filed pursuant to Subsection 15.1., E.

5. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this zoning ordinance, the Building Code, Housing Code, and other regulations of the Legislative Body.
- E. REVIEW AND DECISION MAKING CRITERIA: In acting on any conditional use permit application, the Board of Adjustment shall make the following findings in support of a motion to approve or deny the application:
- 1 That the proposed use at the particular location is/is not convenient for the public or desirable to provide a service of facility that will contribute to the general well-being of the neighborhood or the community; and
 2. That such use will/will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity.
- F NOTICE OF DECISION TO NKAPC: Pursuant to KRS 147.705, the Board of Adjustment shall, within 60 days of an approval of a conditional use permit, furnish a copy of the approved conditional use permit to the Northern Kentucky Area Planning Commission
- G. EXPIRATION
1. In any case where a conditional use permit has not been exercised within the time limit set by the Board of Adjustment or within 12 calendar months of the date of approval of the conditional use permit, the conditional use permit will not lapse or revert to its original designation until after a public hearing is held on the matter
 2. For the purpose of this section, “exercised” means that binding contracts for the construction of the principal building or other improvement has been let, or in the absence of contracts, that the principal building or other improvements are under construction to a substantial degree, or that prerequisite conditions involving substantial investment are under contract, in development, or completed. When construction is not part of the use, “exercised” means that the use is in operation and complies with the conditions set forth in the conditional use permit.
- H. ON-GOING ENFORCEMENT, REVOCATION
1. The Zoning Administrator shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually, and the Zoning Administrator has the power to inspect the land or structure where the conditional use is located to ascertain that the landowner is complying with all conditions imposed by the conditional use permit.

2. If the landowner is not complying with all of the conditions imposed on the conditional use permit, the Zoning Administrator shall report such fact, in writing, to the Chairperson of the Board of Adjustment. The report shall specifically describe the manner in which the landowner is not complying with the conditions. A copy of the report shall be furnished to the landowner at the same time it is furnished to the Chairperson of the Board of Adjustment.
3. The Board of Adjustment shall hold a hearing on the Zoning Administrator's report within a reasonable time after receiving the report. Notice of the time and place of the hearing shall be furnished to the landowner at least seven calendar days before the hearing.
4. If the Board of Adjustment finds that the facts alleged in the report of the Zoning Administrator are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board of Adjustment may authorize the Zoning Administrator to revoke the conditional use permit and take necessary legal action to cause the termination of the activity covered by the conditional use permit.
5. The Board of Adjustment is authorized to revoke conditional use permits for noncompliance with any conditions imposed on the permit. Furthermore, the Board of Adjustment is authorized to compel offending structures or uses removed at the cost of the violator and may have judgment in person for the cost removal.
6. Once the Board of Adjustment has approved a conditional use permit and all the conditions imposed are of such type that they can be completed and satisfied, the Zoning Administrator, on request of the applicant, may make a determination that the conditions have been satisfied and enter the facts and conclusion in support of that determination in the margin of the conditional use permit that is on file. From that point forward, the use will be treated as an allowed use if it continues to meet all other applicable requirements of this zoning ordinance.

SECTION 14.13 NONCONFORMING USES, STRUCTURES, LOTS AND SIGNS

A. GENERAL

The regulations of this article govern uses, structures, lots and signs that came into existence legally but which do not conform to one or more requirements of this zoning ordinance. These are referred to as "nonconformities." Nonconformities are legal situations and have legal status under this zoning ordinance.

B. PURPOSE: The regulations of this section are intended to:

1. Recognize the interests of landowners in continuing to use their property for purposes and activities that were legally established;

2. Allow ongoing maintenance and upkeep of nonconforming situations until such time as the nonconforming situation is abandoned; and
 3. Prohibit the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.
- C. **AUTHORITY TO CONTINUE:** Any nonconformity that becomes nonconforming upon the adoption of any amendment to this zoning ordinance may be continued in accordance with the provisions of this article.
- D. **DETERMINATION OF NONCONFORMING STATUS:** The burden of proving that a nonconformity exists rests with the subject landowner.
- E. **REPAIRS AND MAINTENANCE**
1. Incidental repairs and normal maintenance necessary to keep a nonconforming structure in sound condition are permitted unless such repairs are otherwise expressly prohibited by this zoning ordinance.
 2. Nothing in this article will be construed to prevent structures from being structurally strengthened or restored to a safe condition in accordance with an official order of a public official.
- F. **CHANGE OF TENANCY OR OWNERSHIP:** Nonconformity status runs with the land and is not affected by changes of tenancy, ownership, or management.
- G. **NONCONFORMING LOTS OF RECORD**
1. **DESCRIPTION:** A “nonconforming lot of record” is a legally created lot, shown on a plat or survey map recorded in the office of the Kenton County Clerk, that complied with applicable lot area and lot width standards at the time of the lot’s creation, but does not comply with applicable lot area and lot width standards of the zone in which it is now located.
 2. **SINGLE LOTS OF RECORD:** Any single nonconforming lot of record may be used for any use or building type allowed by the zone in which it is located, whether or not the subject lot complies with minimum lot area and/or lot width standards, provided that:
 - a. the lot is located on an existing and improved public street;
 - b. the lot is in separate ownership from all adjacent and contiguous parcels, thereby precluding acquisition of the additional land area needed to comply with lot size standards; and
 - c. development on the lot complies with setback, height and other applicable standards of this zoning ordinance (other than lot area and/or width).
 3. **TWO OR MORE CONTIGUOUS LOTS OF RECORD**

- a. If two or more lots of record or combinations of nonconforming lots of record or portions of lots of record with continuous frontage on the same street are in single ownership, the lots involved are to be considered an undivided parcel.
 - b. No portion of such an undivided parcel that does not meet the applicable lot area and/or width standards of the zone in which it is located may be conveyed, transferred, subdivided, or used in any manner.
 - c. Any division of the parcel must create lots that comply with minimum lot area and width standards of the zone in which it is located.
4. **VARIANCES AUTHORIZED:** The Board of Adjustment is authorized to approve variances for the construction of structures on nonconforming lots of record or variances from the requirements of this Section, in accordance with the variance procedures of Section 15.12.

H. NONCONFORMING STRUCTURES

1. **DESCRIPTION:** A nonconforming structure is any building or structure, other than a sign, that was legally established but no longer complies with the lot and building standards of this zoning ordinance. Nonconforming structures may remain, subject to the regulations of this section.
2. **ALTERATIONS AND EXPANSIONS:** Structural alterations, including enlargements and expansions, are permitted if the proposed structural alteration complies with all applicable lot and building standards. For example, a building with a nonconforming front setback may be expanded to the rear as long as such rear expansion complies with applicable rear setback standards and all other applicable lot and building standards.
3. **USE:** A nonconforming structure may be used for any use allowed in the zone in which it is located.
4. **MOVING:** A nonconforming structure may be moved in whole or in part to another location on the subject parcel only if the movement or relocation eliminates the nonconformity.
5. **LOSS OF NONCONFORMING STATUS**
 - a. **Abandonment:** Once a nonconforming structure is abandoned or made to conform, its nonconforming status is lost and the structure, or any replacement, must comply with the regulations of the zone in which it is located. A nonconforming structure will be considered abandoned when any of the following occurs:

- (i) the intent of the owner to discontinue all uses in the structure is apparent;
 - (ii) no use has been maintained in the structure for a period of 12 months or more;
 - (iii) a demolition permit has been applied for; or
 - (iv) all equipment and furnishings have been removed from the premises and have not been replaced by similar or other equipment and furnishings within 180 days, unless other facts show intention to resume use of the structure.
- b. **Intentional Damage or Destruction:** When a nonconforming structure is intentionally destroyed or damaged by causes within the control of the property owner or tenant, all nonconforming structure rights are lost and re-construction of the nonconforming structure is prohibited.
- c. **Accidental Damage or Destruction**
 - 1. When a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the owner, to the extent of more than 50 percent of its fair market value, the structure may not be restored except in conformity with the regulations of the zone in which it is located.
 - 2. When a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the property owner or tenant, to the extent of 50 percent or less of its fair market value, the structure and use may be restored or repaired provided that no new nonconformities are created and the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 12 months of the date of occurrence of such damage, and once issued, construction must be diligently pursued.

I NONCONFORMING USES

- 1. **DESCRIPTION:** A nonconforming use is a land use that was lawfully established in accordance with zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zone in which it is now located.
- 2. **CONTINUANCE OF USE:** The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued although such use does not conform to the provisions of such regulations, except as otherwise provided herein.

3. **CHANGE OF USE:** The Board of Adjustment is authorized to permit a change from one nonconforming use to another if the new nonconforming use is in the same or a more restrictive zoning classification as the previous nonconforming use, subject to the following criteria:.
- a. The Board of Adjustment can permit the substitution of one nonconforming use for another nonconforming use only after holding a public hearing in accordance with the conditional-use procedure contained in Section 15.13.
 - b. In granting a substitution of nonconforming uses, the Board of Adjustment may attach conditions as it deems necessary and proper.
 - c. If the nonconforming use substitution has not occurred within one year after the date of approval, the approval will lapse and be of no further effect.
 - d. The change of a nonconforming use, as may be granted by the Board of Adjustment, applies to the property for which it is granted and not to the individual who applied, and therefore, cannot be transferred by the applicant to a different property.
4. **ENLARGEMENTS AND EXPANSIONS**
- a. Except in accordance with subsection 15.14., I., 2., the Board of Adjustment cannot allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulations which makes it nonconforming was adopted.
 - b. However, the Board of Adjustment may grant approval, effective to maintain nonconforming use status, for enlargements or extensions of the facilities of a nonconforming use that consists of presenting of a major public attraction(s) (e.g. sports events), which meets the following criteria:
 - (i) It has been presented at the same site over a period of years;
 - (ii) It has such attributes and public acceptance that it has attained international prestige and has achieved the status of a public tradition;
 - (iii) It contributes substantially to the economy of the community and state;
 - (iv) With respect to the prestige and status of the attraction or event, the site is an essential element, and the enlargement or extension was or is designed to meet the increasing demands of participants and patrons.
 - c. The Board of Adjustment can permit the enlargement or extension of a nonconforming use in accordance with this subsection, only after holding a public hearing in accordance with the conditional-use procedure contained in Section 15.13.

- d. In approving enlargement or extension of a nonconforming use, the Board of Adjustment may attach conditions as it deems necessary and proper.

5. LOSS OF NONCONFORMING STATUS

1. Discontinuance

a. Uses within Buildings

If a nonconforming use within a building is discontinued for 12 consecutive months or for 24 months during any four-year period, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited. (As used herein, the word “discontinued” means that one owner or responsible party for the use of the property cannot demonstrate that he or she had clear intent to continue using the property for the nonconforming purpose and that he or she had augmented that intent by making every reasonable effort to continue to have the property so used.) Intent may be demonstrated by providing substantive documentation or evidence that:

- (i) The owner has made reasonable continuous effort to have the property rented or sold for the nonconforming purpose;
- (ii) The property has been vacant as a result of legal proceedings; or
- (iii) The owner, by reason of age or infirmity, was unable to manage or cope with the responsibility of a tenant.

2. Use of Open Land

If a nonconforming use of open land is discontinued for six continuous months or more, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited. This section does not apply to periods of inactivity for nonconforming agriculture uses.

3. **Change to Conforming Use:** If a nonconforming use is changed to a conforming use, no matter how short the period of time, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

4. **Intentional Damage or Destruction:** When a structure containing a nonconforming use is intentionally destroyed or damaged by causes within the control of the property owner or tenant, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

5. Accidental Damage or Destruction

1. When a structure containing a nonconforming use is accidentally destroyed or damaged by causes that are not within the control of

the owner, to the extent of more than 50 percent of its fair market value, the use may not be restored except in conformity with the regulations of the zone in which it is located.

2. When a structure containing a nonconforming use is accidentally destroyed or damaged by causes that are not within the control of the property owner or tenant, to the extent of 50 percent or less of its fair market value, the structure and use may be restored or repaired provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 12 months of the date of occurrence of such damage, and once issued, construction must be diligently pursued.

J. NONCONFORMING SIGNS

1. CONTINUANCE: Except as herein provided, any nonconforming sign, existing at the time of adoption of this ordinance, may be continued or modified provided, however, that no such sign shall be changed beyond its height and area, as it existed at the time of passage or amendment of this ordinance which rendered it nonconforming.
2. TERMINATION: In all cases the board of adjustments shall hold a public hearing in accordance with the applicable requirements of Section 15.1., B., of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming sign based on any of the following conditions and, if the decision is to do so, the board shall state its bases, in writing, for such determination.
 - a. Not meeting the requirements for sign regulations, as regulated in Article XIII of this ordinance.
 - b. Nonuse or abandonment of said nonconforming sign for a period of twelve (12) consecutive months.
3. ZONE CHANGE: The foregoing provisions shall also apply to signs which become nonconforming due to zone changes which take place thereafter.

SECTION 14.14 APPEALS OF ADMINISTRATIVE DECISIONS

- A. Applicability: Appeals to the board of adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) calendar days after the appellant or his agent receives notice of the action of the official to be appealed from, by filing with said Zoning Administrator and with the board, a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record.

B. Application

1. An appeal may be filed, in writing, by any person or entity or his/her authorized agent claiming to be injuriously affected by an official action, order, requirement, interpretation, grant, refusal, or decision of any official charged with enforcing the zoning ordinance. The written notice of appeal shall specify the grounds for the appeal. An appeal shall be taken within 30 calendar days after the appellant or his agent receives notice of the action of the official that is the subject of the appeal.
2. Notice of appeals shall be filed with the Zoning Administrator, who shall transmit the notice to the Board of Adjustment.
3. The request shall include the required fee for an appeal.
4. Upon receipt of a notice of appeal, the Zoning Administrator shall transmit to the Board of Adjustment all documents constituting the record on which the action appealed was taken and shall be treated as and be the respondent in such further proceedings.

C. REQUIRED PUBLIC HEARING NOTICE: Per Table 15.2 - Required Public Notice for Development Applications, in addition to the following:

1. The Board of Adjustment shall give written notice to the appellant, the administrative official whose action is the subject of the appeal, and all parties of record at least one calendar week prior to the hearing.
2. The Board of Adjustment shall fix a reasonable time for hearing the appeal and decide on the appeal within 60 calendar days. The affected party may appear at the hearing in person or by attorney.
3. At the public hearing held by the Board of Adjustment, any interested person may appear and enter his/her appearance and all interested persons shall be given an opportunity to be heard.
4. Pursuant to KRS 147.705, within 60 days of the decision, the Board of Adjustment shall furnish its decision on this administrative appeal to the Northern Kentucky Area Planning Commission.

SECTION 14.15 APPEALS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, OR LEGISLATIVE BODY DECISIONS

- A. Any appeal from the Planning Commission, Board of Adjustment, or Legislative Body action may be taken in the following manner:

1. Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission, Board of Adjustment, or Legislative Body action may appeal the action to the Kenton Circuit Court. Such appeal shall be taken within 30 days after the final action of the Planning Commission, Board of Adjustment, or Legislative Body. All final actions which have not been appealed within 30 days will not be subject to judicial review. The Planning Commission, Board of Adjustment, or Legislative Body shall be a party in any such appeal filed in the Circuit Court. Any final action of the Planning Commission, Board of Adjustment, or Legislative Body that has not been appealed to the circuit court within 30 days will not be subject to judicial review.
2. Only Planning Commission final actions granting or denying variances or conditional use permits that were processed concurrently with a map amendment in accordance with Section 15.4 may be appealed pursuant to this subsection. Planning Commission recommendations made to other governmental bodies may not be appealed under this subsection. The appeal shall be taken within 30 days after the final action. The 30-day timeframe for taking an appeal begins to run at the time the Legislative Body grants or denies the map amendment for the same development. All final actions that have not been appealed to the circuit court within 30 days will not be subject to judicial review. The Planning Commission shall be a party in any such appeal filed in the circuit court.
3. Any person or entity claiming to be injured or aggrieved by any final action of the Legislative Body on a map amendment may take an appeal from the action to the Kenton Circuit Court. Such appeal shall be taken within 30 days after the final action of the Legislative Body. All final actions that have not been appealed to the circuit court within 30 days will not be subject to judicial review. The Legislative Body shall be a party in any such appeal filed in the circuit court.
4. After the appeal is taken, the procedure will be governed by the Rules of Civil Procedure. When an appeal has been filed, the Clerk of the Circuit Court shall issue a summons to all parties and cause it to be delivered for service as in any other legal action.
5. The owner(s) of the subject property and applicant(s) who initiated the proceeding will be made parties to all appeals made under this subsection. Other persons speaking at the public hearing are not required to be made parties to such appeal.
6. For purposes of this zoning ordinance, final action will be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.
7. The computation of the 30-day timeframe shall be in accordance with KRS 446.030.

ARTICLE XV

PENALTIES AND ENFORCEMENT

SECTION 15.0 GENERAL

A. ZONING ENFORCEMENT OFFICER

The provisions of this zoning ordinance are to be administered and enforced by one or more Zoning Administrators designated by the [Legislative Body]. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he/she shall take action as is permitted by law. Zoning Administrators shall have the power and duty to:

1. Make inspections of any premises necessary to carry out the enforcement of this zoning ordinance;
2. Issue citations for violations of this zoning ordinance in accordance with the provisions of KRS 100.991, the procedures as set forth in KRS 431.015, and the procedures set forth in this article.
3. Order discontinuance of any illegal use of land, buildings, structures, signs, fences, additions, alterations, or structural changes thereto, or any illegal work being done. It is unlawful for any person or entity to interfere with the Zoning Administrator's performance of his duties.

B. RIGHT OF ENTRY

Upon representation of official credentials, including a legally authorized search warrant, if required, or by consent, any Zoning Administrator may enter premises within the jurisdiction of this zoning ordinance, during reasonable hours, for the purposes of determining compliance with the provisions of this zoning ordinance or conditions established at the time of development approval.

C. COMPLIANCE REQUIRED

All buildings and land used and all buildings and structures erected, converted, enlarged, reconstructed, moved, or structurally altered must comply with all applicable provisions of this zoning ordinance.

SECTION 15.1 ZONING VIOLATIONS

A. ACTIVITIES CONSTITUTING VIOLATIONS

Any violation of this ordinance is hereby classified as a civil offense, pursuant to KRS 65.8808, and such classification is intended, and shall be construed, to provide an additional and supplemental means of obtaining compliance with the applicable provisions of this ordinance, and nothing contained herein, shall prohibit the enforcement of this ordinance by any other means authorized by law. Unless otherwise expressly stated by this zoning ordinance or state law, any violation of this zoning ordinance, including but not limited to the following, will be subject to the remedies and penalties provided for in this article:

1. To use land or buildings in any way inconsistent with the requirements of this zoning ordinance;
2. To engage in development activity in any way inconsistent with the requirements of this zoning ordinance.
3. To install or use a sign in any way inconsistent with the requirements of this zoning ordinance.
4. To engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits or approvals under this zoning ordinance without obtaining all such required permits or approvals;
5. To engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits under this zoning ordinance in any way inconsistent with any such permit or approval or any conditions imposed thereon;
6. To violate the terms of any permit or approval granted under this zoning ordinance or any condition imposed on such permit or approval;
7. To obscure, obstruct, or destroy any notice required to be posted or otherwise given under this zoning ordinance; or
8. To violate any lawful order issued by any person or entity under this zoning ordinance.

B. REMEDIES AND ENFORCEMENT POWERS

The Zoning Administrator may use any of the remedies and enforcement powers set forth in this section.

C. CONTINUING VIOLATIONS

Each day that a violation remains uncorrected, after receiving notice of the violation, constitutes a separate violation of this zoning ordinance for purposes of calculating cumulative penalties.

D. LIABILITY

The owner, tenant, or occupant of any land or structure, will be presumed to know of activity occurring on the premises and thus will be charged with a violation of this zoning ordinance for any zoning violation found on the premises. Where an architect, contractor, builder, agent, or other person appears to have participated directly in a violation of this zoning ordinance, the Zoning Administrator may also charge such person with a violation of this zoning ordinance. Any person charged with a violation of this zoning ordinance is entitled to personal notice of the violation. All persons found to be responsible for the

actions or inaction leading to a violation may be charged jointly and severally with violations as a result of the same incident or circumstances.

E. WITHHOLD PERMITS AND APPROVALS

The Zoning Administrator will deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the Legislative Body.

F. APPROVAL OF PERMITS

Instead of withholding or denying a permit or other authorization, the official with authority to approve the permit or authorization may grant such authorization if adequate assurances are in place to ensure correction of the violation and provided that granting the permit or authorization will not compromise the public health, safety, or general welfare.

G. REVOKE PERMITS AND APPROVALS

1. Any permit or other form of authorization required under this zoning ordinance may be revoked by the Zoning Administrator or by any official with authority to issue such permit when the Zoning Administrator or other authorized official determines: (1) that there is departure from the plans, specifications, or conditions as required under terms of the permit, (2) that the permit was procured by false representation or was issued by mistake, or (3) that any of the provisions of this zoning ordinance are being violated.
2. Where permits are mistakenly issued, an applicant will be entitled to appeal the permit revocation to the Board of Adjustment.

H. STOP WORK ORDERS

1. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired or any other work is being conducted in violation of this zoning ordinance, the Zoning Administrator may order the work to be immediately stopped.
2. The stop-work order must be in writing and directed to the person doing the work. The stop-work order must state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
3. Violation of a stop-work order constitutes a misdemeanor.

I. REVOKE PLANS OR RELATED APPROVALS

Where a violation of this zoning ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Legislative

Body may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan or other approval or condition to ensure strict compliance with this zoning ordinance, or require the provision of financial security to ensure that construction is completed in compliance with approved plans, or impose such other reasonable conditions. Any required financial security must be in a form approved by the Legislative Body.

SECTION 15.2 LEGAL RELIEF OF A ZONING VIOLATION

- A. The [Legislative Body] may commence a civil action or proceeding in court to stop any violation of this zoning ordinance or of a permit, certificate or other form of authorization granted hereunder, to remove a violation, or to restore the premises in question to the condition in which they existed prior to violation.
- B. The relief sought pursuant to this section may include:
1. An injunction or other equitable relief;
 2. An order in the nature of mandamus or abatement;
 3. A declaratory judgment action;
 4. A judgment or order enforcing any requirement of, or under, this zoning ordinance to pay a fee or reimburse or compensate the Legislative Body, including when the Legislative Body is required or authorized to take specified action at the expense of the landowner; or
 5. Any other judgment or order available under Kentucky law.
- C. NOTICE OF VIOLATION, CITATIONS, APPEALS, AND LIENS
1. When a Zoning Administrator, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of this zoning ordinance, the officer is authorized to issue a citation to the offender. When authorized, a Zoning Administrator may, in lieu of immediately issuing a citation, give notice that a violation must be remedied within a specified time period. If the person to whom the notice is given fails or refuses to remedy the violation within the time specified, the Zoning Administrator is authorized to issue a citation.
 2. If the Zoning Administrator elects to give Notice of Violation in lieu of immediately issuing a citation, this notice should be sent to the offending party by regular first-class mail at the last known address of the party.
 3. The Notice of Violation required by this section must be in plain language and must:
 - a. Be in writing;
 - b. Include a description of the real estate sufficient for its identification;
 - c. Include a statement of the reason or reasons why the notice of violation is being issued; and

- d. Include a correction order allowing a reasonable amount of time for the correction of any and all violations.
4. Any citation issued by the Zoning Administrator for a violation or violations of this zoning ordinance must be in a form prescribed by the Legislative Body and must contain, in addition to any other information required by ordinance or rule of the board, the following information:
 - a. The date and time of issuance;
 - b. The name and address of the person to whom the citation is issued;
 - c. The date and time the offense or violation was committed;
 - d. The facts constituting the offense or violation;
 - e. The section of the zoning ordinance or number of the ordinance violated;
 - f. The name of the Zoning Administrator;
 - g. The civil fine that will be imposed for the violation if the person does not contest the citation.
 - h. The maximum civil fine that may be imposed if the person elects to contest the citation.
 - i. The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
 - j. A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person will be deemed to have waived the right of a hearing before the Code Enforcement Board to contest the citation and that the determination that a violation was committed will be final.
5. Any citation that is issued for the violation or violations of this zoning ordinance must be served upon the owner of the property or any individual with a legal interest in the property by:
 - a. Certified mail, return receipt requested;
 - b. Personal delivery;
 - c. By leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice; or
 - d. Posting the citation on the property
6. After issuing a citation to an alleged violator of this zoning ordinance, the Zoning Administrator must notify the Code Enforcement Board by delivering the citation to the administrative official designated by ordinance or by the Code Enforcement Board.
7. When a citation for a violation or violations of this zoning ordinance is issued, the person to whom the citation is issued must respond to the citation within seven days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the Code Enforcement Board to contest the citation. If the person fails to respond to the citation within seven days, the person will be deemed to have waived the right to a hearing to contest

the citation and the determination that a violation was committed will be considered final. In this event, the Code Enforcement Board must enter a final order determining that the violation was committed and imposing the maximum civil fine set forth in the citation.

8. When a hearing before the Code Enforcement Board has been requested, the Code Enforcement Board, through its clerical staff and administrative staff, must schedule a hearing. Not less than seven days before the date set for the hearing, the Code Enforcement Board must notify the person who requested the hearing of the date, time and place of the hearing. The notice of hearing must be given in the same manner as set forth in paragraph 7 above.
9. Each case before the Code Enforcement Board may be presented by an attorney selected by the [Legislative Body] or by a member of the administrative staff of the [Legislative Body]. An attorney may either be counsel to the Code Enforcement Board or may represent the [Legislative Body] by presenting cases before the Code Enforcement Board, but in no case may an attorney serve in both capacities.
10. All testimony at the Code Enforcement Board hearings must be under oath and must be recorded. The Code Enforcement Board must take testimony from the Zoning Administrator(s), the alleged offender, and any witnesses to the alleged violation offered by the Zoning Administrator(s) or the alleged offender. Formal rules of evidence do not apply, but fundamental due process must be observed and must govern the proceedings.
11. At the hearing, the Code Enforcement Board must determine, based on the evidence presented, whether a violation was committed. When the Code Enforcement Board determines that no violation was committed, an order dismissing the citation must be entered. When the Code Enforcement Board determines that a violation has been committed, it must issue an order upholding the citation and may order the offender to pay a civil fine, or may order the offender to remedy a continuing violation within a specified period of time to avoid the imposition of the fine, or both.
12. Every final order of the Code Enforcement Board must be reduced to writing, which must include the date the order was issued, and a copy of the order must be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order is issued, the order must be delivered to that person by certified mail, return receipt requested; or by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the order.
13. The [Legislative Body] must possess a lien on real property owned by the person found by a final, non-appealable order of the Code Enforcement Board, or by

final judgment of the court, to have committed a violation of this zoning ordinance for all fines assessed for the violation and for all charges and fees incurred by the [Legislative Body] in connection with the enforcement of this zoning ordinance. The lien must be notice to all persons from the time of its recording and must bear interest at the legal rate until paid. The lien must take precedence over all other subsequent liens, except state, country, school board and Legislative Body taxes, and may be enforced by judicial proceedings.

14. In addition to the remedy prescribed in paragraph 13 above, the person found to have committed the violation will be held personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the Legislative Body in connection with the enforcement of the ordinance. The Legislative Body may bring a civil action against the person and will have the same remedies as provided for the recovery of a debt.

SECTION 15.3 APPEALS FROM ACTION OF THE CODE ENFORCEMENT BOARD

- A. An appeal from any final order issued by the Code Enforcement Board may be made to the Kenton County District Court within 30 days of the date the order is issued. The appeal must be initiated by the filing of a complaint and a copy of the Code Enforcement Board's order in the same manner as any civil action under the Rules of Civil Procedure. The appeal must be limited to a review of the record created before the Code Enforcement Board.
- B. A judgment of the Kenton District Court may be appealed to the Kenton Circuit Court in accordance with the Rules of Civil Procedure.
- C. If no appeal from a final order of the Code Enforcement Board is filed within the time period set forth in this section, the Code Enforcement Board's order will be deemed final for all purposes.

SECTION 15.4 PENALTIES FOR VIOLATION

- A. Penalties are hereby adopted by separate ordinance.
- B. Any person, firm, corporation, or entity that violates any provision of this subchapter is subject to a civil fine each day the violation continues. Each date that a violation of this ordinance continues after due notice has been served in accordance with the terms of this code will be deemed a separate offense.
- C. As an additional alternative remedy to the above penalty, any violator who violates any provision of this ordinance and has been previously issued 2 or more citations of violations of this ordinance on the same property within a 12-month period may be assessed additional civil penalties.

- D. The Legislative Body must possess a lien for all fines, penalties, charges, attorney's fees and other reasonable costs associated with enforcing this code and placing of a lien on the parcel of real property pursuant to this code. The lien must be superior to and have priority over all other subsequently filed liens, except state, county, school board, and city taxes.
- E. The imposition of the penalties herein prescribed will not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises in violation of this zoning ordinance.

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