

# OFFICIAL ZONING ORDINANCE

## CITY OF COLD SPRING

Prepared By:  
Cold Spring Planning Commission  
and  
Northern Kentucky Area Planning Commission

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Ordinance Number 96-696

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## **ARTICLE I**

### **A ZONING ORDINANCE**

**SECTION 1.0** AN ORDINANCE DIVIDING THE CITY OF COLD SPRING, COMMONWEALTH OF KENTUCKY, INTO ZONES. ZONES OF SUCH SHAPE AND AREA AS ARE DEEMED BEST SUITED TO CARRY OUT THESE REGULATIONS: REGULATING THE LOCATION, HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES; REGULATING THE SIZE OF YARDS AND OTHER OPEN SPACES; AND THE DENSITY AND DISTRIBUTION OF POPULATION; AND THE USES OF BUILDINGS, 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 OF COLD SPRING CITY COUNCIL, COMMONWEALTH OF KENTUCKY, AS FOLLOWS:

## **ARTICLE II**

### **AUTHORITY AND PURPOSE**

**SECTION 2.0 AUTHORITY:** The city of Cold Spring, 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 2.1 PURPOSE:** The zoning regulations and districts, as herein set forth, have been prepared in accordance with the adopted comprehensive plan to promote the public health, safety, morals, and general welfare of the city, to facilitate orderly and harmonious development and the visual or historical character of the city, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, this ordinance has been prepared to provide for vehicle off-street parking and loading and/or unloading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood, or other dangers. The zoning regulations and districts, as herein set forth, are also employed to protect highways, and other transportation facilities, public facilities, including schools and public grounds, the central business district, natural resources, and other specific areas of the city which need special protection by the city.

## ARTICLE III

### SHORT TITLE

**SECTION 3.0 SHORT TITLE:** This ordinance shall be effective throughout the city of Cold Spring, Kentucky and shall be known, referred to, and recited to as the "OFFICIAL ZONING ORDINANCE OF THE CITY OF COLD SPRING, KENTUCKY".

## **ARTICLE IV**

### **INTERPRETATION**

**SECTION 4.0 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 4.1 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 this ordinance, said permit or license shall be void ab initio.

## ARTICLE V

### CONFLICT

**SECTION 5.0 CONFLICT:** All ordinances and parts of ordinances of the city in conflict herewith are hereby repealed, providing, however, that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any such ordinances and parts thereof hereby repealed prior to the effective date of this ordinance.

## ARTICLE VI

### SEVERABILITY CLAUSE

**SECTION 6.0 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 is the intent of the city of Cold Spring 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.

## ARTICLE VII

### DEFINITIONS

**SECTION 7.0 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.

**ACCESS POINT:** An access point is:

- a. A driveway, a local street, or collector street intersecting an arterial street;
- b. A driveway or local street intersecting a collector street; or
- c. A driveway or a local street intersecting a local street.

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

- a. is subordinate to and serves the principal structure or principal use;
- b. is subordinate in area, extent, or purpose to the principal structure or principal use served;
- c. contributes to the comfort, convenience, or necessity of occupants of the principal structure or principal use served; and
- d. is located on the same zoning 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, NET:** The total area of a lot or building site, exclusive of streets, expressed in acres.

**AGRICULTURAL USE:** 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 above agricultural use

on the tract, but not including residential building development for sale or lease to the public.

**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.

**AMERICAN ASSOCIATION OF NURSEYMEN, INC. (STANDARDS):** The Association's Horticultural Standards Committee maintains and revises horticultural standards (see American Standards for Nursery Stock) to comply with the standards procedures of the American National Standards Institute.

**AMERICAN STANDARD FOR NURSERY STOCK (ANSI Z60.1 - 1990):** An American National Standard implies a consensus of those substantially concerned with its scope and provisions. An American National Standard is intended as a guide to aid the manufacturer, the consumer, and the general public.

**APARTMENT:** A portion of a building consisting of a room or suite of rooms intended, designed, or used as a permanent residence by an individual or one (1) family.

**APARTMENT HOUSE:** See DWELLINGS, MULTIPLE.

**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 no repair work is done except for minor incidental repair may take place.

**AUTOMOTIVE PARTS AND ACCESSORIES STORE:** A building, or portion thereof, used by an establishment engaged in the retail sale of automobile parts, accessories, or fluids. Such use shall not include the installation, removal, or replacement of such parts, accessories, or fluids which are sold by the establishment.

**BASAL AREA:** The total cross sectional area of a tree trunk measured at Diameter at Breast Height (DBH).

**BASEMENT:** That portion of a building between floor and ceiling, which is so located that the vertical distance from the average level of the adjoining grade to the floor below is greater than the vertical distance from the average level of the adjoining grade to the ceiling.

**BOARD OF ADJUSTMENT:** Board of Adjustment of the city, pursuant to KRS Chapter 100.

**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:** A structure, enclosed within exterior walls or firewalls for the shelter, housing, support, or enclosure of persons, animals, or property of any kind.

**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, 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 city to administer and enforce the applicable building code.

**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 PERMIT:** A permit issued by the city's building inspector authorizing the construction or alteration of a specific building, structure, sign, or fence.

**BUILDING, PRINCIPAL:** The building on a lot used to accommodate the primary use to which the premises are devoted.

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

**CALIPER:** The measurement of the tree trunk taken six (6) inches above the ground up to and including four (4) inch caliper size, or twelve (12) inches above the ground for larger trees.

**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.

**CANOPY COVER:** The area that a tree or trees' canopy covers which generally corresponds to a percentage of ground surface area.

**CAR WASH:** A building, or portion thereof, containing facilities for washing more than two (2) motor vehicles, using production line methods. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this ordinance, coin operated devices, of the above nature, which are operated on a self-service basis shall be construed to be the same.

**CARPORT:** See GARAGE, PRIVATE.

**CHILD CARE CENTER:** A building, or portion thereof, where care, protection, and/or supervision are provided on a regular schedule, at least twice a week, to preschool age children.

**CITIZEN MEMBER:** Any member of the Planning Commission or Board of Adjustment who is not an elected or appointed official or employee of the city.

**CITY:** The city of Cold Spring, Commonwealth of Kentucky.

**CLINIC, ANIMAL:** A building, or portion thereof, used by veterinarian persons for the diagnosis and treatment of animals that does not include overnight care facilities or animal runs.

**CLINIC, HUMAN CARE:** A building, or portion thereof, used by medical persons for the diagnosis and treatment of human patients that does not include overnight care facilities.

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

**COMMISSION (PLANNING COMMISSION OR PLANNING AND ZONING COMMISSION):** The Cold Spring Planning and Zoning Commission.

**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.

**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:

- a. A statement of goals and objectives, principles, policies, and standards;
- b. A land use plan element;
- c. A transportation plan element;
- d. A community facilities plan element;
- e. 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.

**CONDITIONAL USE:** 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.

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

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

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

**CONGREGATE HOUSING:** A facility for four (4) or more persons who are at least fifty-five (55) years of age, within which are provided living and sleeping facilities, shared meal preparation services, common dining areas, laundry services, and/or common recreational or social facilities. This use may include convalescent and nursing facilities.

**CONSTRUCTION LIMITS:** The area affected by the grade changes only.

**CONVENIENT STORE:** A building, or portion thereof, used by a retail establishment which sells convenient merchandise items. The dispensing, sale, or offering for sale, at retail, of any motor vehicle fuels or oils may be included as part of this facility.

**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.

**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".

**DECIDUOUS TREE:** Not persistent; annual shedding of leaves.

**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 man made and natural conditions, and all other conditions agreed to by the applicant.

**DIAMETER AT BREAST HEIGHT (DBH):** The diameter, in inches, of a tree trunk, measured four and one-half (4-1/2) feet above the existing grade.

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

**DISTURBED LIMITS:** The site area affected by grading changes plus an additional twenty (20) foot area on the perimeter

**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 which is exclusively associated with an institution for higher education.

**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 or on their vehicle, for consumption/use elsewhere than on the premises.

**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 cabin, dormitories, or military barracks.

**DWELLING, ATTACHED, SINGLE-FAMILY:** A building containing two (2) or more dwelling units, each of which has independent access to the outside of the building to ground level and which are attached to each other by party walls without openings.

**DWELLING, DETACHED, SINGLE-FAMILY:** A dwelling, standing by itself, and containing only one (1) dwelling unit, but shall not include manufactured homes.

**DWELLING, MULTI-FAMILY:** A building designed, arranged, or used for three (3) or more dwelling units.

**DWELLING, TRAILER:** See MANUFACTURED HOME.

**DWELLING, TWO-FAMILY:** A building designed, arranged, or used for two (2) dwelling units.

**DWELLING UNIT:** A building, or portion thereof, providing housekeeping facilities exclusively for one (1) person or one (1) family.

**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.

**EASEMENT, LANDSCAPING OR PLANTING:** The area in which planting must be installed and the setback for buffering between land uses, zones, vehicular use areas, and public or private streets.

**EATING ESTABLISHMENTS -- RESTAURANTS:** An establishment selling food items, ordered from a menu and prepared on the premises, for immediate consumption, with or without drive-thru facilities. Eating Establishments -- Restaurants shall include the following:

- a. Carry-out -- A restaurant primarily designed for consumption of food off the premises. Incidental 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 facilities.
- d. Combination -- A restaurant which provides any combination of sit-down, carry-out, drive-in, or drive-thru services.

**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 for the public health, safety, or general welfare.

**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.

**FARMER'S MARKET:** The seasonal selling, or offering for sale, home grown fresh vegetables, fruits, 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.

**FLOOD:** A general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland waters; (b) the unusual and rapid accumulation of runoff of surface waters from any source; and (c) mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

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

**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 100-year flood without cumulatively increasing the water surface elevation more than one (1) foot at any point.

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

**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 center line 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 center lines 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.

**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 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, or to provide study, meeting, recreational and other facilities.

**FREQUENCY:** The number of oscillations per second in a sound wave. This is an index of the pitch of the resulting sound.

**FRONTAGE:** All the property abutting on 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 for frontage.

**GARAGE, PRIVATE:** A building used for the storage of motor vehicles and clearly accessory to the principal permitted use.

**GASOLINE PUMP:** A single dispensing unit designed and intended to serve no more than two (2) motor vehicles simultaneously.

**HOME IMPROVEMENT CENTER:** Any building(s) or structure(s) in which items used in the repair, replacement, remodeling, or construction of buildings, homes and their component parts are warehoused and sold primarily to wholesale buyers, such as, but not limited to, electrical and plumbing fixtures; pipe, wire and their related fittings, general hardware items, tools and building supplies.

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

**HOSPITAL, ANIMAL:** A building, or portion thereof, used by medical persons for the diagnosis and treatment of animals generally on an inpatient basis and may have outside runs.

**HOSPITAL, HUMAN CARE:** A building, or portion thereof, used by medical persons for the diagnosis and treatment of human patients generally on an inpatient basis.

**HOTEL:** A building, or portion thereof, which is used for the temporary residence for travelers and transient guests, where entrances to the separate sleeping accommodations are from a common interior area.

**HOUSE TRAILER:** See MANUFACTURED HOME.

**HOUSING FOR THE ELDERLY:** 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.

**INTERIOR LANDSCAPING:** All landscaping surrounded by the perimeter landscaping, including all vehicular use landscaping.

**JUNK YARD:** An open area where waste materials are bought, sold, exchanged, stored, shredded, baled, packed, disassembled, etc., including, but not limited to, scrap metals, paper, rags, rubber tires, bottles, inoperative motor vehicles, etc.

**KENNEL, COMMERCIAL:** A structure or premises used for boarding, breeding, grooming, or training of dogs and/or cats for financial or other compensation.

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

**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 center line of joint partitions and from outside wall faces.

**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.

**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, and shall be in one (1) zone only.

**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 street 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 line 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:** A lot which abuts a public street, via a narrow strip of land, at least twenty-five (25) feet in width.

**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.

**MANUFACTURED HOME:** 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.

**MASSAGE THERAPISTS:** A person who has undergone at least five hundred (500) hours of professional training or study in massage therapy accredited by the American Massage Therapy Association (AMTA) or an equivalent nationally recognized accreditation body and who also meets the following additional criteria:

- a. Is eligible for or has obtained national certification in massage therapy by the NCBTMA (National Certification Board for Therapeutic Massage and Bodywork) or an equivalent nationally recognized certification body or;
- b. Has achieved a state license in Massage Therapy from any state that regulates massage therapy by a means of a written examination.

**MASSAGE THERAPY CLINIC:** A building, or portion thereof, occupied by an establishment owned and/or operated by a Massage Therapist.

**MINIMUM FRONT YARD DEPTH:** The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the front lot line, as defined herein, and the front lot line.

**MINIMUM REAR YARD DEPTH:** The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the rear lot line, as defined herein, and the rear lot line.

**MINIMUM SIDE YARD WIDTH:** The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the side lot line, as defined herein, and the side lot line.

**MOBILE HOME:** A structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act, which is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Mobile homes must be installed in accordance with KRS 227.570 by a Kentucky certified installer.

**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.

**MOTEL:** A building, or portion thereof, which is used for the temporary abiding place for travelers and transient guests, where there is a separate exterior entrance to each sleeping accommodation.

**MOTOR VEHICLE:** See VEHICLE.

**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:** A building, or portion thereof, used for the education of preschool age children, with or without compensation.

**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.

**OWNER - OCCUPANT:** The property owner who will occupy the residence.

**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.

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

**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.

**PERIMETER LANDSCAPING:** The landscape application surrounding a land use or a vehicular use area.

**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.

**PHOTOCOPY ESTABLISHMENT:** A building, or portion thereof, used by business facilities that are involved in the preparation and/or reproduction of material in a printed form. Such facilities are primarily intended to be limited to activities serving the general public and not intended to include industrial type printing establishments.

**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.

**QUALIFIED MANUFACTURED HOME:** A manufactured home that meets all of the following criteria:

- A. Is 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 twenty feet (20) feet at its smallest width measurement or is two (2) stories in height and oriented on the lot or parcel so that its main entrance door faces the street;
- D. Has a minimum total living area of nine hundred (900) square feet;
- E. Is not located in a manufactured home land-lease community; and
- F. 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.

**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.

**REPLACEMENT TREE:** Any tree planted to meet the requirements of this ordinance, either for landscaping or tree density purposes.

**RESIDENTIAL CLUSTER DEVELOPMENT (RCD):** A unified land development which permits a clustering of attached and detached single-family residential dwellings, with common recreation/open spaces, through flexible regulations which encourage creative design to preserve the natural features, foliage, and other characteristics of the site.

**SCHOOLS, BUSINESS:** An institution or place for instruction or education, specifically in courses of bookkeeping, business administration, operation of business machines, shorthand and typing, and related courses, operated for an intended profit. For the purpose of this ordinance, business colleges shall be included in this definition.

**SCHOOLS, PAROCHIAL:** A facility, belonging to and maintained by a religious organization, providing a curriculum of elementary and/or secondary academic instruction.

**SCHOOLS, PRIVATE:** A facility, belonging to and maintained by a private organization, providing a curriculum of elementary and/or secondary academic instruction.

**SCHOOLS, PUBLIC:** A facility, belonging to and maintained under public authority and open to the public for their attendance, providing a curriculum of elementary and/or secondary academic instruction.

**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 and warehouse space when such place is incidental to a service facility.

**SERVICE STATION:** Any building, or portion thereof, structure, or land, used for the dispensing, sale, or offering for sale, at retail, of any motor vehicle fuels. Service stations, in conjunction with the dispensing of motor vehicle fuels, may also dispense, sell, or offer for sale, at retail, motor vehicle oil, or accessories and in connection with which is performed general motor vehicle servicing, other than body work.

**SIGN:** Any combination of letters, pictures, characters, symbols, or other display used to identify or direct attention to some activity or direction.

**SIGN, ADVERTISING:** Any sign which directs attention to a business, commodity, service, or entertainment facility which is conducted, sold, or offered:

- a. Elsewhere than upon the premises where such sign is located or to which it is affixed; or
- b. As a minor and incidental activity upon the premises where the sign is located.

**SIGN, ANIMATED:** Any sign having an intermittent variation in the illumination or physical position of any part of the sign.

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

**SIGN, BUSINESS:** Any sign which directs attention to a business, profession, or industry, to types of products sold, manufactured, or assembled, and/or to a service or entertainment offered upon said premises and located upon the premises where such sign is located.

**SIGN, FLASHING:** Any sign having an intermittent variation in the illumination of the sign.

**SIGN, FLAT:** Any sign which is attached directly, in a rigid manner, and parallel to the building facade.

**SIGN, GROSS AREA OF:** The entire area within a single continuous perimeter enclosing the extreme limits of a sign. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display. Where a double faced sign is permitted herein, the maximum gross sign area shall be permitted for each sign face.

**SIGN, GROUND:** Any sign erected, constructed, or maintained directly upon the ground or upon uprights or braces placed in the ground, with a maximum permitted ground clearance of three (3) feet.

**SIGN, IDENTIFICATION:** Any sign used to identify: the name of the individual, family, organization, or enterprise occupying the premises; the profession of the occupant; or the name of the building on which the sign is located.

**SIGN, INDIVIDUAL LETTER:** Letters and/or numbers individually fashioned from metal, glass, plastic, or other materials and attached directly to the facade of a building.

**SIGN, POLE:** Any sign affixed to a freestanding supporting pole or poles, embedded in, and extending upward from the ground with a ground clearance exceeding three (3) feet.

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

**SIGN, PROJECTING:** Any sign projecting from the face of a building and securely attached to the building by bolts, anchors, chains, guys, or to posts, poles, or angle irons attached directly to the building.

**SIGN, READER BOARD:** Any sign which is permanently attached to a permitted sign structure and is designed to provide for changeable information. Such sign shall include individual changeable letters and electronically changeable message boards which have scrolling or running messages.

**SIGN, WINDOW:** Any sign which is placed in a window of any building, but shall not extend past the limits of said window. For the purpose of Article XIV, SIGN REGULATIONS, the word "window" shall be construed to mean any glass which comprises part of the surface of the wall regardless of its movability.

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

**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 is 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.

**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 general 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 leading into the collector street system.

**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.

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

**SUBDIVISION:** The division of a parcel of land into two (2) 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.

**SWIMMING POOL:** 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:

- a. 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.
- b. 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.
- c. Public: a swimming pool operated by a unit of government for the general public.
- d. Commercial: a swimming pool operated for profit, open to the public upon payment of a fee.

**TAVERN:** A building, or portion thereof, used for the primary business of selling alcoholic beverages by the drink for consumption on the premises.

**TRAILER:** See CAMPING/VACATION MOBILE UNIT.

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

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

UTILITIES: Any facilities for the transmission or distribution of gas, electricity, water, cable television signals, and telephone signals.

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: An automobile, truck, motor home, motorcycle, motor scooter, or similar type of equipment.

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

VEHICULAR USE AREA (VUA): Any area containing more than one thousand five hundred (1,500) square feet and/or used by two (2) or more motor vehicles for parking, loading and/or unloading, sales and/or service, or driveways.

YARD DEPTH, FRONT: An area extending the full width of the lot, or building site, 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.

YARD DEPTH, 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.

YARD WIDTH, 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.

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

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

## ARTICLE VIII

### ESTABLISHMENT OF ZONES

**SECTION 8.0 ZONES:** For the purpose of this ordinance, the city may be divided into the following zones:

A. CONSERVATION ZONES

CO CONSERVATION

B. SINGLE-FAMILY RESIDENTIAL ZONES

R-RE RESIDENTIAL RURAL ESTATE AND AGRICULTURAL ZONE

R-1C RESIDENTIAL ONE - C ZONE

R-1D RESIDENTIAL ONE - D ZONE

R-1DD RESIDENTIAL ONE - DD ZONE

R-1F RESIDENTIAL ONE - F ZONE

C. MULTI-FAMILY RESIDENTIAL ZONES

R-2 RESIDENTIAL TWO ZONE

R-3 RESIDENTIAL THREE ZONE

D. SPECIAL DEVELOPMENT ZONES

MUPD MIXED USE PLANNED DEVELOPMENT ZONE

PUD PLANNED UNIT DEVELOPMENT OVERLAY ZONE

RCD RESIDENTIAL CLUSTER DEVELOPMENT OVERLAY ZONE

SDA SPECIAL DEVELOPMENT AREA ZONE

E. COMMERCIAL ZONES

NSC NEIGHBORHOOD SHOPPING CENTER ZONE

NC NEIGHBORHOOD COMMERCIAL ZONE

HC HIGHWAY COMMERCIAL ZONE

PO PROFESSIONAL OFFICE BUILDING ZONE

F. INDUSTRIAL ZONES

IP INDUSTRIAL PARK ZONE

**SECTION 8.1 OFFICIAL ZONING MAP:** The zones are bounded and defined as shown on the map entitled "OFFICIAL ZONING MAP OF THE CITY OF COLD SPRING, KENTUCKY" and shall so remain on file in the City Building.

**SECTION 8.2 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.

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 8.3 REPLACEMENT OF OFFICIAL ZONING MAP:** 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 or the city 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 8.4 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,

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 indicated in Subsections A through F, shall be so construed as being extensions of such features. 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.

**SECTION 8.5 AREAS NOT INCLUDED WITHIN ZONES:** Property which has not been included within a zone, either through error or omission, or when an area is annexed or proposed to be annexed by the city, the zoning to be applied to the area shall follow the procedures identified in KRS 100.209 and KRS 81A.420 (1), as amended.

## ARTICLE IX

### GENERAL REGULATIONS

**SECTION 9.0 PURPOSE:** Except as herein provided, general regulations shall apply to all zones.

**SECTION 9.1 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 XVIII of this ordinance.

**SECTION 9.2 INTERFERENCE WITH TRAFFIC CONTROL DEVICES:** No sign, structure, tree, planting, or vegetation, or any portion thereof, shall protrude over or into any street so as to create confusion around, or otherwise interfere with, traffic control devices of any kind.

**SECTION 9.3 VISION CLEARANCE AT CORNERS, CURB CUTS, AND RAILROAD CROSSINGS:** No structure, vehicle, tree, planting, vegetation, sign, fence, or any type of obstacle, or any portion thereof, shall be placed or retained in such a manner which would create a traffic hazard or would obstruct the vision clearance at corners, curb cuts, or railroad crossings in any zone.

**SECTION 9.4 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 two-thirds of 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 9.5 RAILROAD RIGHT-OF-WAY LOCATION:** Railroad rights-of-way, exclusive of such uses as marshaling yards, spur lines, passenger and freight terminals, maintenance shops, fueling facilities, and round houses, may be located in any zone providing said railroad rights-of-way meet the requirements of those sections of the Kentucky Revised Statutes and other pertinent state regulations.

**SECTION 9.6 EXCAVATION, MOVEMENT OF SOIL, TREE REMOVAL, AND EROSION AND SEDIMENTATION CONTROL**

- A. 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.
- B. 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.
- C. Erosion and Sedimentation Control: Controls for excavation, movement of soil, and tree removal shall be planned 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 should be kept to the shortest practical period of time.
  - 3. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.
  - 4. Sediment basins (debris basins or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.
  - 5. Provisions shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development.
  - 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.
  - 8. Wherever feasible, natural vegetation should be retained and protected.

**SECTION 9.7 UNSIGHTLY OR UNSANITARY STORAGE:**

- A. No rubbish, salvage materials, junk, motor vehicle tires, or miscellaneous refuse shall be openly stored or kept in the open, and weeds shall not be allowed to go uncut within any zone when the same may be construed to be a menace to public health and safety by the appropriate Health Department, or have a depressing influence upon property values in the neighborhood, in the opinion of the Zoning Administrator. Salvage and junk yards shall be adequately enclosed with a solid fence or wall, as regulated by Article XIII of this ordinance, and an approved permanent planting screen, as regulated by Section 9.15 of this ordinance.
- B. All uses that maintain garbage dumpsters on site shall provide a screened enclosure by means of a class 1, 3, 5, or 6 fence/wall, or a combination thereof, equal in height to the dumpster. Such enclosure may only open to the interior of the site on which it is located. All such garbage collection areas shall be located in the rear yard and set back a minimum of two (2) feet from any property line, unless site limitations such as topography, yard area, or access prevent such placement, as determined by the zoning administrator.

**SECTION 9.8 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, nor shall any structure be erected on any lot which does not abut at least twenty-five (25) feet on a public right-of-way.
- 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, 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.
- 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, provided they are not closer than two (2) feet 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 eighteen (18) inches or less into the minimum required yards; arbors and trellises; flag poles; bird baths; trees; plants; shrubs; ornaments; utility poles and wires; and outdoor furniture.
2. In Minimum Required Front Yard - bay windows, projecting three (3) feet or less into the minimum required front yard; overhanging eaves and gutters, projecting three (3) feet or less 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 Yard - bay windows, overhanging eaves, gutters, and air conditioning equipment, projecting three (3) feet or less into the minimum required rear yard; awnings and canopies, provided they do not extend more than ten (10) feet into the minimum required rear yard; uncovered porches, decks, or patios, provided they are less than three (3) feet above grade.
4. In Minimum Required Side Yard - air conditioning equipment, overhanging eaves and gutters, awnings and canopies, projecting eighteen (18) inches or less into the minimum required side yard; uncovered decks, porches, or patios, provided they are less than three (3) feet above grade.

#### **SECTION 9.9 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 XIV 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 9.10 NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE, AND NONCONFORMING SIGNS**

**A. NONCONFORMING LOTS**

- 1. Any lot of record which does not meet the minimum requirements of this ordinance, or the zone in which it is located, shall be considered a nonconforming lot of record.
- 2. If two (2) or more lots with continuous frontage are in single ownership and are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the minimum requirements for a lot width and/or area, as established by this ordinance, or the zone in which it is located, the nonconforming lots of record may be developed, provided: the lot is located on an existing and improved public street; a minimum of fifty-one (51) percent of the lots located on the same side of the street within the same block front are developed; and the development proposed on the lot is in conformance with all other requirements of this ordinance. Where a minimum of fifty-one (51) percent of the lots located on the same side of the street within the same block front are not developed, the land involved shall be considered to be an undivided parcel for the purposes of

this ordinance, and no portion of said parcel shall be used or sold which does not meet the minimum lot width and minimum area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

3. Where a nonconforming lot of record exists having a lot area and/or frontage less than required by the particular zone district wherein said lot is located, development may be permitted on the lot, provided: the lot is located on an existing and improved public street; the lot is of separate ownership from all adjacent and contiguous parcels; the adjacent and contiguous parcels exist as developed building lots or dedicated street rights-of-way, precluding acquisition of additional area to achieve conformity; and development proposed on the lot is in conformance with all other requirements of this ordinance. Where a variance from any minimum yard, setback, etc., is necessary to develop said lot, an application for such variance shall be submitted to the board of adjustment in accordance with Article XVIII of this ordinance.

#### B. NONCONFORMING USES

1. CONTINUANCE: Except as herein provided, the lawful use of any structure or land existing at the time of the adoption of this ordinance may be continued although such use does not conform to the provisions of this ordinance. However, no nonconforming use may be enlarged or extended beyond its area of use at the time it becomes a nonconforming use, unless: (1) such enlargement or extension is needed to meet any federal, state, or local health and/or safety rule, regulation, or guideline; or (2) until the use is brought into conformance with all provisions of this ordinance.
2. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: As regulated by Section 18.6, D. of this ordinance.
3. TERMINATION: In all cases, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 18.2 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming use 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. Nonoperative, nonused, or abandoned for a period of six (6) consecutive months, providing that the board of adjustment may allow the continuation of such nonconforming use if it is determined that reasons for such nonuse were beyond the owners'/operators' control.

- b. Whenever the structure, in which the nonconforming use is operated, is damaged or destroyed in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the market value of such structure in which the nonconforming use is operated.
  - c. Whenever the structure, in which the nonconforming use is operated, becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such structure as of the date of the official order under the applicable ordinance.
  - d. Whenever said nonconforming use is determined to be detrimental or injurious to the public safety, health or welfare.
4. ZONE CHANGE: The foregoing provisions shall apply to uses which become nonconforming due to zone changes which take place thereafter.

#### C. NONCONFORMING STRUCTURES

- 1. CONTINUANCE: Except as herein provided, any nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this ordinance.
- 2. TERMINATION: In all cases, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 18.2 of this ordinance. Following that hearing, the board may terminate the right to reconstruct the nonconforming structure 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.——Whenever the nonconforming structure is damaged in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the market value of such structure.
  - b. Whenever the nonconforming structure becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such nonconforming structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such nonconforming structure as of the date of the official order under the applicable ordinance.

- c. Whenever said nonconforming structure is determined to be detrimental or injurious to the public safety, health or welfare.
  - 3. ZONE CHANGE: The foregoing provisions shall apply to structures which become nonconforming due to zone changes which take place hereafter.
- D. REPAIRS AND MAINTENANCE: On any structure devoted in whole, or in part, to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the structure, as it existed at the time of passage or amendment of this ordinance which rendered it nonconforming, shall not be increased.
- Nothing in this ordinance shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof, declared to be unsafe by any official charged with protecting the public safety, except for the conditions as stated in Subsections B., 3. or C., 2.
- E. NONCONFORMING SIGNS
- 1. CONTINUANCE: Except as herein provided, any nonconforming sign may be continued, modified, and maintained 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 adjustment shall hold a public hearing in accordance with the applicable requirements of Section 18.2 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 XIV of this ordinance.
    - b. Nonuse or abandonment of said nonconforming sign for a period of six (6) consecutive months.
  - 3. ZONE CHANGE: The foregoing provisions shall also apply to signs which become nonconforming due to zone changes which take place hereafter.

## SECTION 9.11 EXCEPTIONS AND MODIFICATIONS

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- A. **EXCEPTIONS TO HEIGHT LIMITS:** 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 city, and is acceptable to the Federal Aviation Agency and the Federal Communication Commission.
- B. **OTHER EXCEPTIONS:** Service stations or gasoline filling stations shall be so constructed 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. In any zone, 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 Section 9.17 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 Campbell 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 9.12 CONDITIONAL BUILDINGS AND USES**

### **A. DETERMINATION:**

1. Subject to the requirements of Section 18.7 of this ordinance, the board of adjustment may authorize a conditional use to be located within any zone in which such conditional use is permitted, if the evidence presented by the applicant is such as to establish, beyond any reasonable doubt:
  - a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community; and
  - b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity
2. Evaluation of the proposed conditional use and/or development plan shall be based upon the following criteria, where applicable:
  - (a) Design
    - (1) Agreement with the various elements of the Comprehensive Plan, and where applicable, any other adopted plan.
    - (2) 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.).

- (3) Nature and extent of the proposed uses in relation to the unique characteristics of the site.
- (4) Extent to which the design of the proposed development responds to the natural and man - made features of the site.
- (5) Building locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and off - street parking areas.
- (6) Extent to which the scale of each building relates to the natural environment.
- (7) The primary activity area of a building should be oriented toward a natural site amenity.
- (8) The location of buildings should be designed to provide for an orderly rhythm by avoiding long, unbroken building facades.
- (9) Heights of structures should be compatible with the height of existing structures adjacent to the site.

(b) Circulation

- (1) 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.
- (2) 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.
- (3) The circulation system should follow the natural terrain of the site.
- (4) The circulation system should provide for the continuation of existing streets and provide for the connection of proposed streets to adjoining properties.
- (5) Extent to which the complete separation of pedestrian and vehicular circulation systems is achieved.
- (6) Pedestrian street crossings should provide for safe crossings where there is good sight distance along the street or at a grade separated crossing.

(c) Open Space

- (1) Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.
- (2) Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.

- (3) 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.
- (4) 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.
- (5) Open spaces and landscaping along the perimeter of the site shall be compatible with adjoining uses and zones.

(d) Utilities

- (1) 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.

(e) Signage

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

B. **CONDITIONAL USE PERMITS:** In accordance with KRS 100.237, the board of adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met:

- 1. The board of adjustment may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board'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. The board shall have power to revoke conditional use permits for noncompliance with the condition thereof. Furthermore, the board shall have the right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

2. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this ordinance, the building code, housing code, and other regulations of the city.
3. In any case where a conditional use permit has not been exercised within the time limit set by the board, or within twelve (12) consecutive calendar months from date of issuance, such conditional use permit shall not revert to its original designation unless there has been a public hearing. Exercised as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement has been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions as set forth in the permit.
4. The zoning administrator shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit.

If the landowner is not complying with all of the conditions listed on the conditional use permit, the zoning administrator shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the board of adjustment.

The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. 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 time 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 the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

5. Once the board of adjustment has completed a conditional use permit, and all the conditions required are of such type that they can be completely and permanently satisfied, the zoning administrator, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter, said use, if it continues to meet the other requirements of this ordinance, will be treated as a permitted use.
6. When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, an owner of every parcel of property adjoining the property to which the application applies, and such other persons as this ordinance or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. 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 shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.
7. When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, to certain public officials, as follows:
  - a. If the adjoining property is part of a planning unit, notice shall be given to that unit's commission; or
  - b. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if

the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

### **SECTION 9.13 BUILDING REGULATIONS AND WATER AND SANITARY SEWER SERVICE**

- A. **BUILDING REGULATIONS:** All structures shall be designed, erected, or altered in accordance with the applicable housing and building codes.
- B. **WATER AND SANITARY SEWER SERVICE:** Except as herein provided, no principal building may be constructed in any zone unless such building is connected to a public water and central sanitary sewer system of adequate capacity and design, and approved by proper authorities.

1. Individual on-site disposal systems may be permitted only within those areas which are not currently served by a centralized sanitary sewer system. Individual on-site disposal systems may be permitted only under the following conditions:
  - a. On-site disposal systems shall be permitted to be located only on lots which abut existing streets. Where new street rights-of-way are created, or new streets constructed within an existing right-of-way, all existing lots or newly subdivided lots shall be required to connect to a centralized sewerage system;
  - b. The lot shall comply with the Area and Height Regulations for Permitted Uses, as established in the R-RE Zone; and
  - c. On-site disposal systems shall be provided with an aerobic type (aerator) treatment plant which shall be built in accordance with the regulations of the applicable state and local agencies and shall remain in operation until a connection is made to a centralized sewerage system.

In those areas where on-site disposal systems are permitted, a connection to the applicable water agency's supply shall not be required.

3. Where existing or proposed development is presently not served by a public sanitary sewer system, and is located within a reasonable distance of an existing or newly extended sanitary sewer line, as determined by the zoning administrator, said development shall be required to connect with the public sanitary sewer system and the on-site disposal system shall be discontinued.

4. A copy of the approved on-site disposal system permit shall be submitted to the zoning administrator and/or building official prior to the issuance of a building permit.

#### **SECTION 9.14 MOVE AND SET**

- A. **REQUIREMENTS:** No building, structure, or improvement shall be moved or set from or upon land located in any area or transported upon any public street, in the city, until and unless both: (1) a building permit to move and set; and (2) a transport permit, have been obtained, and said building, structure, or improvement complies with the provisions of this section of the ordinance.
- B. **COMPLIANCE:** All alterations and improvements made shall comply with the applicable housing and building codes and regulations.
- C. **PROCEDURE - PERMITS**
  1. The applicant shall submit to the building inspector, the following:
    - a. An application for a building permit requesting an inspection of the building, structure, or improvement to be moved or set;
    - b. A plot plan, footing and foundation plan, and construction plans for any new construction;
    - c. A statement from the applicable legislative body(s) insuring that all past and current taxes have been paid.
  2. Upon receipt of the foregoing items, the building inspector shall inspect said building, structure or improvements, and the proposed location where same will be set within the city and determine if the proposed development will comply with all applicable codes and regulations.
  3. The move and set shall be referred to the zoning administrator for approval or denial of compliance with this ordinance.
  4. Upon approval by the zoning administrator and building inspector, a building permit to move and set shall be issued. The city engineer shall then be notified of same and shall issue a transport permit. The city engineer, or his agent, will designate the route to be traveled. The transport permit is good only for the date specified on the permit. The transport permit will not be issued if ninety (90) consecutive calendar days or more have lapsed from the date of inspection by the building inspector. The transport permit provided for in this section shall not be in lieu of any other permits which may be required by the city.

5. No transport or building permit to move and set shall be issued until the applicant has first obtained the necessary permits from all other applicable agencies.

**D. FEES**

1. There will be a building investigation permit fee, as established by the city, to cover the costs of investigation and inspection for determining the structural soundness of buildings, structures, or improvements which are proposed to be moved. The fee is payable in advance and must accompany the application provided for herein. This fee is not returnable. If buildings, structures, or improvements are found to be capable of complying with the city's Building Code and this ordinance, a building permit to move and set will be issued at the regular fee as determined by the valuation of said building, structure, or improvements as published in the Building Code. This fee is in addition to the Building Investigation Fee.
- b. No person, corporation, or company shall transport, move, or set any building, structure, or improvement in the city, until and unless such person, corporation, or company shall post with the building inspector a good and sufficient indemnity bond in the amount of five thousand dollars (\$5,000.00) in favor of the city. Such bond shall be made by a Surety Corporation authorized to do business in the Commonwealth of Kentucky; said bond may be issued on an annual basis but shall not be in excess of such period of time.

**SECTION 9.15 LANDSCAPE REGULATIONS**

- A. **PURPOSE:** The purpose of this ordinance is to promote and to protect the health, safety and welfare of the community through reduction of noise, air, and visual pollution, air temperature, headlight glare, and to improve 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, preserving existing trees, and requiring screening between land uses.
- B. **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 upon appeal to the City of Cold Spring Landscape Committee. Single family lots in subdivisions with approved landscaping and tree protection plans are exempt from certain provisions of these regulations per Subsection F.

- C. **TYPES OF LANDSCAPING REQUIRED:** Landscaping required per these regulations includes perimeter landscaping, vehicular use area (parking lot) or interior landscaping, street trees along new public or private streets, and landscaping for screening of dumpsters.
- D. **LANDSCAPE REQUIREMENTS TABLE:** The Landscape Requirements Table (Table 9-1) contains landscape requirements for perimeter, vehicular use or interior landscaping per these regulations. A variety of options are available per Table 9-1, from which to choose planting materials to meet the requirements of these regulations. Equivalent combinations of the options presented in Table 9-1 are acceptable to meet the intent of these regulations.
- E. **SITES AFFECTED:** Landscaping as required in the Landscape Requirements Table (Table 9-1), shall be required as follows:
1. All new building development and construction or development requiring a zoning map amendment.
  2. Existing Developed Sites:
    - a. 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 over one thousand (1,000) square feet 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, except for single-family residential development, is required between addition and adjoining land use or public/private street, per the landscape requirements table. See

Figure 9-1 for additional information. If this does not involve new parking lot construction, interior (Vehicular Use Area) landscaping is not required.

- F. **PRESERVATION OF EXISTING TREES:** To accomplish the purposes of this ordinance the following regulations address the preservation, maintenance and replanting of trees. Each site developed must maintain or plant trees to equal a density of fifteen (15) square feet of basal area per acre. Specific information on how to calculate this density for both existing and new trees can be found in the Planting Manual and Landscape Regulation Guidelines (see Tree Density Calculation). Existing, healthy trees to be preserved within the disturbed limits must be shown on the landscape plan and on the tree inventory (See Subsection J.). Trees that are preserved within the disturbed limits may be substituted for or counted towards required trees in both perimeter and interior landscaping provided that the tree is located within the required perimeter planting easement or vehicular use area. In all cases, trees preserved within the disturbed limits shall count toward the minimum tree density of fifteen (15) square feet of basal area.

Trees located outside the disturbed limits of the site in a stand comprising fifty (50) percent canopy cover or greater may be included in the calculation of basal area for the site at a rate of forty (40) square feet of basal area per acre. These areas do not have to be included in the detailed tree inventory. However, if a tree density survey is conducted which indicates a density of greater than forty (40) square feet per acre, the higher figure may be used provided sufficient information/documentation is submitted with the tree inventory. Trees outside the disturbed limits of the site shall be protected during construction per the Planting Manual and Landscape Regulation Guidelines.

Trees to be preserved, per the specifications in the Planting Manual and Landscape Ordinance Guidelines, shall have a minimum of 200 square feet of unpaved area that has less than three (3) inches of earth added or removed around the tree. All trees to be preserved shall be protected by a continuous orange construction fence, or other approved marking, and be identified with a weatherproof sign. The sign shall identify the area as a "Tree Save Area" utilizing lettering with a minimum dimension of 3 inches in height and legible from a minimum of 50 feet. Signs shall be placed at least every fifty (50) feet along the construction fence. Signs and fencing shall remain in place until construction is complete. Replacement trees should reflect the general characteristics (i.e., height, mature canopy cover, etc.) of those trees removed from the site, unless site characteristic, such as overhead power lines, require planting of other types of trees.

1. **SPECIAL PROVISIONS FOR TREES 22 INCH DBH (DIAMETER AT BREAST HEIGHT) AND LARGER:** On all sites, trees with a diameter at

breast height (dbh) of twenty-two (22) inches or greater shall be preserved unless approval is granted for a planting adjustment by the Landscape Committee. Each tree permitted to be removed shall be replaced with a total number of trees equal to or greater than five (5) square feet of basal area per Table 2, Replacement Trees, in the Planting Manual and Landscape Regulation Guidelines. The minimum replacement shall be two (2) trees for each tree of twenty-two (22) inches DBH permitted to be removed.

2. **OFF-SITE TREE REPLACEMENT:** The landscape committee (See Subsection K.) may permit off-site tree replacement after all criteria in Subsection J. have been considered and it is found that inadequate space is available on-site to plant trees required per this regulation. Off-site replacement must be on a public or private site within the jurisdiction or equivalent specially designated funds may be provided to the City for future planting or maintenance of trees.
3. **EXCEPTIONS FOR SINGLE FAMILY RESIDENTIAL SUBDIVISIONS LOTS AND AGRICULTURAL ZONES -** The requirements for tree preservation previously described apply to the development of all single-family residential subdivisions. When lots within subdivisions are built upon the owner-occupant may remove any tree that is not a required street tree, without replacing said trees. The owner-occupant shall notify the city of their intent to remove any such trees.

The provisions of these regulations regarding preservation of existing trees shall be exempt for lots in the A-1 (Agricultural One) zone district, created by identification plat.

4. **SITES CLEARED OR TREES REMOVED PRIOR TO SUBMISSION OF TREE INVENTORY -** Where trees have been removed or grading has occurred after the adoption of these regulations a minimum of fifteen (15) square feet of basal area per acre, or fraction thereof, shall be planted on the site per the approved landscape plan in accordance with the Planting Manual Landscape Regulation Guidelines and or restitution shall be made per the provisions for off-site replacement. It is recommended that sites and disturbed limits thereof not be graded in a manner that trees may have been damaged or trees removed, until a tree inventory and landscape plan has been submitted and approved per Subsection J.
- G. **PLANTING MANUAL AND LANDSCAPE REGULATIONS GUIDELINES:** The city 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

Landscape Ordinance. This aforementioned manual is hereby and herewith incorporated by reference into this Ordinance as if it were fully set forth herein. Any amendments to this manual may be done by appropriate Resolution of the Cold Spring City Council from time to time as it sees fit without the necessity of amending this Ordinance.

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 (Mature height greater than 30 ft.)

PLANT LIST B: FLOWERING AND NON - FLOWERING TREES  
(Mature height less than 30 ft. for use under power lines.)

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.

## H. MISCELLANEOUS REGULATIONS

1. 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 the holder of the easements grants approval. 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 the appropriate government grants approval. 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.

2. **SIGHT TRIANGLE:** That area at street or drive intersections where all landscaping is prohibited, except ground covers, shrubs not to exceed 24 inches in height, and trees that are without limbs, from the ground up seven feet (see Figure 9-2).
3. **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 landscaping shall be required on the property submitting plans.
4. **DUMPSTERS:** Shall be screened on at least three (3) sides according to Table 9-2.

When dumpsters located less than ten (10) feet from an unwindowed portion of 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. Fencing shall be required on that side.

Screening is not required for dumpsters located within industrial zones, unless dumpster location is within 100 feet of a commercial, professional office, or residential zone or use.

5. **SIGN LANDSCAPING:** Freestanding signs shall have one (1) square foot of landscaping per square foot of signage around the base of the sign. Plants shall be chosen from Plant List D or E (see Planting Manual and Landscape Regulation Guidelines).
6. **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.

#### I. LANDSCAPE MATERIALS

1. **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 weatherproof materials. This includes using 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.

2. 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 city that outlines recommended plant material.
- a. Quality: Plant materials used in conformance with provision of this ordinance shall comply with the American Standards for Nursery Stock (ANSI Z60. 1-1990, or most current edition) as prepared and published by the American Association of Nurserymen which is on file at the City Hall. In addition all plant materials shall have passed any inspection required under state and/or local regulations.
  - b. 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 Campbell 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 of six to eight (6-8) feet overall height or a minimum caliper (trunk diameter, measured by 6 inches above ground for trees up to 4 inches caliper) of at least 2.5 inches immediately after planting shall be required. Flowering or non-flowering trees from Plant List B (see Planting Manual and Landscape Regulation Guidelines) may be not less than 2-inch caliper. 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.
  - c. Evergreen Trees: Shall be a minimum of six (6) feet high with a minimum caliper of 1-1/2 inches immediately after planting.
  - d. 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 five (5) 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.

- e. Grass or Ground Cover: Grass of the fescus (Gramineae) or Bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in Campbell 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.
3. EARTH MOUNDS: Earth mounds shall be constructed with slopes, not to exceed 2.5 to 1, which allow easy maintenance of grass or other ground cover. Differences in elevation between areas requiring screening do not constitute an earth mound.
4. MAINTENANCE AND INSTALLATION: All landscaping materials shall be installed according to accepted planting procedures (see Planting Manual). The Owner(s) of multi-family residential and all other non-residential property shall be responsible for the perpetual 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 dead plant material shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material (e.g. mulch, rock, fencing, etc.) shall be replaced or repaired within three months.

#### J. SUBMISSION REQUIREMENTS

1. TREE INVENTORY: A tree inventory shall be completed prior to any grading or tree removal on-site and shall be submitted as part of any Stage II Development Plan or Improvement Drawings.

The inventory shall be drawn at a scale no smaller than 1" = 100'-0" and shall include all trees within the disturbed limits of the site proposed to be preserved and protected during construction (See Subsection G. for information on required preservation of existing trees). Information on the inventory shall include: the disturbed and construction limit boundaries; existing and proposed buildings; existing and proposed utilities; approximate boundary of the area beyond the disturbed limit with fifty (50) percent canopy cover; statistical summary of acres within disturbed and construction limits, and area of site that is undisturbed; location of all trees to be preserved/protected within disturbed limits and a completed tree

protection schedule (See Landscape Regulation Manual, Section II for details); and, contour lines.

2. **LANDSCAPE PLAN CONTENT:** The landscape 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; and either topographic contour or spot elevations where elevation changes occur in areas to be landscaped.
3. **TREE PROTECTION PLAN:** Locate all trees within the disturbed limits that are to be preserved and illustrate how they will be protected during the construction phase, per guidelines in the Planting Manual and Landscape Ordinance Guidelines, Section II, C.
4. **BUILDING OR ZONING PERMIT:** A building or zoning permit shall not be issued until the required landscape plans have been approved. A Certificate of Occupancy shall not be issued unless either:
  - a. All landscaping has been installed and approved by the Zoning Administrator, or
  - b. 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 25%.

The owner shall have up to 90 days after approval/acceptance of the bond or other surety, as determined by the City Clerk, with the advice of the City Attorney, to install the required landscaping. If, after the established time frame, the landscaping is not installed, the city will contract the landscaping using the posted bond. Two one month extensions of the bond may be allowed beyond the established time from if it is determined that planting will be detrimental to the plant material.

When Street Trees are planted to meet the tree density requirements of these regulations, in accordance with the subdivision of property, a full cash bond, irrevocable letter of credit or other form of acceptable surety in the amount of 125% of the cost of contracting the purchase and installation of the landscaping shall be required to be posted by the developer. If the developer chooses, this bond, letter of credit, or other acceptable surety may be separate from that surety posted for all other public improvements. This bond, or letter of credit, shall be posted at the same time as the surety

is posted for other public improvements and shall be posted for a time frame of one (1) year and may be renewed as necessary.

NOTE: It shall be the developer of the subdivision's responsibility to install the trees as indicated on the Stage II Development Plan or Improvement Drawings. Bond for trees will be kept one year from date of acceptance of the improvements. The amount of the bond will be for the cost of each tree, the actual cost of installation and guaranteeing trees for one year. The Letter of Credit or Bond may be extended for an additional period, not to exceed one (1) year, if it is determined by the city that the developer is making adequate attempts to install the landscaping, as required. If trees are absent or dead after one year, or if the developer is not making substantial progress in planting the trees, the City will contract the planting. After one year, if the trees are installed and living and the City Clerk has released the bond or letter of credit, the continued maintenance of the trees shall be the property owner's responsibility. Trees replaced by the property owners at a later date shall be from the same category as listed in the Landscape Manual. The City encourages developers to use a thematic approach to tree selection, but to avoid the use of the same tree species on more than one street within the subdivision.

#### K. LANDSCAPE COMMITTEE AND PLANTING ADJUSTMENTS

1. LANDSCAPE COMMITTEE: For the purpose of the administration of this Article there shall be established a Landscape Committee, which shall be made up of five (5) members, appointed by the Mayor with the approval of the City Council. The length of term shall be two (2) years, except at initial appointment staggered terms are to be used with two of the initial appointees receiving a one (1) year term and the remainder receiving two (2) year terms. This committee shall consist of private citizens with an interest in and knowledge of landscaping and tree preservation issues.

Requests for planting adjustments shall be reviewed by the Landscape Committee. The Landscape Committee shall review each adjustment request per the requirements of this ordinance and shall determine after the filing of an application with the City Clerk by an aggrieved party and after an appropriate due process hearing before the Committee forward its findings and decision to the Applicant, said ruling on the planting adjustment request shall be binding. Appeals of decisions of the Landscape Committee shall be made to the City of Cold Spring Board of Adjustments.

2. PLANTING ADJUSTMENTS: If the property owner wishes to request a planting adjustment of the Landscape Requirements, an application shall be filed with the City Clerk, who shall convene the Landscape Committee.
3. REVIEW AND APPROVAL OF ADJUSTMENT REQUESTS: Prior to review by the Landscape Committee, plans shall be submitted for review and recommendation of the city planning staff or its duly authorized representative. The committee, in its review of requests for adjustments,

shall in making its decision consider all of the following criteria, along with comments from the city staff or duly authorized representative:

- 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 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 Ordinance.
- d. Adherence to the Landscape Ordinance will adversely affect the health, safety and welfare of the public or will adversely alter the general character of the general vicinity.

In addition to the above criteria, before trees with a DBH of twenty-two (22) inches or greater may be removed, the Committee shall determine that the tree is either unhealthy and/or that no reasonable site design modifications can be made to avoid removal of the tree.

**TABLE 9-1  
LANDSCAPE REQUIREMENTS TABLE**

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"> <li>List A* (shade trees), 1 tree per 35 linear feet or fraction thereof, (1) plus double row hedge, list E (evergreen/broadleaf shrubs)</li> <li>List B (flowering and non-flowering trees), 1 tree per 20 linear feet or fraction thereof, plus double row hedge, List E (evergreen/broadleaf shrubs)</li> <li>6 foot wall, fence, or earth mound, plus hedge List D and 1 tree per 40 linear feet from List A (shade trees)</li> <li>6 foot wall, fence, or earth mound, plus hedge List D and 1 tree per 40 linear feet from List B (flowering and non-flowering trees)</li> <li>Double row, staggered, planting of trees from List C at 15 feet on center</li> </ol>
Any industrial zone or land use	Any residential, commercial, or professional office zone	75 feet side and rear yard	<p>36 foot wide, 6 foot tall earthen berm (4) and a double row of staggered trees from List C (evergreen/broadleaf trees) at 15 feet on center.</p> <p>STORAGE YARD: 6 foot fence or wall and hedge (from List E: evergreen/broadleaf shrubs) facing front yard only and/or any public/private street</p>

\* 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.

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Table 9-1 (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. List A* (shade trees), 1 tree per 45 linear feet or fraction thereof, plus double row hedge, list E (evergreen/broadleaf shrubs) 2. List B (flowering and non-flowering trees), 1 tree per 20 linear feet or fraction thereof, plus double row hedge, List E (evergreen/broadleaf shrubs) 3. 6 foot wall, fence, or earth mound, plus hedge List D (deciduous shrubs) 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 of road frontage. This is in addition to other required landscaping (3).

\* 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 foot 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.

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Table 9-1 (continued)

DEVELOPING ZONE/USE	ADJOINING ZONE/USE	MINIMUM PLANTING STRIP	PLANT MATERIAL/OPTIONS
A junk, salvage, refuge, or parts yard or recycling center	Any zone or street (public or private)	20 feet	Choose one of the following: 1. 6 foot wall or fence, plus single row hedge List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs), plus 1 tree from List A (shade trees) or List B (flowering and non-flowering trees) per 35 feet of linear boundary or fraction thereof (1) 2. 6 foot solid fence or wall and staggered double row planting of trees from List C (evergreen/broadleaf trees) at 15 feet on center
Street trees may be planted along all public or private streets to meet the requirements of these regulations		4 feet	Choose one of the following: 1. List A (shade trees), 1 tree per 60 feet on center (maximum) 2. List F (street trees), 1 tree per 60 feet on center (maximum) 3. List B (flowering and non-flowering trees), 1 tree per 60 feet on center (maximum)

\* 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 vehicle 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.

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Table 9-1 (continued)

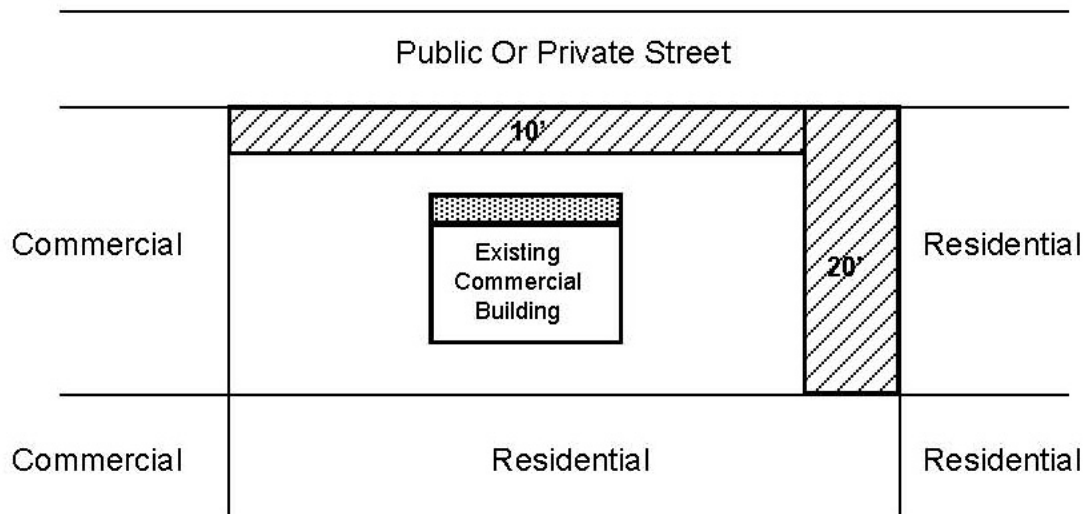
DEVELOPING ZONE/USE	ADJOINING ZONE/USE	MINIMUM PLANTING STRIP	PLANT MATERIAL/OPTIONS
A Vehicular Use Area (VUA) associated with any zone or land use, except single-family	Any public or private street	10 foot perimeter screening easement	Choose one of the following: 1. List A* (shade trees), 1 tree per 40 linear feet or fraction thereof, (1) plus 8 shrubs from List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs) 2. List B (flowering and non-flowering trees), 1 tree per 25 linear feet or fraction thereof, plus 8 shrubs from List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs) 3. If minimum planting strip exceeds 25 feet in width, shrubs are not required  --PLUS --  List A (shade trees) or List B (flowering and non-flowering trees), 1 tree per 250 square feet of interior landscaped area (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 foot 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.

FIGURE 9-1  
PERIMETER LANDSCAPING REQUIRED PER BUILDING ADDITION

ADDITION #1  
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS



ADDITION #2  
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

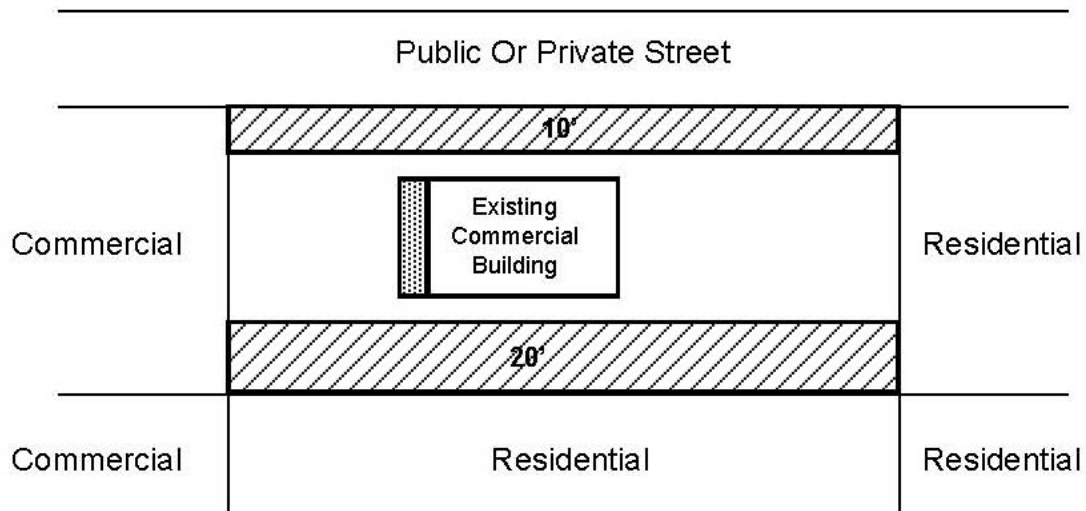
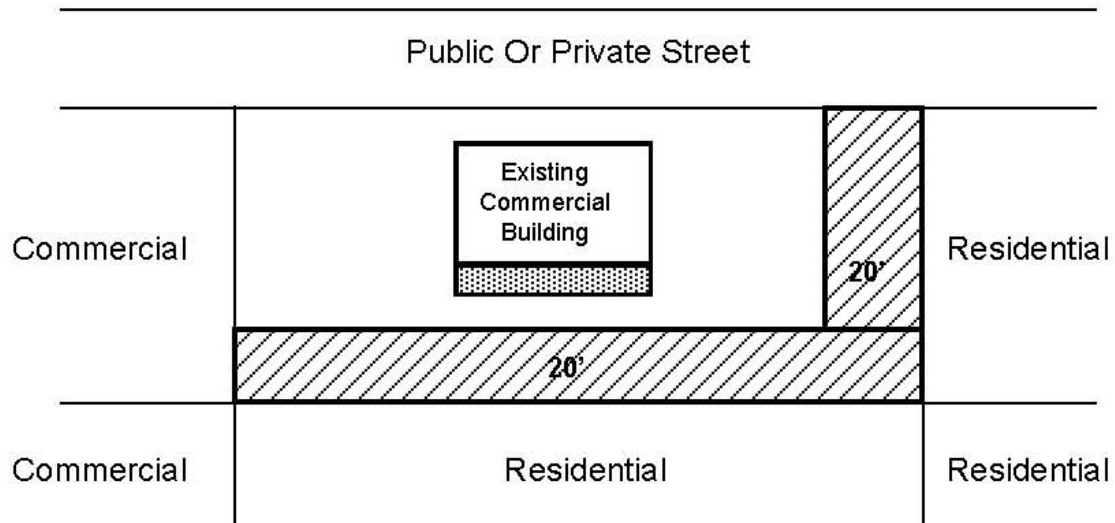
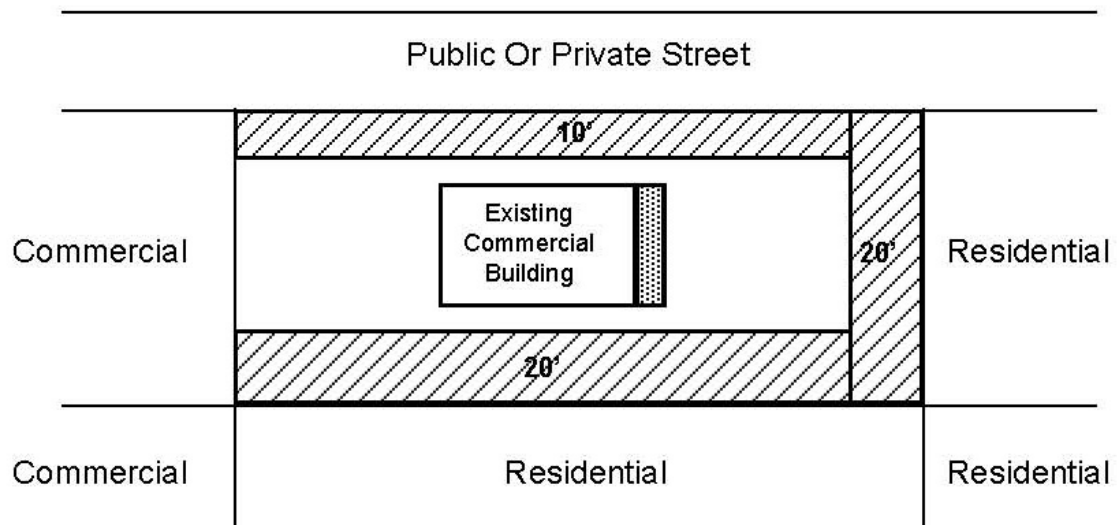


FIGURE 9-1 (continued)  
PERIMETER LANDSCAPING REQUIRED PER BUILDING ADDITION

ADDITION #3  
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

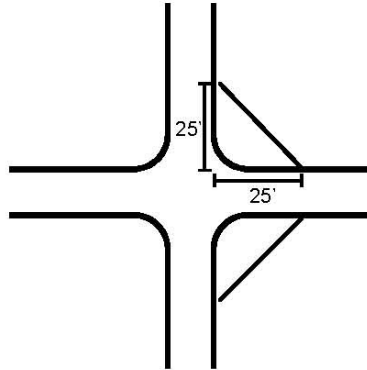


ADDITION #4  
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

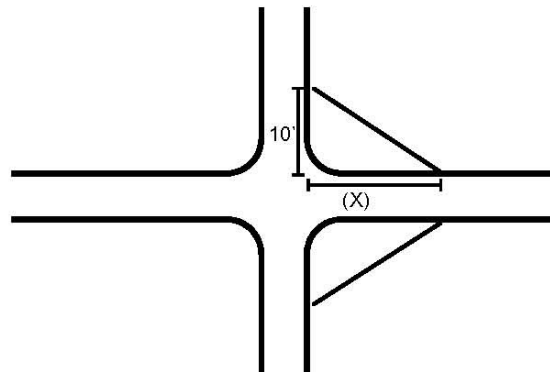


**FIGURE 9-2**  
**CITY STREETS/STATE HIGHWAY SIGHT TRIANGLES**

1. Local and Collector Streets: When two city streets intersect or a driveway intersects a city street, the sight triangle shall consist of the area between points twenty-five (25) feet along both streets from the intersection of the edges of the pavement.



2. Arterial or State Maintained Roadways: Where a city street, driveway or other entrance intersects with a state highway, the sight triangle shall consist of the area between a point located along the edge of the state highway pavement the distance an automobile traveling the speed limit can go in six seconds. An Encroachment Permit from the Kentucky Department of Transportation is required to plant in the State Right-of-Way.



(X) SIGHT DISTANCE	SPEED LIMIT
484 feet	55 miles per hour
396 feet	45 miles per hour
308 feet	35 miles per hour
220 feet	25 miles per hour
132 feet	15 miles per hour

TABLE 9-2  
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 plant manual
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

**SECTION 9.16 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 ten (10) feet to any property line.
2. Swimming pools which are constructed in-ground shall be required to have a fence or wall, including a self-closing and 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 (only classes 1, 3, 4, or 5 are permitted, as regulated in Article XIII of this ordinance). 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 a gate or door.
3. Swimming pools which are located above-ground shall be required to have a fence or wall, including a self-closing and self-latching door or gate around the pool or 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 (only classes 1, 3, 4, or 5 are permitted, as regulated by Article XIII of this ordinance). 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, however, that said wall is at least four (4) feet in height above the surrounding ground level.

In addition, any access to above-ground pools by means of a ladder, filter, stairway, apparatus, or paraphernalia shall be provided with a self-closing and 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, stairway, apparatus or paraphernalia.

4. No lighting shall be permitted which would glare from any swimming pool area onto any street or into any adjacent property.
5. All swimming pools including the apparatus and equipment pertaining to the operation of the swimming pool, shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the city. Any water used in the operation of a swimming pool, which is obtained from other than a public source, shall be approved by the appropriate 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 six (6) months after adoption of this ordinance.
- 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 including the apparatus and equipment pertaining to the operation of the swimming pool, shall be permitted within any minimum required yards or within the limits of any public utility 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 (only classes 1, 3, 4, or 5 fences are permitted, as regulated by Article XIII of this ordinance). 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 opening the door or gate or climbing the wall or fence.
- 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 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. No lighting shall be permitted which would glare from any swimming pool area onto any street or into any adjacent property.
4. All swimming pools including the apparatus and equipment pertaining to the operation of the swimming pool, shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the city. Any water used in the operation of the swimming pool, which is obtained from other than from a public source, shall be approved by the appropriate 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 9.17 DEVELOPMENT PLAN REQUIREMENTS:** No structure shall be erected or structurally altered nor shall any grading take place on any lot or parcel in zones where a development plan is required, except in accordance with the regulations of this section and an approved development plan as hereinafter required. Before a permit is issued for construction, one copy of the development plan, at a scale no smaller than one (1) inch to one hundred (100) feet shall be filed with the planning commission, or their duly authorized representative, the building inspector, and the zoning administrator. The development plan shall identify and locate, where applicable, the information as listed in Section 9.18, B. -- Stage II Development Plan Requirements.

All such development plans shall be reviewed by the planning commission, or its duly authorized representative. The planning commission, or its duly authorized representative shall review the development plans in accordance with requirements of this and other applicable sections of this ordinance and the comprehensive plan, and shall take one of the following actions: approval, approval with conditions, or disapproval.

All development plans approved shall be binding upon the applicants, their successors and assigns and shall limit the development to all conditions and limitations established in such plans.

Amendments to plans may be made in accordance with the procedure required by this ordinance subject to the same limitations and requirements as those under which such plans were originally approved.

After final approval, the subject area may be developed in phases, provided all of the procedures required by the planning commission, or its duly authorized representative, have been complied with.

**SECTION 9.18 DEVELOPMENT PLAN REQUIREMENTS - STAGES I, II, AND RECORD PLAT:**

- 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 or adjacent to 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 a typical section(s) identifying approximate lot sizes and dimensions and height of buildings;
      - (2) Attached housing - location and description of the various housing types (i.e., townhouses, fourplex, garden apartment, etc.) including approximate heights of typical structures 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 number of acres, gross floor area, and height of buildings;
      - (2) Open Space/Recreation - the approximate amount of area proposed for common open space, including the location of recreational facilities and identification of unique natural features to be retained;

- (3) Other public and semi-public uses - location and type of all uses, including approximate number of acres, gross floor area, and height of buildings;
- g. Location of all existing and proposed pedestrian walkways, identifying approximate dimensions;
- 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, identifying approximate dimensions of pavement, right-of-way widths, and grades;
- j. Location of all existing and proposed water, sanitary sewer, and storm drainage lines, indicating approximate pipe sizes;
- k. Certification from appropriate water and sewer agencies indicating that services are available.
- l. Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed methods of handling said problems.
- m. 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) Nonresidential buildings and uses, in order of priority.

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 identify and provide, where applicable, the following requirements:

1. 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, or its duly authorized representative;
  - b. All housing units on the subject property:
    - (1) Detached housing - Location, arrangement, and number of all lots, including lot dimensions 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, 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, 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, size, and height;
  - g. All utility lines and easements:
    - (1) Water distribution system, 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, and 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.

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.

**SECTION 9.19 REGULATIONS CONCERNING AIR RIGHTS:** Any proposed use of air rights, as defined herein, shall be in the form of a development plan, as regulated in Section 9.17 of this ordinance, submitted to the planning commission, or its duly authorized representative, for review.

**SECTION 9.20 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.

**SECTION 9.21 REGULATIONS PERTAINING TO PARKING OR STORING OF TRAILERS, MANUFACTURED HOMES, CAMPER, INOPERABLE VEHICLES, AND OTHER SUCH TYPE EQUIPMENT**

- A. No vehicle which is inoperable, non functional, in a state of disrepair, or lacking a valid license, shall be stored in excess of seventy-two (72) hours in any residential zone, unless it is in a completely enclosed building.
- B. It shall be unlawful for any person to live in any automobile, recreational vehicle, or truck, within the limits of the city.
- C. RECREATIONAL VEHICLES
  - 1. No person shall allow a recreational vehicle, not in daily use for purposes of transportation, to be parked, or otherwise located on a public street, or in the front or side yard of any residence or commercial property, as established by city ordinance, on any property located in the city.
  - 2. All recreational vehicles must be stored in an inconspicuous manner so as not to detract from the residential atmosphere of the community, nor may such vehicles be parked or stored so as to create a nuisance condition as defined by the ordinances of the city or state law.

3. "Recreational vehicle", for purposes of this section, shall be defined to include: Campers, trailers, boats, house trailers, motor homes, race car, snow mobile or parts on or off a trailer, any dune buggy on or off a trailer, any motorcycle trailer, any pickup camper on or off the pickup, and any other such device designed to be mounted upon any other motor vehicle, towed behind any motor vehicle, or in any way integrated into a movable, temporary housing facility.

**D. IMPOUNDMENT OF VEHICLES FOR PARKING VIOLATIONS**

1. Any recreational vehicle parked upon the streets of the city at a place, in manner of for a length of time prohibited by this ordinance, is declared to be an obstruction in any such streets and a public nuisance, and any police officer of the city is authorized to cause the same to be removed to and impounded in the depository provided by the city for such purpose.
2. All charges shall be paid to the city for any fine, storage charges or hauling charges before the release of an impounded vehicle is authorized.
3. Impounded vehicles shall be held for a period of ninety (90) days, and if unclaimed by that time, shall be advertised and sold.

**E. PARKING OF TRUCKS IN RESIDENTIAL ZONE PROHIBITED** - It shall be unlawful to park or to keep any commercially licensed truck or van at any place on property located in a residential zone, except in a completely enclosed building.

**SECTION 9.22 HILLSIDE DEVELOPMENT CONTROLS**

- A. This section is designed to ensure, when development is proposed in those areas of the community which have physical characteristics limiting development (hillside slopes of 20 percent or greater), that said development is in a manner which is harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and other natural hazards.
- B. Areas of land on which development is physically restricted due to excessive hillside slopes shall be limited according to the following requirements:
  1. Development proposed on land areas identified on the comprehensive plan as "Physically Restrictive Development Areas", and any other areas which have slopes of 20 percent or greater, shall require approval from the planning commission, or its duly authorized representative, before development may occur.

2. 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 in 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 9.17 of this ordinance. In addition to development plan requirements, the following shall also be submitted:
  - a. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion, sedimentation basins, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area.
  - b. Information defining results of 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.
3. The development plan and other information required by this section shall be reviewed by the city engineer, who will recommend to the planning commission, or its duly authorized representative, what effect the proposed development will have on hillside slippage and/or soil erosion.

After consideration of the recommendations, the planning commission, or its duly authorized representative, may authorize use of the site in accordance with the submitted plans.
4. If, after review of the plans required by this section, the planning commission, or its 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.

C. 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 9.23 APPLICATION FOR TEMPORARY PERMITS**

- A. Application for a temporary permit for an outdoor promotional or merchandising activity (i.e., fireworks sales, Christmas tree sales) shall be made and submitted at the office of the Zoning Administrator on the appropriate forms furnished by said Administrator and in accordance with Article XVI of this ordinance.
- B. The application shall be signed by the person(s) or entity requesting the temporary permit and the fee owner of the subject property.
- C. There shall be no more than two (2) temporary permits issued to a property in a calendar year.
- D. Temporary permits shall be issued for a period not to exceed thirty (30) consecutive calendar days.
- E. Temporary permits may only be issued in commercial zones.
- F. Temporary activities may only utilize class 5 or 6 signs, as regulated by Article XIV of this ordinance.

- G. No temporary activity shall take place within any required off-street parking space.
- H. Before approving any temporary activity, the zoning administrator shall determine that there are a sufficient number of off-street parking spaces on the site in question to accommodate the existing use of the property and the proposed temporary activity.

**SECTION 9.24 REGULATIONS PERTAINING TO THE KEEPING OF CATTLE , HORSES, SHEEP AND OTHER LIVESTOCK:** The keeping and/or raising of cattle, horses, sheep and other livestock may be permitted in any residential zone, provided that the following conditions are fulfilled at all times:

- A. The keeping and/or raising of cattle, horses, sheep and other livestock shall be allowed only as an accessory use to the residential units in all Residential Zones except the R-RE Zone.
- B. No buildings in which farm animals will be kept shall be located closer than one hundred (100) feet to any adjacent property lines except that where a building presently exists, it may continue to be used to keep farm animals providing that it is never located closer than one hundred (100) feet to any adjoining residents.
- C. No storage of manure or odor or dust-producing substance or use shall be permitted within one hundred (100) feet of any adjoining residents.
- D. All structures in which farm animals will be kept, shall be located so that any drainage resulting from such use will not drain into adjacent areas and affect the health of, nor produce offensive odors to the surrounding residents.
- E. For each one thousand (1000) pound unit of livestock (i.e., one cow and one calf or eight sheep) there shall be provided one (1) acre of land, with supplemental feeding; or three (3) acres of land without supplemental feeding provided, further, that a minimum of three (3) acres of land shall be provided for the first one thousand (1000) pound unit or any portion thereof with or without supplemental feeding.
- F. Fences shall be required to be erected around the entire area to be used for the keeping of cattle, horses, sheep and other livestock. Fences of class 2, 3, 4, 7, and 8 only, shall be permitted, up to a maximum height of sixty (60) inches, providing that class 7 fence shall be permitted in the R-RE Zone, only, when not adjacent to another Residential Zone.

**SECTION 9.25 PHASED ZONING REGULATIONS:**

- A. Phased zoning is an overlay type regulation to be used in cases where the timing and/or phasing of the zoning of an area is especially critical to the implementation of the adopted comprehensive plan. The intent of the phased zoning regulations is to encourage redevelopment of a specified area for the use and/or density designated within the comprehensive plan when the necessary conditions for such development are realized (e.g., demolition of existing buildings). Implicit in such a phased zoning approach is the premise that until such conditions are realized, the type of development designated within the comprehensive plan is premature; such development would be prevented by temporarily zoning the area to generally conform with the predominant existing land use, with a clear stipulation of an intended future rezoning, which would be in compliance with the adopted comprehensive plan.
- B. The phased zoning regulations may be overlaid over any zoning classification by means of a zone change process. The use of the phased zoning regulations would indicate that the regulations of the overlaid zone are currently being enforced, based upon the general existing land use, but upon attainment of all the requirements of the zone which corresponds to the adopted comprehensive plan for the type of use and/or density, the area could be rezoned in direct compliance with the plan.
- C. Phased zones are indicated on the official zoning map by adding to the overlaid zone, the letter "P", as a suffix enclosed in parentheses. For example, in order to properly phase its change, an area zoned R-1C, which is identified for future use on the adopted comprehensive plan for "industrial" could be temporarily zoned R-1C(P), indicating that present development on the site would be in conformance with the regulations of the overlaid R-1C Zone, but that, upon the attainment of certain conditions (e.g., provision of an adequate access road, demolition of existing buildings), the area could be rezoned through a zone change procedure to an industrial zone. At the time of the zone change, the temporary R-1C(P) Zone is removed and the area is developed according to the regulations of the new zone, which is in conformance with the adopted comprehensive plan.
- D. The minimum size of any area to be rezoned, as regulated by this section of the ordinance, is one (1) acre, provided that all other provisions of this ordinance and the subdivision regulations are adhered to. Development of a smaller tract adjacent to an existing zone being requested may be permitted if the proposed development conforms to and extends the original development as if the new area had been a part of the original development and provided further that the zone is in conformance with the comprehensive plan.

## **SECTION 9.26 REGULATIONS CONCERNING SATELLITE RECEIVING STATIONS**

- A. **DEFINITION:** A Satellite Receiving Station is hereby defined as an accessory structure whose purpose is to receive communication or other signals from

orbiting satellites and other extraterrestrial sources, and which consist of three (3) main components: the station itself (often called a dish); a low-noise amplifier (LNA) and a receiver. The station and the LNA are located outdoors and are connected by coaxial cable to the receiver, which is placed indoors. The height of the station shall be measured vertically from the highest point of the signal - receiving apparatus, when positioned for operation, to the bottom of the base which supports the station.

**B. SATELLITE RECEIVING STATION CONSTRUCTION**

1. Before proceeding with the construction or erection of a satellite receiving station in the city a permit for the same shall be first obtained by the owner or his agent from the city of Cold Spring.
2. All satellite receiving stations shall comply with BOCH and FCC requirements.
3. The construction and installation of all satellite receiving stations shall conform to applicable city Building Code and Electrical Code Regulations and requirements.
4. Electromagnetic interference - each satellite receiving station shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to the granting of a building permit, the owner of the station shall promptly take steps to eliminate the harmful interference in accordance with all applicable regulations.
5. Each satellite receiving station shall serve only the building located upon the zoning lot on which said satellite receiving station is constructed pursuant to this Section.
6. Satellite receiving station shall be constructed of noncombustible and corrosion-resistant materials.
7. Satellite receiving stations shall be constructed and erected in a secure and a wind-resistant manner. The station shall be wind-resistant enough to withstand 85 mile per hour winds normally and 70 mile per hour winds when combined with ice, without sustaining damage.
8. The satellite receiving station must be adequately grounded for protection against a direct strike of lightning.

9. Roof-mounted satellites shall have a certification from a structural engineer regarding the location stating that the structure is capable of safely supporting the station and that said station does not provide any additional stress which the structure cannot bear.
  10. No advertising or signage of any type is permitted on a satellite dish other than the manufacturers name plate.
- C. RESIDENTIAL ZONES. A satellite receiving station may be located in any residential zone provided that the same:
1. Shall be neutral in color and bear no advertising emblem or information other than the name of the manufacturer in letters not to exceed two (2) inches in height.
  2. Shall be compatible with the appearance and character of the neighborhood.
  3. Shall be limited to one per lot.
  4. Shall not exceed ten (10) feet in diameter.
  5. Shall not be roof-mounted, except when the building permit application is accompanied by a structural Engineer's certification per paragraph B-9 above.
  6. Shall be located only in a rear yard, a minimum of fifteen (15) feet from any lot line.
- D. BUSINESS DISTRICTS. A satellite receiving station may be located in any business zone provided that the same:
1. Shall be neutral in color and bear no advertising emblem or information other than the name of the manufacturer in letters not to exceed two (2) inches in height.
  2. Shall be compatible with the appearance of the surrounding area.
  3. Shall be limited to the lesser of one (1) per lot or per building.
  4. Shall not exceed twelve (12) feet in diameter.
  5. Shall not be roof-mounted, except when the building permit application is accompanied by a structural engineer's certification per paragraph B-9 above.

6. If roof-mounted, shall extend no more than thirty-five (35) feet above ground level.
  7. If ground mounted, shall be located only in a rear yard. The visual impact of the satellite receiving station shall be reduced by screening, if over ten (10) feet in height. If the subject parcel adjoins a residential zone, all stations shall be placed a minimum of fifteen (15) feet from any lot line and effectively screened by a fence, wall, or dense screening hedge to a minimum height of six (6) feet. Said fence, wall or hedge shall be located on or near the lot line bounding the residential zone and shall otherwise comply with the applicable zoning requirements governing its location, and shall be located a minimum of fifteen (15) feet from any lot line.
- E. MANUFACTURING DISTRICTS. A satellite receiving station may be located in any manufacturing zone provided that the same:
1. Shall be neutral in color and bear no advertising emblem or information other than the name of the manufacturer in letters not to exceed two (2) inches in height.
  2. Shall be compatible with the appearance of the surrounding area.
  3. Shall be limited to the lesser of one (1) per lot or per building.
  4. Shall not exceed twelve (12) feet in diameter.
  5. Shall not be roof-mounted, except when the building permit application is accompanied by a structural engineer's certification per paragraph B-9 above.
  6. If roof-mounted, shall extend no more than thirty-five (35) feet above ground level.
  7. Shall not be visible between ground level and ten (10) feet above ground level from any street adjoining the lot.
  8. If ground-mounted, shall be located only in a rear yard. The visual impact of the satellite receiving station shall be reduced by screening, if over ten (10) feet in height. If the subject parcel adjoins a residential zone, all stations shall be placed a minimum of fifteen (15) feet from any lot line and effectively screened by a fence, wall, or dense screening hedge to a minimum height of six (6) feet. Said fence, wall or hedge shall be located on or near the lot line bounding the residential zone and shall otherwise

comply with the applicable zoning requirements governing its location, and shall be located a minimum of fifteen (15) feet from any lot line.

- F. **PRE-EXISTING INSTALLATIONS.** Satellite receiving stations legally in existence at the time of the passage of this ordinance shall be considered to be exempt from compliance for a period of two (2) years from the effective date of this ordinance. At the end of the two (2) period the station must be in compliance with the provisions of this ordinance.
- G. **PERMIT FEE.** The permit fee shall be established from time to time by appropriate ordinances of the Cold Spring City Council.

**SECTION 9.27 REGULATIONS CONCERNING UTILITIES:** No utilities shall be extended into any area for which a preliminary subdivision plat has been approved, unless the extension thereof is beneath the surface of the ground.

## **SECTION 9.28 TRIP REDUCTION REGULATIONS**

- A. **PURPOSE:** The Greater Cincinnati Metropolitan Area has been identified as a non-attainment area for federal ozone level standards. Ozone is a compound and is the primary constituent of smog. This type of air pollution can be primarily attributed to motor vehicles. Due to the increasing responsibilities being placed on local governments to formulate plans which will help to reduce ozone levels, and the sanctions which will be placed upon metropolitan areas if ozone levels are not reduced, it is imperative that measures be taken by local legislative body's and other applicable agencies to reduce the amounts of ozone and other types of air pollution within the total community. Therefore, it is the purpose of these regulations to encourage and accommodate alternatives to single-occupant motor vehicle trips through the promotion and development of transportation management programs. A reduction in such trips can be expected to assist in reducing traffic congestion, air pollution, and energy consumption.
- B. **DEFINITIONS:** For the purpose of this section of the ordinance, the following definitions shall apply:
1. **Carpool** - A motor vehicle occupied by two or more employees who commute together to/from work.
  2. **Compressed Work Week** - A work schedule for an employee which eliminates at least one round trip commute two times a week.
  3. **Flextime** - The scheduling of employee arrivals and departures at a work site so that the number of single occupant vehicle trips during peak hours is reduced.

4. Subscription Bus Service - Transportation of persons in a motor vehicle for commute purposes, where the driver is not employed by the owner/tenant of the work site, either on a fixed route or demand response. This definition shall not include public/private mass transit services.
  5. Telecommuting - A system of either working at home or at an off - site work station with computer facilities that link to the work site.
  6. Vanpool - A van occupied by five or more employees who commute together to/from work.
- C. **APPLICABILITY:** These regulations shall be applicable to all existing and new residential and non-residential uses or developments, the owner(s)/developer(s) of which elect to participate.
- D. **TRANSPORTATION MANAGEMENT COORDINATOR:** Owner(s)/developer(s) of every residential and non-residential use or development which elect to participate in the transportation management program must identify a specific individual, department, or other entity to act as the transportation management coordinator. If the use is existing at the time of adoption of this ordinance, the transportation management coordinator shall be identified at the time the owner(s)/developer(s) of the use or development elect to participate in the transportation management program. If the use or development is new, the occupancy permit shall not be issued until the transportation management coordinator is identified. The transportation management coordinator shall perform the following duties and functions:
1. Coordinate and manage day-to-day operations of the transportation management program.
  2. Monitor and report, as required by this ordinance, performance of the transportation management program.
  3. Act as the administrative liaison between the legislative body and the owner(s)/developer(s) of the use or development.
- E. **REPORTING PROCEDURES:** An annual report, summarizing performance and effectiveness of the transportation management program, shall be filed with the zoning administrator no later than February 28. This report shall cover the period of January 1 through December 31 of the previous calendar year. This report shall contain, at a minimum, the following information, where applicable:
1. Address of the use or development.
  2. Names and types of uses within the development.

3. Number of employees at the use or development by work hours.
4. Number of dwelling units within the development.
5. A description of the types of services provided in the transportation management program.
6. Number of persons who utilize the services by type of service.
7. Number of off-street parking spaces located on the site.

F. TRANSPORTATION MANAGEMENT PROGRAM AND INCENTIVES:

1. NON-RESIDENTIAL USES:

- a. The transportation management program, for non-residential uses, may include one or more of the following services. For each service provided, a reduction in the number of required off-street parking spaces may be taken.

(1) VANPOOLING OR SUBSCRIPTION BUS SERVICE: A reduction of up to twenty percent (20%) of the number of required off-street parking spaces may be allowed for non-residential uses which employ vanpooling or a subscription bus service. To qualify for this reduction, the applicant must submit, along with the zoning permit application, the following:

- (a) Information indicating that the owner/tenant will obtain or lease to employees vans, buses, or other high occupancy vehicles, for the purpose of providing transportation of additional employees.
- (b) Information indicating that the owner/tenant will operate or hire vans, buses, or other high occupancy vehicles, for the purpose of providing transportation of employees.

(2) CARPOOLING: A reduction of up to fifteen percent (15%) of the number of required off-street parking spaces may be allowed for non-residential uses which institute a carpooling program. To qualify for this reduction, the applicant must submit, along with the zoning permit application, the following:

- (a) Information indicating that the program is registered with Rideshare, as established by the Ohio-Kentucky-Indiana Regional Council of Governments.
  - (b) Information indicating that the owner/tenant will provide passive matching services (i.e., bulletin board notice, paycheck stuffers, office newsletter, etc.).
  - (c) Information indicating that all reasonable efforts will be made to register existing and new employees with ride matching services.
  - (d) Information indicating that the program will be actively promoted to employees through newsletters, posters, and other materials.
- (3) ON-SITE AMENITIES AND OTHER ACTIVITIES:
- (a) A reduction of up to ten percent (10%) of the number of required off-street parking spaces may be allowed for non-residential uses which provide on-site amenities or other activities which encourage a reduction in trip generation or alternative modes of transportation. Examples of acceptable on-site amenities and other activities are as follows:
    - [1] Provision of flextime.
    - [2] Provision for a compressed work week.
    - [3] Provision for telecommuting.
    - [4] Provision of cafeteria facilities.
    - [5] Provision of preferential parking for high occupancy vehicles.
    - [6] Provision for bicycle parking.
    - [7] Provision of locker and shower facilities.
  - (b) To qualify for this reduction, the applicant must submit, along with the zoning permit application, the following:

- [1] Information indicating the types and amounts of amenities and activities.
  - [2] Information indicating that use of the amenities and activities will be actively promoted to employees through newsletters, posters, and other materials.
- (4) TRANSIT: A reduction in the number of required off-street parking spaces, equal to the estimated reduction in trip generation, may be allowed for non-residential uses which are located within one-half (1/2) mile of any regularly scheduled bus route stop, with service available during commuting hours. (Example: If the zoning ordinance requires one off-street parking space for every two employees and there are six employees who use the transit system to get to/from work, there can be a reduction of three off-street parking spaces)
- b. As an alternative to reducing the required number of off-street parking spaces, owner(s)/developer(s) of a use or development may increase the floor area, as follows:
  - (1) The owner(s)/developer(s) of the use or development must provide the full amount of off-street parking spaces required by the city's/county's zoning ordinance prior to the proposed increase in floor area.
  - (2) At the time that a zoning permit application is submitted, the applicant must submit the required information and provide the transportation management programs listed in Subsection F., 1., a., herein.
  - (3) The amount of the additional floor area shall be fifty percent (50%) of the figure calculated by taking the number of off-street parking spaces which would be reduced through the incentive programs listed herein multiplied by the off-street parking space variable listed in this ordinance. (Example: Assume that the zoning ordinance requires office uses to provide a minimum of one off-street parking space for every 200 square feet of gross floor area. A 50,000 square foot office building would be required to provide a minimum of 250 off-street parking spaces. Also assume that the owner/developer will provide the necessary transportation

management programs that will allow a reduction of 20% in the number of required off-street parking spaces. Instead of providing 200 off-street parking spaces ( $250 - [250 \times 20\%]$ ), the developer would be allowed to enlarge the gross square footage of his building by 5,000 square feet ( $50\% \times [50 \times 200]$ )

2. RESIDENTIAL USES: The transportation management program for residential uses is divided into multi-family residential developments and single-family residential developments.
  - a. MULTI-FAMILY RESIDENTIAL DEVELOPMENTS: An increase of up to ten percent (10%) in density may be allowed for multi-family residential developments which provide all of the following:
    - (1) Each resident, upon initial occupancy, must receive information on available mass transit services.
    - (2) The owner must provide shuttle or subscription bus service to various local shopping and business areas.
    - (3) Additional off-street parking spaces, which meet the minimum requirements of this ordinance must be provided for the increased number of dwelling units.
  - b. SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS: An increase of up to ten percent (10%) in density may be allowed for single-family residential developments which provide one or both of the following:
    - (1) All roadways must be designed and constructed so as not to preclude vanpool or bus service.
    - (2) An area within the development must be designated, designed, and constructed to accommodate ridesharing, vanpooling, park and ride, or other commuter parking service, at a rate of one (1) space for every ten (10) dwelling units. Such area must be approved by the appropriate mass transit agency prior to approval of the zoning permit. If the mass transit agency does not approve the location of such an area, the developer/owner may pay an "in lieu of" fee, equal to the amount of the estimated cost of construction of such an area, to the appropriate mass transit agency.

G. ENFORCEMENT:

1. If the approved transportation management program, including the requirements of this ordinance, are not being conducted or adhered to, or if the effectiveness of the program is not being met, the owner shall: (1) construct the required amount off-street parking, as required by this ordinance; (2) discontinue the use of the additional amount of building area/dwelling units, provided for within this ordinance; or (3) demolish, raze, or remove the additional amount of building area/dwelling units, provided for within this ordinance.
  2. Prior to the issuance of any occupancy permits, the owner/tenant must verify that the transportation management program, as identified in the zoning permit, will be implemented. Such verification may include copies of contracts, lease agreements, purchase agreements, and any other appropriate documentation.
  3. Provisions of the approved transportation management program shall be binding upon the owner/tenant and all successors. The owner shall record a deed restriction in the County Clerks office, binding all successors in title to the provisions of the approved transportation management program. Additionally, the owner shall include in all leases, a clause which binds all tenants to the provisions of the approved transportation management program.
- H. APPEAL PROCEDURE: The appeal process shall be as provided for within this ordinance.

## **SECTION 9.29 COMPATIBILITY STANDARDS FOR QUALIFIED MANUFACTURED HOUSING**

- A. PURPOSE: The purpose of compatibility standards for manufactured housing is:
1. 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 9.30 FLOOD PROTECTION DEVELOPMENT CONTROLS**

### **A. FINDINGS OF FACT**

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

2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

B. PURPOSE: The purposes of the flood protection development controls are:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity.
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters.
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

C. DEFINITIONS: Notwithstanding other definitions within this ordinance, the following definitions shall only apply to this section of the ordinance:

1. Addition (to an existing structure) - Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.
2. Area of shallow flooding - A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
3. 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.

4. Base flood - A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.
5. Base Flood Elevation (BFE) - The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
6. Basement - That portion of a structure having its floor subgrade (below ground level) on all four sides.
7. 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.
8. Community Rating System (CRS) - A program developed by the Federal Insurance Administration to provide incentives to those communities in the Regular Program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.
9. Community Flood Hazard Area (CFHA) - An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. Included are areas downstream from dams.
10. Critical facility - Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. Critical facilities include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

11. Development - Any manmade 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 materials or equipment.
12. Elevated structure - A non-basement structure built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, piling, columns (post and piers), shear walls, or breakaway walls. (See freeboard requirements for residential and non-residential structures.)
13. Elevation Certificate - A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this ordinance.
14. Emergency Program - The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.
15. Enclosure - That portion of a structure below the Base Flood Elevation (BFE) used solely for parking of vehicles, limited storage, or access to the structure.
16. Encroachment - The physical advance or infringement of uses, plant growth, fill, excavation, structures, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
17. Existing construction - Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "Existing structures".
18. 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 first floodplain management ordinance adopted by the legislative body based on specific technical base flood elevation data which established the area of special flood hazards.

19. 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 the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
20. Five-Hundred Year Flood - The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.
21. Flood, Flooding, or Flood Water:
  - a. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows). See Mudslides.
  - b. The condition resulting from flood-related erosion. See flood-related erosion.
22. Flood Boundary and Floodway Map (FBFM) -A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and the regulatory floodway.
23. Flood Hazard Boundary Map (FHBM) -A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA).
24. Flood Insurance Rate Map (FIRM) - A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated special flood hazard areas and risk premium zones.
25. Flood Insurance Study - The report provided by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.
26. Floodplain or flood-prone area - Any land area susceptible to being inundated by flood waters from any source.

27. Floodplain Administrator - The individual appointed by a NFIP participating community to administer and enforce the floodplain management ordinances.
28. Floodplain Management - The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.
29. Floodplain Management Regulations - This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
30. Floodproofing - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
31. Floodproofing Certificate - A certification by a registered professional engineer or architect, on a FEMA-approved form in effect at the time of certification stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.
32. 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. Also referred to as the "regulatory floodway".
33. Floodway fringe - That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.
34. 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.

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35. Freeboard - A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. Freeboard must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, etc.
36. Functionally dependent use facility - A facility, structure, or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a 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.
37. Hazard potential - The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity, flood routing capacity).
38. Highest adjacent grade - The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
39. Historic Structure - Any structure that is:
- a. 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;
  - b. 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;
  - c. 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
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
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- (1) By an approved state program as determined by the Secretary of the Interior, or
  - (2) Directly by the Secretary of the Interior in states without approved programs.
40. Increased Cost of Compliance (ICC) – Increased cost of compliance coverage provides for the payment of a claim for the cost to comply with State or community floodplain management laws or ordinances after a direct physical loss by flood. When a building covered by a Standard Flood Insurance Policy under the NFIP sustains a loss and the state or community declares the building to be substantially or repetitively damaged, ICC will help pay up to \$30,000 for the cost to elevate, floodproof, demolish, or remove the building.

ICC coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.
41. Letter of Map Change (LOMC) – Is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's include the following categories:
  - a. Letter of Map Amendment (LOMA) – A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.
  - b. Letter of Map Revision (LOMR) - A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.
  - c. Letter of Map Revision – Fill (LOMR\_F) – A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.
42. Levee - A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
43. Levee System - A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

For a levee system to be recognized, the following criteria must be met:

- a. All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or revised).
  - b. All operations must be under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the NFIP.
44. Limited storage - An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.
45. Lowest adjacent grade - The elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a structure's foundation system.
46. Lowest Floor - The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a basement area is not considered a structure's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
47. Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term "manufactured home" does not include a "recreational vehicle" (see Recreational Vehicle).
48. Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

49. Mean Sea Level (MSL) - The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the MSL is used as a reference for establishing various elevations within the floodplain as shown on a community's FIRM. For purposes of this ordinance, the term is synonymous with either National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) 1988.
50. Mitigation - Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.
51. Mudslide (i.e. mudflow) - Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A mudslide (i.e. mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.
52. National Flood Insurance Program (NFIP) - The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.
53. National Geodetic Vertical Datum (NGVD) - As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRM's. Refer to FIRM legend panel for correct datum.)
54. New Construction - Structures for which the start of construction commenced on or after the effective date of these floodplain management regulations and includes any subsequent improvements to such structures.
55. 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 these floodplain management regulations.
56. North American Vertical Datum (NAVD) – As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the

floodplain. (Generally used on the newer FIRM's and Digitally Referenced FIRM's (DFIRM's). (Refer to FIRM or DFIRM legend panel for correct datum.)

57. Obstruction - Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
58. One-Hundred Year Flood (100-Year Flood) (see Base Flood) - The flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA.
59. Participating Community - A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.
60. Pre-FIRM Construction - Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.
61. Post-FIRM Construction - Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.
62. Probation - A means of formally notifying participating NFIP communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations. During periods of probation, each insurance policy is subject to a \$50 surcharge.
63. Program Deficiency - A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards or of the standards of 44 CFR 60.3, 60.4, 60.5, and/or 60.6.
64. Public Safety and Nuisance - Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the

customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

65. Recreational Vehicle - A vehicle that is:
- a. Built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projection;
  - c. Designed to be self-propelled or permanently towable to a light duty truck; and
  - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
66. Regular Program - The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.
67. Regulatory 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. See Base Flood.
68. Remedy a violation - The process by which a community brings a structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.
69. Repair - The reconstruction or renewal of any part of an existing structure.
70. Repetitive Loss - Flood-related damages sustained by a structure on two or more separate occasions during a 10-year period where the value of damages equals or exceeds an average of 50% of the current value of the structure, beginning on the date when the damage first occurred, or, four or more flood losses of \$1000.00 or more over the life of the structure, or, three or more flood losses over the life of the structure that are equal to or greater than the current value of the structure.

71. Special flood hazard area (SFHA) - That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, or AR.
72. Start of Construction (includes substantial improvement and other proposed new development) - The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the 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; the installation on the property of accessory structures, 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 structure.
73. Section 1316 - That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.
74. Substantial Damage - Means any damage to a building for which the cost of repairs equals or exceeds fifty percent of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

For the purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- a. Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have

been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or

- b. Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

75. Substantial Improvement - Means any combination of reconstruction, alteration, or improvement to a building, taking place during a 1-year period in which the cumulative percentage of improvement equals or exceeds fifty percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

The term does not apply to:

- a. Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
  - b. Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” Or
  - c. Any building that has been damaged from any source or is categorized as repetitive loss.
76. Substantially improved existing manufactured home parks or subdivisions - Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.
77. Suspension - Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP. New or renewal flood insurance policies are no longer available in suspended communities.
78. Utilities - Includes electrical, heating, ventilation, plumbing, and air conditioning equipment.
79. Variance - Relief from some or all of the requirements of this ordinance.
80. Violation - Failure of a structure or other development to fully comply with this ordinance. A structure or other development without the elevation

certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

81. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.
82. Water surface elevation - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or river areas.
83. Watershed - All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.
84. Zone - A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

#### D. LANDS TO WHICH THIS ORDINANCE APPLIES

1. This ordinance shall apply to all Special Flood Hazard Areas (SFHA), areas applicable to KRS 151.250 and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the legislative body from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the legislative body which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare.

#### E. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

1. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Campbell County, dated September 30, 2004, with the accompanying Flood Insurance Rate Maps (FIRMS), other supporting data and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations, and for those land areas acquired through annexation. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the City Council by the Floodplain

Administrator and are enacted by City Council pursuant to statutes governing land use management regulations.

F. ESTABLISHMENT OF DEVELOPMENT PERMIT

1. A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities in the special flood hazard areas (SFHA).
2. Application for a development permit shall be made on forms furnished by the Floodplain Administrator.

G. COMPLIANCE

1. No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable state regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the legislative body from taking such lawful action as is necessary to prevent or remedy any violation.

H. ABROGATION AND GREATER RESTRICTIONS

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

I. INTERPRETATION

1. In the interpretation and application of this ordinance, all provisions shall be:
  - a. Considered minimum requirements;
  - b. Liberally construed in favor of the governing body; and,
  - c. Deemed neither to limit nor repeal any other powers granted under state statutes.

- J. WARNING AND DISCLAIMER OF LIABILITY: The degree of flood protection required by this section of the ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This section of the ordinance does not imply that land outside the areas

of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This section of the ordinance shall not create liability on the part of the Local Floodplain Coordinator or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

- K. DESIGNATION OF LOCAL FLOODPLAIN COORDINATOR: The Deputy Director for Current Planning with the Northern Kentucky Area Planning Commission is hereby appointed to administer and implement the provisions of these regulations.
- L. PERMIT PROCESS: In addition to the requirements within Article XVI of this ordinance, all applications for a Development Permit shall be made to the Local Floodplain Coordinator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information may be required:
1. Application Stage:
    - a. Elevation in relation to Mean Sea Level of the proposed lowest floor (including basement) of all buildings.
    - b. Elevation in relation to Mean Sea Level to which any non-residential building will be flood-proofed.
    - c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing requirements of this section of the ordinance.
    - d. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
  2. Construction Stage:
    - a. Provide a floor elevation or flood-proofing certificate after the lowest floor, or flood-proofing is completed. Upon placement of the lowest floor or flood-proofing, by whatever construction means, it shall be the duty of the permit holder to submit to the Local Floodplain Coordinator a certificate of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to Mean Sea Level. Said certificate shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same.
    - b. When flood-proofing is utilized for a particular building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same. Any

work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Local Floodplain Coordinator shall review the submitted floor elevation survey data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey, or failure to make said corrections, shall be cause to issue a stop work order for the project.

M. **DUTIES AND RESPONSIBILITIES OF THE LOCAL FLOODPLAIN COORDINATOR:** The duties of the Local Floodplain Coordinator shall include, but not be limited to:

1. Review all development permits to assure that the permit requirements of these regulations have been satisfied.
2. Advise applicants that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.
3. Notify adjacent communities and the Kentucky Division of Water prior to any alteration or relocation of the watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. Verify and record the actual elevation, in relation to Mean Sea Level, of the lowest floor of all new or substantially improved building.
6. Verify and record the actual elevation, in relation to Mean Sea Level, to which the new or substantially improved buildings have been flood-proofed.
7. Obtain certification from a registered professional engineer or architect, when flood-proofing is utilized for a particular building.
8. Provide interpretation as to the exact location of boundaries of the areas of special flood hazard.
9. Obtain, review, and reasonably utilize any base flood elevation and floodway data that may be available from any federal, state or other source, when base flood elevation data or floodway data has not been provided pursuant to these regulations.

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10. Maintain all records pertaining to the provisions of these regulations.
- N. 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.

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 Local Floodplain Coordinator 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.

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4. All land outside the floodway of the bodies of water, 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 the floodplain area, 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 and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
  - b. All new construction and 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. Electrical, heating, ventilation, plumbing, air condition 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; and if
  - e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- f. New and 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.
  - g. 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 placed in a floodway.
  - 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 and one additional tie per side for manufactured homes of fifty (50) feet 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 less than fifty (50) feet long and one additional tie for manufactured homes of fifty (50) feet 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, and pads equals or exceeds fifty (50) percent of the value of the streets, utilities, and 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 H., 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 9.12 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 (4) of this section, an elevation certificate shall be provided to and maintained in the offices of the Zoning Administrator - Building Official.
13. A site plan, as regulated by Section 9.19 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.
15. No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

#### O. STANDARDS FOR SUBDIVISION PROPOSALS

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
4. In areas where base flood elevation and floodway data is not available (Zone A or unmapped streams), base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall be provided.

5. All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

P. VARIANCE PROCEDURE:

1. The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of these regulations.
2. The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any requirement, decision, or determination made by the Local Floodplain Coordinator in the enforcement or administration of these regulations.
3. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the appropriate court of law, as provided in the Kentucky Revised Statutes.
4. Variances may be issued for the repair or rehabilitation of historic structures upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variation is the minimum to preserve the historic character and design of the structure.
5. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - a. The danger that materials may be swept onto other lands to the injury of others.
  - b. The danger to life and property due to flooding or erosion damage.
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - d. The importance of the services provided by the proposed facility to the community.
  - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility.
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
  - g. The compatibility of the proposed use with existing and anticipated development.

- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as water, gas, electrical, and sewer systems, and streets and bridges.
- 6. Upon consideration of the factors listed in Subsection F., 5., and the purpose of these regulations, the Board of Adjustment may attach such conditions to the granting of the variation as it deems necessary to further the purposes of these regulations.
- 7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 8. Conditions for variances:
  - a. Variances shall only be issued upon determination that the variation is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
  - b. Variations shall only be issued upon:
    - (1) a showing of good and sufficient cause;
    - (2) a determination that failure to grant the variance would result in exceptional hardship;
    - (3) a determination that granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- d. The Local Floodplain Coordinator shall maintain the records of all appeals and report any variances to the Federal Emergency Management Agency upon request.

P. SEVERABILITY

- 1. This section and the various parts thereof are hereby declared to be severable. Should any portion of this section be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the section as a whole, or any portion thereof other than the portion so declared to be unconstitutional or invalid.
- 2. If any portion, clause, sentence, or phrase of this section is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall not affect the validity of this section as a whole, or any portion thereof other than the portion so declared to be unconstitutional or invalid.

## ARTICLE X

### ZONES

#### SECTION 10.0 R-RE RESIDENTIAL RURAL ESTATE ZONE

- A. PURPOSE: This zone is established to provide a residential environment to be used as a transition between urban and non-urban areas.
- B. PERMITTED USES
1. Single-family residential dwellings (detached)
  2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.29 of this ordinance
- C. ACCESSORY USES
1. Customary accessory structures and uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Home occupations, as regulated by Section 9.9 of this ordinance
  4. Signs, as regulated by Article XIV of this ordinance
- D. CONDITIONAL USES: The following uses, or any customary accessory structures and uses, subject to the approval by the board of adjustment, as set forth in Sections 9.12 and 18.7 of this ordinance:
1. Cemeteries
  2. Child care centers
  3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
  4. Fire and police stations, providing they are located adjacent to an arterial street
  5. Governmental buildings
  6. Institutions for higher education, providing they are located adjacent to an arterial street
  7. Institutions for human medical care - clinics, congregate housing, and hospitals, providing they are located adjacent to an arterial street
  8. Libraries
  9. Nursery school
  10. Parks and/or recreation areas which are owned and/or operated publicly or by a non-profit organization
  11. Parochial, private, and public schools, providing they are located adjacent to an arterial street

12. Professional offices within a structure: (a) which is at least one hundred fifty (150) years old; and (b) is recognized as a Kentucky Landmark by the Kentucky Heritage Council, and providing the site is adjacent to an arterial or collector street.

E. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND 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 Width - Seventy-five (75) feet
5. Minimum Rear Yard Depth - Twenty-five (25) feet
6. Maximum Building Height - Thirty-five (35) feet

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI and XII 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 9.15 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.

**SECTION 10.1 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**
1. Single-family residential dwellings (detached)
  2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.29 of this ordinance
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Signs, as regulated by Article XIV of this ordinance
  4. Home occupations, as regulated by Section 9.9 of this ordinance
- D. **CONDITIONAL USES:** The following uses, or any customary accessory structures and uses, subject to the approval by the board of adjustment, as set forth in Sections 9.12 and 18.7 of this ordinance:
1. Cemeteries
  2. Child care centers
  3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
  4. Fire and police stations, providing they are located adjacent to an arterial street
  5. Governmental buildings
  6. Institutions for higher education, providing they are located adjacent to an arterial street
  7. Institutions for human medical care - clinics, congregate housing, and hospitals, providing they are located adjacent to an arterial street
  8. Libraries
  9. Nursery school
  10. Parks and/or recreation areas which are owned and/or operated publicly or by a non-profit organization
  11. Parochial, private, and public schools, providing they are located adjacent to an arterial street
- 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 (30) feet

4. Minimum Side Yard Width - 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 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 and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.

**SECTION 10.2 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 a suburban character.
- B. **PERMITTED USES**
1. Single-family residential dwellings (detached)
  2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.29 of this ordinance
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Signs, as regulated by Article XIV of this ordinance
  4. Home occupations, as regulated by Section 9.9 of this ordinance
- D. **CONDITIONAL USES:** The following uses, or any customary accessory structures and uses, subject to the approval by the board of adjustment, as set forth in Sections 9.12 and 18.7 of this ordinance:
1. Cemeteries
  2. Child care centers
  3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
  4. Fire and police stations, providing they are located adjacent to an arterial street
  5. Governmental buildings
  6. Institutions for higher education, providing they are located adjacent to an arterial street
  7. Institutions for human medical care - clinics, congregate housing, and hospitals, providing they are located adjacent to an arterial street
  8. Libraries
  9. Nursery school
  10. Parks and/or recreation areas which are owned and/or operated publicly or by a non-profit organization
  11. Parochial, private, and public schools, providing they are located adjacent to an arterial street
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**
1. Minimum Lot Area - Nine thousand (9,000) 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 - 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 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 and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.

**SECTION 10.3 R-1DD RESIDENTIAL ONE-DD 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**
1. Single-family residential dwellings (detached)
  2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.29 of this ordinance
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Signs, as regulated by Article XIV of this ordinance
  4. Home occupations, as regulated by Section 9.9 of this ordinance
- D. **CONDITIONAL USES:** The following uses, or any customary accessory structures and uses, subject to the approval by the board of adjustment, as set forth in Sections 9.12 and 18.7 of this ordinance:
1. Cemeteries
  2. Child care centers
  3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
  4. Fire and police stations, providing they are located adjacent to an arterial street
  5. Governmental buildings
  6. Institutions for higher education, providing they are located adjacent to an arterial street
  7. Institutions for human medical care - clinics, congregate housing, and hospitals, providing they are located adjacent to an arterial street
  8. Libraries
  9. Nursery school
  10. Parks and/or recreation areas which are owned and/or operated publicly or by a non-profit organization
  11. Parochial, private, and public schools, providing they are located adjacent to an arterial street
- 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 - No less than five (5) feet on one side - Total of fifteen (15) both sides
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 and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.

**SECTION 10.4 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 a suburban character.
- B. **PERMITTED USES**
1. Single family residential dwellings (detached)
  2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.29 of this ordinance
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Signs, as regulated by Article XIV of this ordinance
  4. Home occupations, as regulated by Section 9.9 of this ordinance
- D. **CONDITIONAL USES:** The following uses, or any customary accessory structures and uses, subject to the approval by the board of adjustment, as set forth in Sections 9.12 and 18.7 of this ordinance:
1. Cemeteries
  2. Child care centers
  3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
  4. Fire and police stations, providing they are located adjacent to an arterial street
  5. Governmental buildings
  6. Institutions for higher education, providing they are located adjacent to an arterial street
  7. Institutions for human medical care - clinics, congregate housing, and hospitals, providing they are located adjacent to an arterial street
  8. Libraries
  9. Nursery school
  10. Parks and/or recreation areas which are owned and/or operated publicly or by a non-profit organization
  11. Parochial, private, and public schools, providing they are located adjacent to an arterial street
- 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 - 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 and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
5. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.

**SECTION 10.5 R-2 RESIDENTIAL TWO ZONE**

- A. **PURPOSE:** This zone is established to provide a planned and coordinated residential environment of attached dwelling units whose densities are typical of an urban character.
- B. **PERMITTED USES**
1. Single-family residential dwellings (attached)
  2. Two-family residential dwellings
  3. Multi-family residential dwellings
- C. **ACCESSORY USES**
1. Customary accessory structures or uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Signs, as regulated by Article XIV of this ordinance
- D. **CONDITIONAL USES:** The following uses or any customary accessory buildings or uses, subject to the approval by the Board of Adjustment, as set forth in Sections 9.12 and 18.7 of this ordinance:
1. Cemeteries
  2. Child care centers
  3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
  4. Fire and police stations, providing they are located adjacent to an arterial street
  5. Funeral homes, providing they are located adjacent to an arterial street
  6. Governmental buildings
  7. Institutions for higher education, providing they are located adjacent to an arterial street
  8. Institutions for human medical care - clinics, congregate housing, and hospitals, providing they are located adjacent to an arterial street
  9. Libraries
  10. Nursery school
  11. Parks and/or recreation areas which are owned and/or operated publicly or by a non-profit organization
  12. Parochial, private, and public schools, providing they are located adjacent to an arterial street
- 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 - Fifteen (15) feet
5. Minimum Rear Yard Depth - Thirty (30) feet
6. Maximum Building Height - Forty (40) feet
7. Maximum Density - Eight (8) 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 Yard Depths - 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 and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
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 Section 9.17 of this ordinance, shall be required for any use permitted in this zone.

**SECTION 10.6 R-3 RESIDENTIAL THREE ZONE**

- A. **PURPOSE:** This zone is established to provide a planned and coordinated residential environment of multiple dwelling units whose densities are typical of an urban character.
- B. **PERMITTED USES**
1. Multi-family residential dwellings
- C. **ACCESSORY USES**
1. Customary accessory structures or uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Signs, as regulated by Article XIV of this ordinance.
- D. **CONDITIONAL USES:** The following uses, or any customary accessory buildings or uses, subject to the approval by the Board of Adjustment, as set forth in Sections 9.12 and 18.7 of this ordinance:
1. Cemeteries
  2. Child care centers
  3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
  4. Fire and police stations, providing they are located adjacent to an arterial street
  5. Funeral homes, providing they are located adjacent to an arterial street
  6. Governmental offices
  7. Institutions for higher education, providing they are located adjacent to an arterial street
  8. Institutions for human medical care - clinics, congregate housing, and hospitals, providing they are located adjacent to an arterial street
  9. Libraries
  10. Nursery schools
  11. Parks and/or recreation areas which are owned and/or operated publicly or by a non-profit organization
  12. Parochial, private, and public schools, providing they are located adjacent to an arterial street
- E. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**
1. Minimum Lot Area - Twenty thousand (20,000) square feet
  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 - Fourteen (14) 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 Yard Depths -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 and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
5. 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 9.17 of this ordinance, shall be required for any use permitted in this zone.

**SECTION 10.7 PUD PLANNED UNIT DEVELOPMENT OVERLAY ZONE**

- A. **PURPOSE:** The purposes of the Planned Unit Development (PUD) Overlay Zone are to: promote flexibility in design and permit planned diversification in the relationships between the location and types of uses and structures; promote the advantages of modern 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 a harmonious fashion; provide for more usable and suitably located recreation facilities, and other 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. **GENERAL:** A Planned Unit Development (PUD) 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 PUD and its proper integration with the surrounding development, are met; and a public hearing is held on the PUD application.
- C. **APPLICATION AND PROCESSING:** Applications for Planned Unit Development Overlay zone shall be processed as follows:
1. Stage I -- Except as provided for in Section 17.0, I., of this ordinance, applications for a map amendment to zone an area PUD shall be accompanied by a development plan, as regulated by Section 9.18, 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 PUD, the submission of the Stage I Development Plan, for review by the planning commission and the 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 PUD 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 PUD 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 PUD 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 Development Plan and Record Plat.

Upon approval of the PUD Overlay Zone, the Official Zoning Map shall be amended by adding the prefix "PUD" to the residential zone (e.g., PUD-R-1B, PUD-R-1C, etc.).

2. Stage II -- Development Plan And Record Plat - A Stage II Development Plan and Record Plat shall be developed in conformance with the approved Stage I Development Plan and in accordance with the requirements of Section 9.18, 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 9.18 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 9.18, B. of this ordinance, other applicable elements of this ordinance and 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), 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.

- b. Upon approval of the Stage II Development Plan, the planning commission, or its duly authorized representative, shall review the submitted Record Plat, if applicable, with regard to its compliance with the required elements of Section 9.18 of this ordinance, the applicable requirements of the subdivision regulations, and its conformance with the approved Stage II Development Plan.

Upon approval of the Record Plat, by the planning commission, or its duly authorized representative, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded by the planning commission to the office of the County Clerk to be recorded.

- D. **RESIDENTIAL USES AND DENSITIES:** All types of residential housing units may be permitted within a PUD Overlay Zone, including but not limited to, single-family, two-family, and multi-family residential units. 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 superimposed by the PUD Overlay Zone. This density shall be applied to the total project area excluding that land devoted to commercial uses and streets (public and private).
- E. **COMMERCIAL USES:** Commercial uses, intended primarily for the service and convenience of residents of the PUD, may be permitted within the project area, provided a market analysis is made justifying the need for said uses.

Commercial uses shall be grouped in complexes delineated on the Stage I Development Plan, and may include the following uses:

- 1. Bakery shop
- 2. Banks
- 3. Beauty or barber shops
- 4. Business or professional office

5. Clothing store
  6. Delicatessen
  7. Drug store
  8. Food store and supermarket
  9. Fruit and/or vegetable market
  10. Hardware stores
  11. Laundry/dry cleaning pick-up stations, or self-service facilities
  12. Restaurants
  13. Shoe repair shops
- F. ACCESSORY USES: Accessory uses shall be as specified within the zone being overlaid.
- G. CONDITIONAL USES: Conditional uses, including any 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 Sections 9.12 and 18.7 of this ordinance.
- H. PUBLIC AND SEMI-PUBLIC USES: Public and semi-public structures and uses may be permitted in the PUD. These uses shall be delineated on the Stage I Development Plan and may include the following:
1. Child care centers
  2. Churches
  3. Community centers
  4. Country clubs
  5. Fire or police stations
  6. Libraries
  7. Nursery school
  8. Open space/recreation areas
  9. Parochial, private, and public schools
- I. AREA REQUIREMENTS
1. No PUD Zone shall be permitted on less than fifteen (15) acres of land. However, an area of less than fifteen (15) acres may be zoned PUD, provided it is adjacent to an area with an existing approved Stage I Development Plan and is currently zoned PUD.
  2. The minimum area for submission of a Stage I Development Plan, within an existing PUD Zone, shall be not less than five (5) acres. However, a Stage I Development Plan may be submitted for an area of 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 PUD Zone.

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- J. HEIGHT, YARD, AND SETBACK REQUIREMENTS: Requirements shall be as approved on the Stage I Development Plan.
- K. 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 and XII of this ordinance.
- L. 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.
- M. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.6 of this ordinance.
- N. COMMON OPEN SPACE/RECREATION AREA: At least twenty (20) percent of the total acreage of the proposed PUD shall be retained as common open space and recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space and recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all activities within the PUD. Common open space and recreation areas shall be that part of the total project exclusive of buildings, streets, parking areas, single-family residential lots, commercial areas, and access drives.
- O. SCREENING: Shall be as approved in the plan.
- P. CRITERIA: Evaluation of the proposed development plan shall be based upon the following criteria:
1. Agreement with the various elements of the Cold Spring Comprehensive Plan and where applicable, any Officially adopted Neighborhood Concept Plan by the planning commission or the legislative body, or other adopted plan.
  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 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 of 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 in the Stage I Development Plan, is compatible and coordinated with existing and/or proposed development contiguous to the site. Compatibility and coordination with 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 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.
- Q. 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 C., subject to the same limitations and requirements as those under which such plans were originally approved.
- R. UTILITIES: All utilities in a PUD Overlay Zone shall be underground.
- S. EXPIRATION: Development plan within the PUD 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 PUD 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 date 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 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. The amount of construction constituting initiating substantial construction shall be as approved in the approved Stage II Development Plan.

**SECTION 10.8 RCD RESIDENTIAL CLUSTER DEVELOPMENT OVERLAY ZONE**

- A. **PURPOSE:** The purposes of the Residential Cluster Development (RCD) Overlay Zone are to: provide a means whereby clusters of attached and detached single-family residential units may be constructed in any Residential 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 usable and suitably located recreation facilities and open space than 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 Residential Cluster Development (RCD) 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 RCD Overlay Zone and its proper integration with the surrounding development, are met; and a public hearing is held on the RCD application.
- C. **APPLICATION AND PROCESSING:** Applications for Residential Cluster Development Overlay Zone shall be processed as follows:
1. **Stage I -** Except as provided for in Section 17.0, I., of this ordinance, applications for a map amendment to zone an area RCD shall be accompanied by a development plan, as regulated by Section 9.18, A., of this ordinance, along with supporting information/documentation pertaining to each of the criteria items identified in Subsection O., below. If an area, however, is currently zoned RCD, the submission of the Stage I Development Plan, for review by the planning commission and the 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 RCD 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 RCD 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 RCD 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 requirements for Stage II Development Plan and Record Plat.

Upon approval of the RCD Overlay Zone, the official zoning map shall be amended by adding the prefix "RCD" to the residential zone (e.g., RCD-R-1B, RCD-R-1C, RCD-R-2, etc.).

2. Stage II -- Plan and Record Plat - A Stage II Development Plan and Record Plat shall be developed in conformance with the approved Stage I Development Plan and in accordance with the requirements of Section 9.18, B. and C. 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 9.18, B. and C. 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 9.18, 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.

- b. Upon approval of the Stage II Development Plan, the planning commission, or its duly authorized representative, shall review the submitted Record Plat, if applicable, with regard to its compliance with the required elements of Section 9.18, C. of this ordinance, the applicable requirements of the subdivision regulations, and its conformance with the approved Stage II Development Plan.

Upon approval of the Record Plat, by the planning commission, or its duly authorized representative, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded to the office of the County Clerk to be recorded.

- D. **RESIDENTIAL USES AND DENSITIES:** Attached and detached single-family residential dwellings may be permitted within a RCD Overlay Zone. The density of dwelling units in a RCD shall be determined by the density (dwelling units per net acre) as calculated from the residential zone superimposed by the RCD Overlay Zone. This density shall be applied to the total project area, excluding that land devoted to streets (public and private).
- E. **ACCESSORY USES:** Accessory uses shall be as specified within the zone being overlaid.
- F. **CONDITIONAL USES:** Conditional uses, including any 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 Sections 9.12 and 18.7 of this ordinance.
- G. **PUBLIC AND SEMI-PUBLIC USES:** Public and semi-public structures and uses may be permitted in the RCD. These uses shall be delineated on the Stage I Development Plan and may include the following:
  - 1. Child care centers
  - 2. Churches

3. Community centers
4. Country clubs
5. Fire or police stations
6. Libraries
7. Open space/recreation areas

#### H. AREA REQUIREMENTS

1. No RCD Zone shall be permitted on less than five (5) acres of land. However, an area of less than five (5) acres may be zoned RCD, 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 RCD Zone, shall be not less than three (3) acres. However, a Stage I Development Plan may be submitted for an area of 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 RCD 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 Articles XI and XII 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. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.6 of this ordinance.
- M. COMMON OPEN SPACE/RECREATION AREA: At least twenty (20) percent of the total acreage of the proposed RCD 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 activities within the RCD. 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 Cold Spring Comprehensive Plan and where applicable, any officially adopted Neighborhood Concept Plan by the planning commission or the legislative body, or other adopted plan.
  2. Extent to which the proposed development plan is consistent with the purpose of the RCD 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 of adjacent uses, etc.).
  4. Nature and extent of the proposed commercial types, proposed 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 in the Stage I Development Plan, is compatible with development contiguous to the site. Compatibility shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding area; 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 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 the site, and to and from the site without adversely affecting the ability of the adjoining street system to carry traffic.
  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 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 C., subject to the same limitations and requirements as those under which such plans were originally approved.

- Q. UTILITIES: All utilities in a RCD shall be underground.
- R. EXPIRATION: Development plans within the RCD 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 RCD 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 date 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 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 I Development Plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the approved Stage II Development Plan.

## SECTION 10.9 HC HIGHWAY COMMERCIAL ZONE

- A. **PURPOSE:** This zone is established to primarily provide for limited retail, service, and other uses which are oriented towards serving the needs of the traveling public or which require immediate access to the regional transportation system.
- B. **PERMITTED USES**
1. Automobile, motorcycle, and truck sales, new or used
  2. Automotive service and repairs, providing that all business activities shall be conducted within a completely enclosed building
  3. Banks and other financial institutions, including savings, loan, and finance companies, with drive through facilities
  4. Boat and other marine equipment sales and service, new and used
  5. Bowling alleys
  6. Car wash
  7. Eating and drinking places, including drive-ins
  8. Hotels and motels
  9. Mobile home and trailer sales, rental and service (new and used)
  10. Off-street parking lots and garages
  11. Police and fire stations
  12. Skating rinks, golf driving ranges, miniature and par-3 golf courses
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Signs, as regulated by Article XIV 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. eating and drinking places
  5. Child care centers for the use of employees of the business operating and work at business located within this zone. The operator of the day care center shall maintain a log book referencing the employee and employer and child's name.

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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 herein defined, 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 Articles XI and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
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 utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
8. A development plan, as regulated by Section 9.17 of this ordinance, shall be required for any permitted use in this zone.

**SECTION 10.10 NC NEIGHBORHOOD COMMERCIAL ZONE**

A. **PURPOSE:** This zone is established to provide individual and coordinated development of convenience retail, service, and other uses which are oriented towards serving the daily needs of area residents.

B. **PERMITTED USES**

1. Apparel shop
2. Art supplies
3. Bakery and bakery goods store, provided the products are sold exclusively on the premises
4. Banks and other financial institutions, including savings, loan and finance companies
5. Barber and beauty shop
6. Book, stationery, or gift shop
7. Camera and photographic supplies
8. Candy store, soda fountain, ice cream store, excluding drive-ins
9. Child care center
10. Convenient food store, without gasoline pumps
11. Delicatessen
12. Drug store
13. Dry cleaning and laundry pick-up station
14. Eating and drinking places, excluding drive-ins
15. Florist shop
16. Garden supplies
17. Glass, china, or pottery store
18. Hardware store
19. Hobby shop
20. Interior decorating studio
21. Jewelry store, including repair
22. Library
23. Locksmith shop
24. Offices
25. Off-street parking lots and/or garages
26. Opticians and optical goods
27. Paint and wallpaper store
28. Pet shop, excluding boarding and outside runs
29. Photocopy establishment
30. Radio and television store (including repair)
31. Shoe store and shoe repair
32. Sporting goods
33. Tailor shop
34. Toy store
35. Variety store, including notions and "five and ten" stores

36. Video tape sales and rental

C. ACCESSORY USES

1. Customary accessory structures and uses
2. Fences and/or walls, as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV 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, 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 - Fifty (50) 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 Articles XI and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 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. 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 9.17 of this ordinance, shall be required for any use permitted in this zone.

**SECTION 10.11 NSC NEIGHBORHOOD SHOPPING CENTER ZONE**

- A. **PURPOSE:** This zone is established to provide for convenience and comparative retail, service, and other uses, within a planned and coordinated development. Such a development should consist of at least three businesses.
- B. **PERMITTED USES**
1. Apparel shop
  2. Art supplies
  3. Bakery and bakery goods store, provided the products are sold exclusively on the premises
  4. Banks and other financial institutions, including savings, loan and finance companies
  5. Barber shops
  6. Beauty shops
  7. Book, stationery, or gift shop
  8. Camera and photographic supplies
  9. Candy store, soda fountain, ice cream store, excluding drive-ins
  10. Child care centers
  11. Delicatessen
  12. Drug store
  13. Dry cleaning and laundry pick-up station
  14. Eating and drinking places, excluding drive-ins
  15. Florist shop
  16. Food store and supermarket
  17. Furniture store
  18. Garden supplies
  19. Glass, china, or pottery store
  20. Haberdashery
  21. Hardware store
  22. Health spas
  23. Hobby shop
  24. Household and electrical appliance store, including incidental repair
  25. Interior decorating studio
  26. Jewelry store, including repair
  27. Laundromats and self-service washing and drying
  28. Leather goods and luggage store
  29. Library
  30. Locksmith shop
  31. Music, musical instruments and records store, including incidental repair
  32. Offices
  33. Off-street parking lots and/or garages
  34. Opticians and optical goods
  35. Package liquor and wine store

36. Paint and wallpaper store
37. Pet shop, excluding boarding and outside runs
38. Police and fire stations
39. Post offices
40. Radio and television stores, including repair
41. Shoe store and shoe repair
42. Sporting goods
43. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
44. Tailor shop
45. Toy store
46. Variety store, including notions and "Five and Ten" stores

C. ACCESSORY USES

1. Customary accessory structures and uses
2. Fences and/or walls, as regulated by Article XIII of this ordinance;
3. Signs, as regulated by Article XIV of this ordinance

D. CONDITIONAL USES: No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings and uses be permitted until and unless the location of said use shall have been applied for and approved of by the Board of Adjustment as set forth in Sections 9.12 and 18.7 of this ordinance.

1. Self storage facility, including the outside storage of boats, recreational vehicles, and similar type equipment

E. AREA AND HEIGHT REGULATIONS

1. Minimum building site area - Five (5) acres
2. Maximum building site area - Ten (10) acres
3. Minimum lot area within minimum building site - One (1) acre
4. Minimum yard requirements - Fifty (50) feet for each front, side, and rear yards, except where the building site abuts an arterial street, as identified in the adopted Comprehensive Plan, then there shall be a minimum yard requirement of one hundred (100) feet
5. Maximum building height - Forty (40) feet
6. In the case of this zone more than one principal structure, as defined herein, may be constructed within the minimum building site area

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI and XII of this ordinance.

2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers and except as permitted by the Board of Adjustment as part of a self storage facility.
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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 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. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of:
  - a. off-street parking and loading and/or unloading areas
  - b. the outdoor play areas of child care centers
  - c. open air display area, subject to the following requirements:
    - (1) shall be located on the same lot as the primary permitted use
    - (2) no sales transactions shall be permitted
    - (3) such area shall be clearly identified on the development plan as "outside display area"
    - (4) shall be enclosed and/or surrounded by a building or group of buildings, be screened by a masonry wall or other screening material such as a fence, landscaping, or dense live plant material, or be completely located under a roof overhang. In all cases, a sufficient pedestrian walkway width shall be maintained
8. A development plan, as regulated by Section 9.17 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 vehicular access and the functional relationship of uses within the shopping center.
9. To promote the continued use of commercial structures located adjacent to an arterial street in the NSC Zone on a lot of at least three (3) acres minimum, the existing structure(s) of a nonconforming commercial use shall be permitted to be enlarged for the continuation, but not any expansion of the current nonconforming use only. Any such enlargement shall strictly comply with all applicable planning and zoning or other regulations of the city; and shall only be permitted to meet any federal, state, or local health and/or safety rules, regulations, or guidelines.

**SECTION 10.12 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**
1. Banks and other financial institutions, including loan, savings, and finance companies
  2. Clinics - animal, medical, dental, optical, chiropractic, physical therapy and massage therapy
  3. Offices
  4. Off-street parking lots and/or garages
  5. Police and fire stations
  6. Post offices
- C. **ACCESSORY USES**
1. Customary accessory structures and uses
  2. Fences and/or walls, as regulated by Article XIII of this ordinance
  3. Signs, as regulated by Article XIV 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 accessory uses shall be visible from outside the building:
    - a. Barber shops
    - b. Beauty shops
    - c. Coffee shops or refreshment stands
    - d. Medical or dental laboratories
    - e. News and confectionery stands
    - f. Prescription pharmacies
  5. Child care centers for the use of employees of the business operating and work at the business located within this zone. The operator of the day care center shall maintain a log book referencing the employee and employer and Child's name
- D. **CONDITIONAL USES:** No building or occupancy permit shall be issued for any of the following nor shall any of the following uses or any customary accessory buildings and uses be permitted until and unless the location of said use shall have been applied for and approved of by the Board of Adjustment as set forth in Section 9.12.

1. Farmer's market, provided they are located adjacent to an arterial street
2. Free standing churches, synagogues, temples and other places of religious assembly, and other buildings for the purpose of religious worship, provided they are adjacent to an arterial street

E. 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
4. Minimum Side Yard Width - Fifteen (15) feet
5. Minimum Rear Yard Depth - Twenty-five (25) 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

F. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

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 or three (3) stories

G. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
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, farmer's markets, and the outdoor play area of child care centers.

7. A school use may be permitted for grades kindergarten through 12th grade as an accessory use to the conditionally permitted use set forth in Subsection D., above.
8. A preschool program may be permitted as an accessory use to the conditionally permitted use set forth in Subsection D., above.
10. A development plan, as regulated by Section 9.17 of this ordinance, shall be required for any permitted use in this zone.

**SECTION 10.13 SDA SPECIAL DEVELOPMENT AREA ZONE**

- A. **PURPOSE:** The purposes of the Special Development Area (SDA) Zone are to: allow mixed land uses, within a planned and architecturally unified development, which will be compatible with the adjacent residential areas of the city; allow developments which will link the older residential areas of the city, city parks, the public library, schools, and municipal buildings, via pedestrian, bicycle, and vehicular access; create an area that is conducive to pedestrian and vehicular traffic movement; allow development at a small scale, with a town-like setting, which is pedestrian oriented; and provide for an area which supplements or serves 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 a Special Development Area (SDA) Zone shall be processed as follows:
1. Applications for a map amendment to zone an area SDA shall follow the procedures set forth in Article XVII of this ordinance. In addition to the regulations set forth in Article XVII, of this ordinance, the application shall be accompanied by a development plan, as regulated by Subsection C., herein, for the entire area under single ownership.
  2. When a site is proposed to be developed within an area which is currently zoned SDA, a Stage I Development Plan for the entire area under single ownership, as regulated by Subsection C., herein, 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 significant change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure. Development shall also not include the change of use within an existing structure where the change of use is between similar land use types (i.e. residential to residential, real estate office to insurance office, etc.) and where the change of use does not require building additions or additions in required off-street parking areas.
    - 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 Special Development Area (SDA) 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, within ninety (90) days after the completion of the public hearing, take action to approve, disapprove, or approve with conditions, the Stage I 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 Subsection D., herein, and submitted to the planning commission for its review. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Subsection D., herein, shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.
    - a. The planning commission shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Subsection D., herein, its conformity with the approved Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Following review of the submitted Stage II Development Plan, the planning commission shall take action to approve, disapprove, or approve with conditions, the Stage II Development Plan. The planning commission, in approving the Stage II Development Plan, may authorize minor adjustments from the approved Stage I Development Plan, 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.
    - b. Upon planning commission approval of the Stage II Development Plan, 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. STAGE I DEVELOPMENT PLAN REQUIREMENTS: The Stage I Development Plan shall identify and provide the following information, where applicable:
1. Plan(s) of the subject property drawn to a scale not smaller than one (1) inch equals one hundred (100) feet showing:
    - 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 or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned
- d. Existing and proposed topography shown by contour with intervals not to exceed five (5) feet
- e. All existing and proposed housing units on the subject property:
  - (1) Detached housing - location, arrangement and number of all lots, including a typical section(s) identifying approximate lot sizes and dimensions, and setbacks and height of buildings
  - (2) Attached housing - location, height, and arrangement of all buildings, number of units within each building and all lot lines with approximate dimensions where applicable
- f. Location, arrangement, height and identification of all existing and proposed nonresidential buildings and uses on the subject property
- g. The amount of area proposed for common open space, including the location and arrangement of recreational facilities, identification of unique natural features to be retained and a statement indicating the means of maintaining all common areas
- h. Location of proposed pedestrian walkways, identifying type of surfacing and approximate dimension
- i. Location of proposed streets identifying approximate dimensions of pavement and right-of-way widths, type of surfacing and approximate grades
- j. Location of off-street parking, loading and/or unloading and driveway areas, identifying the number of off-street parking spaces to be provided, type of surfacing and approximate dimensions
- k. Location of all existing and proposed water, sanitary sewer and storm drainage lines, indicating approximate pipe sizes and grades. Indication should also be given regarding the provision of electric and telephone service

- l. Certification from appropriate water and sewer agencies that services will be available
- m. Landscaping features including identification of planting areas and the location, type, and approximate height of fences and walls
- n. Location of signs, indicating their orientation and approximate size and height
- o. Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed method of handling said problems
- p. A schedule of development, including the staging and phasing of:
  - (1) Residential areas, 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
  - (4) Non residential buildings and uses, in order of priority

The information required in items a through p, 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.

D. **STAGE II DEVELOPMENT PLAN REQUIREMENTS:** The Stage II Development Plan shall identify and provide the following information, where applicable:

- 1. Plan(s) of the subject property drawn to a scale not smaller than one (1) inch equals one hundred (100) feet showing:
  - a. The existing 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 exact 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 and arrangement of all lots with exact lot dimensions
- c. Location, height, arrangement and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with exact lot dimensions
- d. All common open space areas, including identification of planting areas and the location and arrangement of all recreational facilities
- 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 system, including pipe sizes, width of easements, types 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 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. The schedule of development staging and phasing in accordance with the requirement in Subsection B., 3., and as approved in the Stage I approved Development Plan

The information required in items a. through k., 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.

#### E. PERMITTED USES

##### 1. Offices For The Following Uses

- a. Banks and other financial institutions, including savings, loan, and finance companies
- b. General use or professional offices
- c. Interior decorating studio
- d. Studios for artists, designers, photographers, musicians, and sculptors including teaching of the fine arts and galleries for display of art items
- e. Travel agency

##### 2. Retail And Service Uses

- a. Antique stores
- b. Apparel shops
- c. Art supplies
- d. Bakery and bakery goods store, provided the products are sold exclusively on the premises
- e. Barber and beauty shops
- f. Bicycle shop

- g. Book, stationery, or gift shop
- h. Butcher shops
- i. Camera and photographic supplies
- j. Candy store, soda fountain, ice cream store, excluding drive-in facilities
- k. Carpet and flooring store
- l. Child day care center
- m. Computer store
- n. Delicatessen
- o. Drug store
- p. Dry cleaning store
- q. Eating and drinking places, excluding those with drive-through or drive-in facilities
- r. Fabric store
- s. Florist shop
- t. Furniture repair shop
- u. Glass or pottery shop
- v. Health and fitness facility
- w. Hobby shop
- x. Home improvement store, including sales and service
- y. Jewelry store
- z. Leather goods and luggage store
- aa. Locksmith shop
- ab. Music, musical instruments, and records, including incidental repair
- ac. Opticians and optical goods
- ad. Paint and wallpaper store
- ae. Photocopy establishment
- af. Printing establishment
- ag. Radio and television sales and service
- ah. Recreational facility
- ai. Shoe store and shoe repair
- aj. Sporting goods store
- ak. Tailor shop
- al. Video tape sales and rental
- am. Wine store

### 3. Public And Semi Public Uses

- a. Churches and other buildings for the purpose of religious worship.
- b. Fire stations
- c. Funeral home
- d. Police station
- e. Post office
- f. Public and parochial schools

4. Dwelling units

F. ACCESSORY USES

1. Customary accessory structures and uses.
2. Fences and/or walls, as regulated by Article XIII of this ordinance.
3. Signs, as regulated by Article XIV of this ordinance.

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

1. Minimum Lot Area - One - half (1/2) acre
2. Minimum Lot Width At Building Setback Line - One hundred (100) feet
3. Maximum Impervious Surface Ratio - Seventy (70) 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

H. SETBACK REGULATIONS: Requirements shall be as approved in the plan, except that where any front, side, 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, thirty (30) feet of which shall be maintained by a screening area, as regulated by Section 9.15 of this ordinance. This area shall remain open and not permit off-street parking and loading and/or unloading areas.

I. OFF-STREET PARKING AND LOADING AND/OR UNLOADING AREAS: Off-street parking, and, when applicable, loading and/or unloading areas shall be provided in accordance with Articles XI and XII of this ordinance.

J. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.6 of this ordinance.

K. 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 Articles XI and XII of this ordinance.
3. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. Such area shall be screened from view.
4. No lighting shall be permitted which would unreasonably glare from any use located within this zone onto any street or into any adjacent property.

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5. All business activities permitted within this zone shall be conducted within a completely enclosed building, except for the following:
    - a. Off-street parking and loading and/or unloading areas
    - b. Outside play areas as part of child day care centers, churches, schools, and recreational facilities
    - c. Accessory seating area for eating establishments
  6. Circulation systems (vehicular and pedestrian) shall be coordinated with those of adjacent areas.
  7. Mechanical equipment, whether ground or roof mounted, shall be screened from view.
  8. Flat and mansard roof construction shall not be permitted. All roofs shall have a minimum pitch of 3:12 (a 3 foot rise for every 12 feet of its base horizontal length).
  9. No use producing unreasonable objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
  10. Sidewalks shall be required when any new development occurs.
  11. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
  12. Residential uses shall be developed either as detached single-family, attached single-family, or located on a floor other than the ground floor.
- L. CRITERIA: Evaluation of the proposed Special Development Area (SDA) Zone and/or development plan shall be based upon the following criteria:
1. Design
    - a. Agreement with the various elements of the Cold Spring Comprehensive Plan, and where applicable, any other adopted plan.
    - b. Extent to which the proposed development plan is consistent with the purpose of the Special Development Area (SDA) 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 and adjacent buildings.
- 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 orientation of buildings to provide access through rear entrances is encouraged.
- l. The relationship of width to height of new structures shall be consistent with the ratio of the adjacent structures.

## 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.
- g. Extent to which off-street parking areas are screened from view at street level.

## 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.

M. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the planning commission, shall be made in accordance with the procedure required by this ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.

N. EXPIRATION: Development plans within the Special Development Area (SDA) 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 Special Development Area (SDA) 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. Stage II Development Plan has not been approved by the planning commission within a period of twenty-four (24) consecutive months from the date of approval of the Stage I Development Plan, provided that an extension may be permitted upon approval of the planning commission if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the approved Stage I Development Plan obsolete.
3. 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 by the planning commission, provided that an extension may be permitted upon approval of the planning commission 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.

**SECTION 10.14 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**
1. Except those that decompose by detonation, the manufacturing, compounding, processing, packaging, or assembling of the following uses:
    - a. Candy and confectionery products, food and beverage products, except the rendering or refining of fats and oils excluding poultry and animal slaughtering and dressing
    - b. Cigars and cigarettes
    - c. Cosmetics, pharmaceuticals, and toiletries
    - d. Animated and/or illuminated billboards and other commercial advertising structures
    - e. Electric appliances, television sets, phonographs, house-hold appliances
    - f. Electrical machinery, equipment and supplies
    - g. Fountain and beverage dispensing equipment
    - h. Furniture
    - i. Instruments of professional, scientific, photographic, and optical
    - j. Metal products and metal finishing, excluding the use of blast furnaces or drop forgers
    - k. Musical instruments, toys, novelties, jewelry, rubber or metal stamps
    - l. Office equipment
    - m. Pottery and figurines, using only previously pulverized kilns fired only with gas and electricity
    - n. Products from the following previously prepared materials: paper, glass, cellophane, leather, feathers, fur, precious or semi-precious metals, hair, horn, shell, tin, steel, wood, plastics, rubber, bone, cork, felt, fibers, yarn, wool, tobacco
    - o. Textile products including asbestos products, canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope and twine
  2. Bottling and canning works
  3. Crating services
  4. Fire stations
  5. Industrial engineering consultant offices
  6. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private
  7. Machine shops

8. Police stations
9. Printing, engraving and related reproduction processes
10. Publishing and distribution of books, newspapers, and other printed material
11. School for industrial or business training
12. Warehousing or wholesaling

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 use permitted in this zone as a convenience to the occupants thereof, and their customers, providing such 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 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 XIII of this ordinance
4. Signs
5. Child care centers for the use of employees of the business operating and work at the business located within this zone. The operator or the day care center shall maintain a log book referencing the employee and child's name

D. CONDITIONAL USES: No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or customary accessory buildings or uses be permitted until and unless the location of said use shall have been applied for and approved of by the Board of Adjustment as set forth in Section 9.12 of this ordinance.

1. Restaurants (sit-down only). Outdoor dining may be provides, subject to the following requirements:
  - a. Such area shall be designed to clearly identify the limits of the outdoor dining area;
  - b. Such area shall not exceed forty (40) percent of the maximum seating capacity of the indoor dining area;
  - c. Entertainment shall not be permitted within the outdoor dining area;

- d. Such area shall not be permitted to locate within any minimum required front, side, or rear yard, except where a variance has been approved by the Board of Adjustment.

#### E. AREA AND HEIGHT REGULATIONS

1. Minimum Building Site - Ten (10) acres
2. Minimum Lot Area Within Minimum Building Site - One (1) acre
3. Minimum Lot Width At Minimum 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 Articles XI and XII 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. Screening areas and additional setbacks shall be provided in accordance with Section 9.15 of this ordinance.
4. A development plan, as regulated by Section 9.17 of this ordinance, shall be required for any permitted use in this zone.

**SECTION 10.15 MUPD - MIXED USE PLANNED DEVELOPMENT ZONE**

- A. **PURPOSE:** This zone is established to provide for the development of a variety of office, commercial, residential and related uses which are planned and designed as a total and comprehensive development to create a quality, successful planned environment. Guided by an overall master plan, the Stage I Development Plan, the mixed use development should include integrated design elements including building materials and design, landscaping, open space, signage, lighting and circulation. These design elements should unify the various uses within the development into a single community. Where appropriate, uses shall take advantage of high-tech telecommunication infrastructure.
- B. **APPLICATION AND PROCESSING:** Applications for development within a Mixed Use Planned Development (MUPD) Zone shall be processed as follows:
1. Applications for a map amendment to zone an area MUPD shall follow the procedure set forth in Article XVII of this ordinance. In addition to the regulations set forth in Article XVII of this ordinance, the application shall be accompanied by a development plan, as regulated by Subsection C., herein, for the entire area under single ownership or the control of a single entity.
  2. When a site is proposed to be developed within an area which is currently zoned MUPD, a Stage I Development Plan for the entire area under single ownership, as regulated by Subsection C., herein, 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 significant change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure. Development shall also not include the change of use within an existing structure where the change of use is between similar land use types (i.e., residential to residential, real estate office to insurance office, etc.) and where the change of use does not require building additions or additions in required off-street parking areas.
    - 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 purposes of the MUPD Zone, the required elements of the Stage I Development Plan, other applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Upon holding such hearing, the planning commission shall, within ninety (90) days after the completion of the public hearing, take

action to approve, disapprove, or approve with conditions, the Stage I 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 Subsection D., herein, and submitted to the planning commission for its review. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Subsection D., herein, shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.
    - a. The planning commission shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Subsection D., herein, its conformity with the approved Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Following review of the submitted Stage II Development Plan, the planning commission shall take action to approve, disapprove, or approve with conditions, the Stage II Development Plan. The planning commission, in approving the Stage II Development Plan, may authorize minor adjustments from the approved Stage I Development Plan, provided that the adjustments do not significantly change the approved Stage I Development Plan with respect to 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.
    - b. Upon planning commission approval of the Stage II Development Plan, 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. STAGE I DEVELOPMENT PLAN REQUIREMENTS: The Stage I Development Plan shall identify and provide the following information, where applicable:
1. Plan(s) of the subject property drawn to a scale not smaller than one (1) inch equals one hundred (100) feet showing:
    - 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 or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned
- d. Existing and proposed topography shown by contour with intervals not to exceed five (5) feet
- e. All existing and proposed housing units on the subject property:
  - (1) Attached housing - location, height, and arrangement of all buildings, number of units within each building and all lot lines with approximate dimensions where applicable
- f. Location, arrangement, height and identification of all existing and proposed nonresidential buildings and uses on the subject property
- g. The amount of area proposed for common open space, including the location and arrangement of recreational facilities, identification of unique natural features to be retained and a statement indicating the means of maintaining all common areas
- h. Location of proposed pedestrian walkways, identifying type of surfacing and approximate dimension
- i. Location of proposed streets identifying approximate dimensions of pavement and right-of-way widths, type of surfacing and approximate grades
- j. Location of off-street parking, loading and/or unloading and driveway areas, identifying the number of off-street parking spaces to be provided, type of surfacing and approximate dimensions
- k. Location of all existing and proposed water, sanitary sewer and storm drainage lines, indicating approximate pipe sizes and grades. Indication should also be given regarding the provision of electric and telephone service
- l. Certification from appropriate water and sewer agencies that services will be available
- m. Landscaping features including identification of planting areas and the location, type, and approximate height of fences and walls

- n. Location of signs, indicating their orientation and approximate size and height
- o. Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed method of handling said problems
- p. A schedule of development, including the staging and phasing of:
  - (1) Residential areas, 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
  - (4) Non residential buildings and uses, in order of priority

The information required in items a through p, 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.

**D. STAGE II DEVELOPMENT PLAN REQUIREMENTS:** The Stage II Development Plan shall identify and provide the following information, where applicable:

- 1. Plan(s) of the subject property drawn to a scale not smaller than one (1) inch equals one hundred (100) feet showing:
  - a. The existing 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) Attached housing - Location, height, and arrangement of all buildings indicating the number of units in each building, and, where applicable, location and arrangement of all lots with exact lot dimensions
  - c. Location, height, arrangement and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with exact lot dimensions

- d. All design elements, including building materials and design
- e. All common open space areas, including identification of planting areas and the location and arrangement of all recreational facilities
- f. Landscaping features, including identification of planting areas and the location, type and height of walls and fences
- g. Location of signs indicating their orientation and size and height
- h. All utility lines and easements:
  - (1) Water distribution system, including pipe sizes, width of easements, types 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 width of easements
- i. 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
- j. 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
- k. 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
- l. The schedule of development staging and phasing in accordance with the requirement in Subsection B., 3., and as approved in the Stage I approved Development Plan

The information required in items a. through k., 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.

**E. PERMITTED USES:**

- 1. Residential Uses: Only attached single-family and multi-family residential uses are permitted in the MUPD Zone, and shall be grouped in areas as delineated on the Stage I Development Plan.
- 2. Office and Related Uses: Professional Office, Research Training and other related uses shall be contained in designated areas as delineated on the Stage I Development Plan and may include the following uses:
  - a. Care centers for children and/or adults
  - b. Corporate headquarters, regional and administrative offices
  - c. Professional, medical, and dental offices
  - d. Regional and metropolitan offices
  - e. Sales and marketing offices
  - f. Data and communication centers, including information processing facilities
  - g. Sales and service offices related to electronic equipment, computers, and similar office equipment
  - h. Research and development facilities
  - i. Hotels and meeting facilities
  - j. Training, educational and conference facilities
  - k. Printing and publishing facilities
  - l. Athletic and recreational facilities
  - m. Financial institutions and services
  - n. Retail and retail services in conjunction with and located within an office building, hotel, conference center, or athletic facility

- o. Colleges, technical, and business schools
  - p. Libraries and museums
3. Commercial Uses: Areas designated for commercial and service uses may be included on the Stage I Development Plan to include the following uses:
- a. Antique stores
  - b. Apparel stores
  - c. Art supplies
  - d. Art gallery and framing services
  - e. Bakery and bakery goods store, provided the products are sold exclusively on the premises
  - f. Barber and beauty shops
  - g. Bicycle shop
  - h. Book, stationery, or gift store
  - i. Butcher shops
  - j. Camera and photographic supplies
  - k. Candy store, soda fountain, ice cream or yogurt store, excluding those with drive-in or drive-through facilities
  - l. Card and gift shop
  - m. Carpet and flooring store
  - n. Collectables store
  - o. Communications and postal service center
  - p. Computer store
  - q. Dance studio
  - r. Delicatessen and coffee shops
  - s. Drug store
  - t. Dry cleaning store
  - u. Eating and drinking places, excluding those with drive-in or drive-through facilities
  - v. Fabric store
  - w. Florist shop
  - x. Travel agency
  - y. Glass or pottery shop
  - z. Grocery or food stores
  - aa. Health and fitness facility
  - bb. Hobby and craft store
  - cc. Home furniture store
  - dd. Home improvement and garden stores, including sales and service
  - ee. Interior decorator services
  - ff. Jewelry store
  - gg. Leather goods and luggage store
  - hh. Locksmith shop
  - ii. Music store, including sale of instruments and recorded material

- jj. Office supply store
- kk. Opticians and optical goods
- ll. Paint and wallpaper store
- mm. Party supply and paper goods store
- nn. Pet store and grooming, excluding boarding of animals
- oo. Photocopy establishment
- pp. Radio, television and similar or related electronics and appliance sales and service
- qq. Shoe store and shoe repair
- rr. Sporting goods store
- ss. Tailor shop
- tt. Tanning salon
- uu. Toy store
- vv. Video tape and audio products sales and rental
- ww. Wine liquor store

F. ACCESSORY USES:

- 1. Customary accessory structures and uses.
- 2. Fences and/or walls, as regulated by Article XIII of this ordinance.
- 3. Signs, as regulated by Article XIV of this ordinance.

G. CONDITIONAL USES: No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings and uses be permitted until and unless the location of said use shall have been applied for and approved of by the Board of Adjustment as set forth in Sections 9.12 and 18.7 of this ordinance.

- 1. Fuel dispensing facilities when incidental to and operated as a part of and located within 1,000 feet of a grocery store containing at least 40,000 gross square feet and when such facilities are not directly adjacent to or fronting on US 27/Alexandria Pike.

H. AREA REQUIREMENTS

- 1. No MUPD Zone shall be permitted on less than ten (10) acres of land. However, an area of less than ten (10) acres may be zoned MUPD provided it is adjacent to an area with an existing approved Stage I Development Plan and is currently zoned MUPD.
- 2. The minimum area for submission of a Stage II Development Plan shall not be less than one (1) acre.

I. HEIGHT, YARD, AND SETBACK REQUIREMENTS: Requirements shall be as approved on the Stage I Development Plan.

- J. OFF-STREET PARKING AND LOADING AND/OR UNLOADING AREAS: Off-street parking and, when applicable, loading and/or unloading areas shall be provided in accordance with Articles XI and XII 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 Stage I Development Plan.
- L. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.6 of this ordinance.
- M. COMMON OPEN SPACE/RECREATION AREA: At least twenty (20) percent of the total acreage of the proposed MUPD shall be retained as common open space and/or recreation area, and dedicated to a public and/or private entity for operation and maintenance. Common open space and recreation areas shall be that part of the total project exclusive of buildings, streets, parking areas, residential lots, commercial areas, access drives, and incidental green/lawn strips along drives and parking lots.
- N. SCREENING: Shall be as approved in the Stage I Development Plan.
- O. OTHER DEVELOPMENT CONTROLS
  - 1. Development shall be consistent with the Vision 2000 Initiative and 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 Articles XI and XII of this ordinance.
  - 3. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. Such area shall be screened from view.
  - 4. No lighting shall be permitted which would unreasonably glare from any use located within this zone onto any street or into any adjacent property.
  - 5. All business activities permitted within this zone shall be conducted within a completely enclosed building, except for the following:
    - a. Off-street parking and loading and/or unloading areas
    - b. Outside play areas as part of child day care centers, churches, and schools
    - c. Accessory seating area for eating establishments
    - d. Open air display area, subject to the following requirements:
      - (1) shall be located on the same lot as the primary permitted use

- (2) no sales transactions shall be permitted
    - (3) such area shall be clearly identified on the development plan as "outside display area"
    - (4) shall be enclosed and/or surrounded by a building or group of buildings, be screened by a masonry wall or other screening material such as a fence, landscaping, or dense live plant material, or be completely located under a roof overhang. In all cases, a sufficient pedestrian walkway width shall be maintained
  - 6. Circulation systems (vehicular and pedestrian) shall be coordinated with those of adjacent areas.
  - 7. Mechanical equipment, whether ground or roof mounted, shall be screened from view.
  - 8. No use producing unreasonable objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
  - 9. Sidewalks shall be required when any new development occurs.
  - 10. All utilities must be underground in a new subdivision or development when transmission lines have to be extended or altered.
- P. CRITERIA: Evaluation of the proposed MUPD Zone and/or development plan shall be based upon the following criteria:
- 1. Design
    - a. Agreement with the various elements of the Cold Spring Comprehensive Plan, the Vision 2000 Initiative, and where applicable, any other adopted plan.
    - b. Extent to which the proposed development plan is consistent with the purpose of the MUPD 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 and adjacent buildings.

- 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 overall character and scale of the development and, where applicable, should provide for a compatible height transition with directly adjacent uses.
- k. The orientation of buildings to provide access through rear entrances is encouraged.
- l. The relationship of width to height of new structures shall be consistent with the relationship of the adjacent structures within the development.

## 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.
- g. Extent to which off-street parking areas are screened from view at street level.

## 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.

Q. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the planning commission, shall be made in accordance with the procedure required by this ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.

R. UTILITIES: All utilities in a MUPD Zone shall be underground.

S. EXPIRATION: Development plans within the MUPD Zone shall be subject to the time constraints, as 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 the MUPD 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 either of the following conditions apply.

1. Stage II Development Plan has not been approved by the planning commission within a period of twenty-four (24) consecutive months from the date of approval of the Stage I Development Plan, provided that an extension may be permitted upon approval of the planning commission 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 date of approval of the Stage II Development Plan by the planning commission, provided that an extension may be permitted upon approval of the planning commission 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 as identified on the Stage II Development Plan.

## **ARTICLE XI**

### **OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS**

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.

#### **SECTION 11.0 GENERAL REQUIREMENTS**

- A. **COMPUTATION OF PARKING SPACES:** In determining the number of required off-street parking spaces, if such spaces result in fractional parts thereof, the number of said required spaces shall be construed to be the next highest whole number.
- B. **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.
- C. **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.

- (1) Within the Special Development Area (SDA) Zone, off-street parking facilities shall be located as follows:
  - (a) Except as herein provided, off-street parking facilities may be permitted to located within minimum required side and rear yards.
  - (b) A maximum of twenty-five (25) percent of the required off-street parking may be permitted to located within the front yard.

- (c) Off-street parking facilities shall be set back a minimum of five (5) feet from any street right-of-way line.
  - 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.
- 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, providing 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 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 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 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 SDA Zone may utilize off-street parking as is available within five hundred (500) feet of the use served. Public parking in this area may be used to fulfill off-street parking requirements. If off-street parking is not exclusively available for the permitted use, the owner or operator shall provide a study documenting that adequate off-street parking is available for the use, recognizing the specific peak hour and turnover characteristics

of the use in question and other users of the off-street parking facility.

- D. **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 Shared Parking Provision, Section 11.0, E. of this ordinance.
- E. **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, including 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.

TABLE 11-1  
SHARED PARKING CREDIT TABLE

LAND USE TYPE	Weekday		Time Of Operation 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	50%	100%	100%	100%	10%
Indoor Theater/Commercial Recreational Establishment	40%	100%	80%	100%	10%
Residential	25%	100%	100%	100%	100%

1. The following requirements shall apply to any shared parking facility:
  - a. The shared parking facility must be located within five hundred (500) 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. Shared parking may be utilized for other uses, which are not shown in the parking credit table. The applicant shall prepare a similar calculation for the proposed uses, indicating the estimated percentage of each time period, based upon current parking information. Documentation shall be submitted by the applicant to demonstrate that the normal and regular operating hours of the uses proposing a shared parking arrangement do not coincide or overlap in any manner.
- F. 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.
- G. 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.
- H. 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.
- I. PARKING PLAN APPROVAL REQUIRED: Plans for all off-street parking 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:** For the purposes of this ordinance, one (1) off-street parking space shall be a minimum of ten (10) feet in width and twenty (20) feet in length, exclusive of access drives and aisles. Such parking spaces shall have a vertical clearance of at least seven (7) feet.
- B. **WIDTH OF ACCESS DRIVES**
  - 1. All off-street parking areas shall be laid out with the following minimum aisle or access drive widths:
    - a. Ninety (90) degree (perpendicular) parking - Twenty-four (24) feet (either one (1) or two (2) way circulation)
    - b. Sixty (60) degree (angle) parking - Eighteen (18) feet (one-way circulation only)
    - c. Forty-Five (45) degree (angle) parking - Thirteen (13) feet (one way circulation only)
    - d. Thirty (30) degree (angle) parking - Eleven (11) feet (one way circulation only)
    - e. Zero (0) degree (parallel) parking - Twelve (12) feet (one way circulation only)
  - 2. Except as herein provided, the minimum width of access drives or aisles, as provided for in Section 11.1, B., 1. of this ordinance, shall be required whether the access drive or aisle provides access to an off-street parking area or individual off-street parking spaces.

3. 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.
  4. 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.
- C. 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.
- D. 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 9.15 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.
- E. LIGHTING: Any lighting used to illuminate off-street parking areas shall not glare upon any right-of-way or adjacent property.
- F. 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 requirements of Appendix A. 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. 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.

2. In any residential zoning district, where the depth of the front yard is one hundred (100) feet or more, only the first one hundred (100) feet from the road of an access drive serving single-family residential uses shall be paved with asphalt concrete or portland cement concrete. 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.
  3. Flag Lots - The driveways of all flag lots shall be paved with asphalt concrete or portland cement concrete from the road to one hundred (100) feet beyond the rear property lot line of all residences in the front of the flag lot or back two hundred (200) feet beyond the rear of any residential structure, whichever is greater. The intent of this regulation is to protect residences from possible dust and debris from unpaved lengthy driveways to flag lots.
- G. 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.

TYPES OF USES	REQUIRED NUMBER OF SPACES
A. Airport, railroad passenger stations and bus terminal	One (1) parking space for each four (4) seating accommodations for waiting passengers, plus one (1) parking space for each two (2) employees on shift of largest employment.
B. Automobile laundries	One (1) parking space for each employee, plus one (1) space per owner or manager, and reservoir space equal to five (5) times the capacity of the facility.
C. Service stations	One (1) parking space for each gas pump island, plus two (2) parking spaces for each working bay, plus one (1) parking space for each employee on shift of largest employment.
D. Beauty parlor and/or barber shops	Two (2) parking spaces per barber and/or beauty shop operator.
E. Bowling establishments	Five (5) parking spaces for each lane, plus one (1) parking space for each two (2) employees on shift of largest employment.
F. City and/or county government facilities	One (1) parking space for each two hundred (200) square feet of gross floor area.
G. Commercial or trade schools	One (1) parking space for each two (2) students, based on design capacity of the school, plus one (1) parking space for each employee.

TYPES OF USES	REQUIRED NUMBER OF SPACES
H. Congregate housing and orphanages	One (1) parking space for each two (2) beds, plus one (1) space for each two (2) employees or staff members, including nurses, on the shift of largest employment, plus one (1) parking space per doctor.
I. Dance halls, pool and billiard halls, and exhibition halls, without fixed seats	One (1) parking space for each one hundred (100) square feet of floor area used for dancing or assembly, or one (1) parking space for each four (4) persons, based on design capacity, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.
J. Dormitories, fraternities, sorority houses	<p data-bbox="747 840 1427 1018">A. One (1) parking space per each resident capacity of the structure, plus one (1) parking space per owner or operator; plus one (1) parking space per employee.</p> <p data-bbox="747 1050 1427 1207">B. In addition to the parking required in (A) above, parking will be required for the non-resident membership of the organization, as follows:</p> <p data-bbox="747 1239 1427 1606">One (1) parking space for each fifty (50) square feet of the largest floor area used for assembly, social activity, or dining; or one (1) parking space for each one hundred (100) square feet of the total of all floor area used for assembly, social activity and dining; or one (1) space for each non-resident member anticipated in the fraternity membership; whichever is greater.</p>
K. Dwellings: One-Family Two-Family	<p data-bbox="747 1638 1427 1680">Two (2) parking spaces.</p> <p data-bbox="747 1680 1427 1820">Four (4) parking spaces, with individual access for each dwelling unit, or a joint access in which no parking is permitted on the access drive.</p>

TYPES OF USES	REQUIRED NUMBER OF SPACES
L. Dwellings: Multi-Family	Two (2) parking spaces for every dwelling unit.
M. Establishments for sale and consumption of alcoholic beverages, food, refreshments, or for take home food service	<p>One (1) parking space for each two (2) employees on shift of largest employment plus one parking space for each:</p> <ul style="list-style-type: none"><li>A. Thirty (30) square feet of gross floor area in a drive-in facility;</li><li>B. One hundred forty (140) square feet of gross floor area in a carry-out facility;</li><li>C. Sixty-five (65) square feet of gross floor area in a combination facility;</li><li>D. Three (3) seating accommodations, based on maximum seating capacity, in a sit-down facility.</li></ul>
N. Fire stations	One (1) parking space for each person on duty on largest shift.
O. Hospitals	One (1) parking space for each two (2) beds, plus one (1) parking space for each two (2) employees or staff members, including nurses, on shift of largest employment, plus one (1) parking space per doctor.
P. Laundromats	One (1) parking space for each two (2) washing machines plus one (1) parking space for each employee.
Q. Libraries, museums, and art galleries	One (1) parking space for each four (4) seats in rooms for public assembly or one (1) parking space for each fifty (50) square feet of gross floor area for use by the public, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.

TYPES OF USES	REQUIRED NUMBER OF SPACES
R. Medical offices and/or clinics	Five (5) parking spaces for each practitioner, plus one (1) parking space per each two (2) employees, or one (1) parking space for each two hundred (200) square feet of gross floor area, plus one (1) parking space for each two (2) employees, whichever is greater.
S. Mortuaries or funeral homes	One (1) parking space for each four (4) seats in the main chapel or public assembly area, based on maximum seating capacity, plus one (1) parking space for each funeral vehicle and employee, or in the case of no fixed seats, one (1) parking space for each fifty (50) square feet of floor area in parlor or service rooms, or one (1) parking space for each four (4) persons, based on design capacity of the building, whichever is greater, plus one (1) parking space for each funeral vehicle and employee.
T. Offices for professional, business, financial, real estate, and business purposes, other than medical offices and/or clinics	Three (3) parking spaces per one thousand (1,000) square feet of gross leasable area. Provided that in the event there is sufficient information shown on the Stage II Development Plan, which evidences the availability to satisfy the required three (3) parking spaces per one thousand (1,000) square feet of gross leasable area, and shows or there is constructed the associated infrastructure necessary to support such three (3) parking spaces, then there may be constructed and built out not less than two (2) parking spaces for each one thousand (1,000) square feet of gross leasable area. The determination of when the remainder of the parking spaces must be constructed shall be at the discretion of the city's zoning administrator.

TYPES OF USES	REQUIRED NUMBER OF SPACES
U. Post offices	One (1) parking space for each four hundred (400) square feet of gross floor area, plus one (1) parking space for each two (2) employees on shift of largest employment.
V. Private clubs, boarding houses, and lodge halls	One (1) parking space for each guest sleeping room, or one (1) parking space for each four (4) fixed seats in the main assembly area, whichever is greater, plus one (1) parking space for each two (2) employees, or in the case of no fixed seats, one (1) parking space for each four (4) persons, based on design capacity of the building, plus one (1) parking space for each two (2) employees.
W. Retail and personal service stores	Four (4) parking spaces per one thousand (1,000) square feet of gross leasable area.
X. Schools - elementary, junior high, administrator and one (1) space parochial and nursery schools	One (1) parking space per teacher, and equivalent, private or employee, for each four (4) seats in the auditorium, stadium, and other places of assembly or facilities available to the public, based on maximum seating capacity, whichever is greater.
Y. Schools - senior high, trade and vocational, colleges and universities, and equivalent, private or parochial	Six (6) parking spaces for each room to be used for class instruction or administrative offices, or one (1) parking space for each four (4) seats in the auditorium, stadium, and other places of assembly or facilities available to the public, based on maximum seating capacity, whichever is greater.
Z. Schools, gymnastic	One (1) parking space per teacher, administrator, or employee, plus one (1) space for each three hundred fifty (350) square feet in the main gymnasium.

TYPES OF USES	REQUIRED NUMBER OF SPACES
AA. Shopping centers	Four (4) parking spaces per one thousand (1,000) square feet of gross leasable area.
BB. Stadium and sports arenas	One (1) parking space for each four (4) seats, based on maximum seating capacity, plus one (1) parking space for each two (2) employees on shift of largest employment.
CC. Theaters, auditoriums, churches, and places of assembly, with fixed seats	One (1) parking space for each four (4) seats, based on maximum seating capacity, plus one (1) parking space for each two (2) employees on shift of largest employment.
DD. Theaters, auditoriums, churches, and places of assembly, without fixed seats	One (1) parking space per four (4) people in designed capacity of the building, or one (1) parking space per one hundred (100) square feet in main auditorium or assembly area, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.
EE. Tourist homes, cabins, motels or hotels, excluding areas used for meeting rooms and places of assembly	One (1) parking space for each sleeping room or suite, plus one (1) parking space for each two (2) employees on shift of largest employment.
FF. Industrial establishments, including manufacturing, research, and testing laboratories	Two (2) parking spaces for each three (3) employees - the total number of parking spaces being the total number of employees on any two (2) consecutive shifts having the largest number of employees, based on design capacity, plus one (1) parking space for each company vehicle operating from the premises.
GG. Wholesale establishments, warehouses, and storage buildings	One (1) parking space for each employee, plus one (1) parking space for each company vehicle operating from the premises.

## TYPES OF USES

## REQUIRED NUMBER OF SPACES

HH. All other uses not listed herein

Based on a study to be prepared by the owner or operator; number of spaces to be required determined according to:

- (a) type of use and estimated number of total trips generated during peak conditions (inbound and outbound);
- (b) estimated parking duration per vehicle trip (turn over rates;
- (c) based on estimated number of trips generated and average parking duration per trip, calculate number of spaces required
- (d) estimated number of employees - (one (1) parking space to be provided for each two (2) employees based on shift of maximum employment).

## SECTION 11.3 ACCESS CONTROL REGULATIONS

- A. **PURPOSE:** In order to promote greater safety of passage between streets and land, improve the convenience and ease of movement of travelers on streets, permit reasonable speeds and economy of travel, and increase and protect the capacity of streets, the location and design of access points shall be in accordance with the following access control regulations. These regulations shall apply to all arterial and collector type streets, as identified in the adopted comprehensive plan.
- B. **PROVISION OF RESERVED TURNING LANES:** At those access points where vehicles turning to and from arterial and collector streets will substantially affect the roadway capacity, reserved turn lanes shall be constructed by the developer.
- C. **PROVISION OF FRONTAGE ROAD:** Where possible, provision for the construction of a frontage road shall be made. However, access to arterial or collector streets via an intersecting street or a common driveway shall be investigated if such a design is not reasonable.
- D. **COORDINATION OF ACCESS POINTS:** Access points on opposite sides of arterial and collector streets shall be located opposite each other, otherwise turning movement restrictions may be imposed by the planning commission, or its duly authorized representative, or the zoning administrator, whichever is applicable. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with, and between, adjacent properties developed (present or future) for similar uses. As a condition of approval for construction, use, or reuse of any access road, the zoning administrator may require that unobstructed and unencumbered access, in accordance with the provisions of this ordinance, be provided from any such access point to adjacent properties.
- E. **SPACING RESTRICTIONS FOR SIGNALIZED ACCESS POINTS:** Except when approved by the Kentucky Transportation Cabinet, access points which will warrant signalization shall be spaced a minimum distance of one quarter (1/4) mile apart. The exact location of the signal light shall be determined by a traffic engineering study which shall at least account for the following variables:
  - 1. Speed
  - 2. Traffic signal phasing
  - 3. Traffic signal cycle length
  - 4. Roadway geometrics
  - 5. Accident experience

Provision for all turning movements to maintain the design capacity of the roadway shall be required.

- F. SIGHT DISTANCE: The location of access points shall comply with safe sight distance requirements, as provided for in Tables 11-2A and 11-2B of this ordinance. The centerline of all access points shall intersect as nearly at a ninety (90) degree angle as possible, but in no case shall the angle of intersection be less than seventy-five (75) degrees or greater than one hundred five (105) degrees, unless approved by the planning commission, or its duly authorized representative, or the zoning administrator, whichever is applicable, due to certain exceptional conditions.

G. LOCATION OF UNSIGNALIZED ACCESS POINTS

1. Arterial Streets

- a. Unsignalized access points shall be spaced a minimum distance of six hundred (600) feet apart, measured from point of curb return to point of curb return. Turning restrictions and/or reserved lanes may be required.
- b. One (1) access point per tract will be permitted. However, if the spacing requirements for a direct access point onto an arterial street, as provided for in Section 11.3, G., 1., a. of this ordinance, cannot be met, then an access point may be located on a frontage road, on an intersecting local street, or share a common driveway that meets the spacing requirements. In order for the intersecting local street or frontage road to function properly, access onto them shall be controlled as follows:
  - (1) Access points onto local streets which intersect an arterial street shall be spaced a minimum distance of one hundred (100) feet, measured from point of curb return to point of curb return, from the arterial street.
  - (2) In areas zoned to permit commercial, industrial, or multi-family residential uses, access points from adjacent properties onto frontage roads, shall be spaced a minimum distance of one hundred (100) feet, measured from point of curb return to point of curb return, from intersections of the frontage road with local or collector streets.
- c. If a tract of land has no means of access that would meet the requirements of this section of the ordinance, one (1) access point shall be permitted. However, all such access points shall be considered temporary and may be terminated, reduced, limited to

certain turning movements, 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 frontage road, an intersecting local street, or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as temporary, such designation shall be noted on the development plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

## 2. Collector Streets

- a. On two-lane roadways, one (1) access point per tract will be allowed. Furthermore, the minimum spacing between adjacent access points on this type of facility shall be two hundred (200) feet, measured from point of curb return to point of curb return, except in the case where the street intersects another collector street or arterial street, then said access points shall be spaced a minimum of four hundred (400) feet, measured from point of curb return to point of curb return, from the intersection.
- b. On multi-lane roadways, the spacing is dependent on whether or not a barrier median exists (prohibiting left-turn movements). If a barrier median exists, access points may be spaced as close as two hundred (200) feet apart, measured from point of curb return to point of curb return. However, certain turning movements may be prohibited. If a barrier median does not exist, then the minimum spacing of access points shall be six hundred (600) feet apart, measured from point of curb return to point of curb return. However, certain turning movements may be prohibited.
- c. One (1) access point per tract will be permitted. However, if the spacing requirements for a direct access point onto a collector street, as provided for in Section 11.3, G., 2., a. of this ordinance, cannot be met, then an access point may be located on a frontage road, on an intersecting street, or share a common driveway that meets the spacing requirements.
- d. If a tract of land has no means of access that would meet the requirements of this section of the ordinance, one (1) access point shall be permitted. However, all such access points shall be considered temporary and may be terminated, reduced, limited to

certain turning movements, 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 frontage road, an intersecting local street, or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as temporary, such designation shall be noted on the development plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

#### H. WIDTH OF ACCESS POINTS

1. Except as herein provided, in single-family residential zones, no access point width shall be less than nine (9) feet nor more than twenty (20) feet. In all other zones, access points shall not be less than twelve (12) feet nor more than forty-eight (48) feet in width. The width shall be measured from the point of curb return to point of curb return, or edge of pavement if no curb exists, excluding the curb radius.
2. The zoning administrator may modify (enlarge or reduce) the width to provide for a more efficient and safe channelization and/or flow of traffic.

#### I. EXCEPTIONS TO ACCESS POINT REQUIREMENTS: Where situations develop that may require special treatment, the requirements as provided for in Section 11.3., B.-H. of this ordinance may be varied, provided that a traffic engineering report is prepared by a qualified traffic engineer, establishing that the special treatment will have no adverse effects on the roadway safety and capacity.

#### J. ACCESS POINT PROBLEM AREAS: If, after special study, it is determined that the type of use or activity proposed would have an adverse effect on the safety and capacity of the adjacent roadway, the access point spacing requirements, as contained in this section of the ordinance, may be increased in order to adequately solve the traffic movement.

#### K. APPROVAL OF ACCESS POINTS REQUIRED: Plans for all access points, and modifications thereto (including plans to use existing access points where a change of use for any tract of land would generate more traffic than the previous use, thus producing an adverse effect on the adjacent roadway), shall be submitted to the zoning administrator and the Planning Commission, or its duly authorized representative, at a scale not less than 1 inch = 100 feet. No action of approving or rejecting these plans by the zoning administrator shall be taken until

a review and recommendation of said plans has been made by the Planning Commission, or its duly authorized representative. Such plans shall show the location of all access points on the site in question, and access points on the same side of the street as the site in question within six hundred (600) feet in either direction. The proposed access point shall include typical cross-sections of pavement, the base and subbase, proposed grade, storm drainage, and such other information or plans as the circumstances may warrant. If such access points are being located in conjunction with off-street parking and/or loading and unloading facilities, then said plans shall also include off-street parking and off-street loading and/or unloading plans, in accordance with Sections 11.0 and 12.0 of this ordinance.

- L. APPROVAL OF ACCESS POINTS ALONG STATE MAINTAINED ROUTES BY KENTUCKY DEPARTMENT OF TRANSPORTATION: Plans for all access points to be constructed along a state maintained route shall be submitted to the Kentucky Department of Transportation for review and approval prior to the time as plans are submitted to the zoning administrator, as provided for in Section 11.3, K. 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 the Kentucky Department of Transportation.

TABLE 11-2A  
SIGHT DISTANCE FOR VEHICLES EXITING FROM ACCESS POINTS ONTO ADJACENT ROADS  
See Figure 11-1A

		20 MPH				30 MPH				40 MPH				50 MPH				60 MPH			
VEHICLE TYPE	2 LANE		4 LANE		2 LANE		4 LANE		2 LANE		4 LANE		2 LANE		4 LANE		2 LANE		4 LANE		
	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	
Passenger Car	225	195	235	205	335	290	355	310	445	385	470	415	555	480	590	515	665	575	710	620	

TABLE 11-2B  
LEFT TURN SIGHT DISTANCE FOR VEHICLES ENTERING ACCESS POINTS  
See Figure 11-1B

VEHICLE TYPE	20 MPH			30 MPH			40 MPH			50 MPH			60 MPH		
	2 LANE	4 LANE	6 LANE	2 LANE	4 LANE	6 LANE	2 LANE	4 LANE	6 LANE	2 LANE	4 LANE	6 LANE	2 LANE	4 LANE	6 LANE
Passenger Car	165	180	195	245	265	290	325	355	385	405	445	480	490	530	575

**Notes:**

Intersection controls shown are limited to left and right turns from a stop along a minor roadway and left turns from a stop along a major roadway only. The table values have been calculated and rounded for design based upon sight triangles using AASHTO - Geometric Design of Highways and Streets, 4th Edition, 2001. AASHTO formula for sight distance left (DL) or distance right (DR) =  $1.47 \times \text{design or prevailing regulatory speed (major road)} \times \text{time gap}$ . Time gaps designated for passenger cars crossing lanes are as follows: 7.5 seconds for left turn from a stop (Table 6-2); 6.5 seconds for right turn from a stop (Table 6-2); and 5.5 seconds for left turn from a stop (Table 6-3). Time gaps are for a stopped vehicle turning left or right onto a two (2) lane roadway with no median and grades of three (3) percent or less. Table values require adjustments as follows: for left turns onto or from multiple lane roadways with more than two (2) lanes, add 0.5 seconds for each additional lane to be crossed by the turning vehicle.

For minor roadways, if the approach grade ascends greater than three (3) percent, add 0.2 seconds for each percent grade for left turns and 0.1 seconds for right turns.

In applying the table, calculated values are for passenger cars. Where substantial volumes of heavy vehicles enter these roadways, the use of other time gap values for single unit and combination trucks must be considered. These values are published in the AASHTO Design Standards.

FIGURE 11-1A

SIGHT DISTANCE FOR VEHICLES EXITING FROM ACCESS POINTS  
refer to Table 11-2A

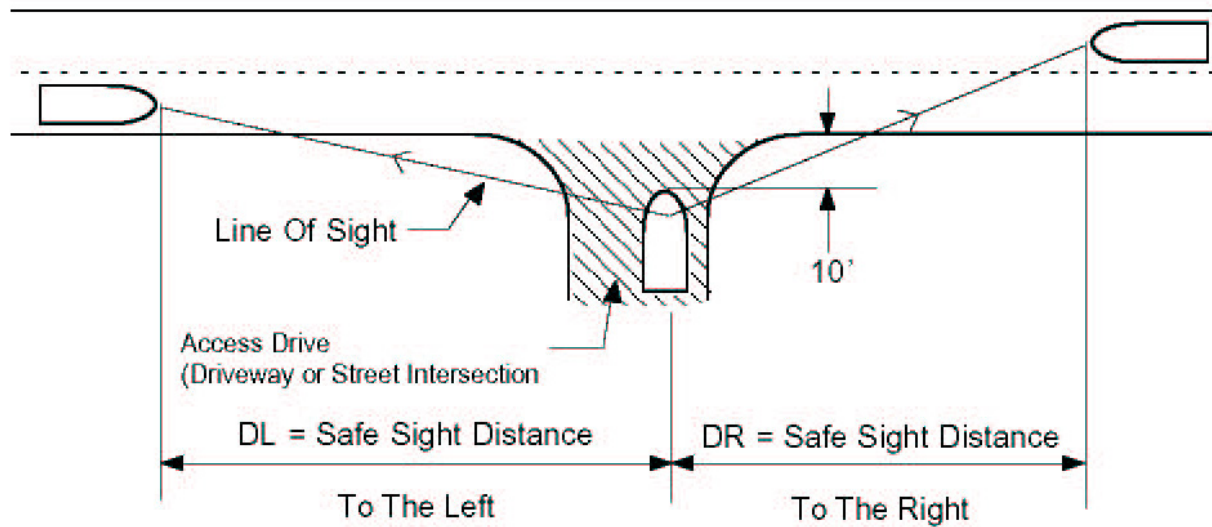
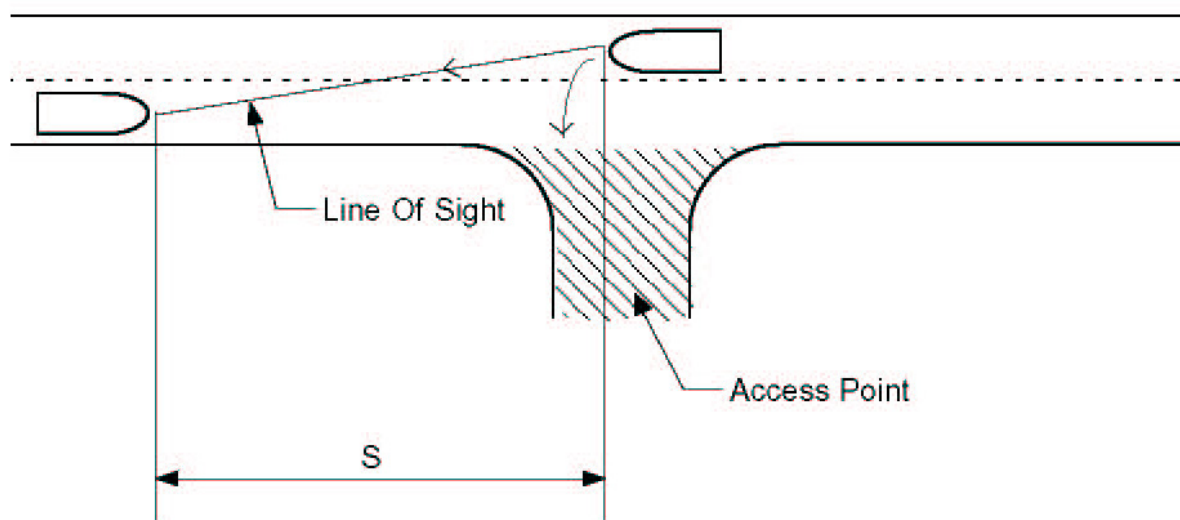


FIGURE 11-1B

LEFT TURN SIGHT DISTANCE FOR VEHICLES ENTERING ACCESS POINTS  
refer to Table 11-2B



## ARTICLE XII

### OFF-STREET LOADING AND/OR UNLOADING REGULATIONS

#### SECTION 12.0 GENERAL REQUIREMENTS

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

1. Every building, or part thereof, erected and occupied for uses permitted in commercial and industrial zones, including conditional uses permitted in residential zones, involving the receipt or distribution of vehicles, materials, or merchandise, and having up to five thousand (5,000) square feet of gross floor area, shall be provided with at least one (1) off-street loading and/or unloading space. A study shall be prepared by the company or operator to determine the additional loading and/or unloading space needs over and above the first space required for the specific use proposed. In determining the number of spaces needed, the study shall take into consideration the following:

- a. estimated and projected arrival and departure rates for scheduled and unscheduled trucks
- b. estimated and projected length of truck stop duration for loading and/or unloading of each truck
- c. estimated number of trips by vehicle type (i.e., two axle vehicles, semi-tractor trailers, etc.) and size

The zoning administrator shall review the study of estimated and projected loading and/or unloading needs and make a determination if the number of spaces provided are adequate for the use proposed.

2. 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.

3. 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 12.0, 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 12.1 DESIGN AND LAYOUT OF OFF-STREET LOADING AND/OR UNLOADING AREAS**

- A. **SIZE OF OFF-STREET LOADING AND/OR UNLOADING SPACE:** Each off-street loading and/or unloading space shall be at least twelve (12) feet in width and at least sixty (60) feet in length, exclusive of aisle and maneuvering spaces. Such spaces shall have a vertical clearance of at least fourteen (14) feet, provided, however, that when it is demonstrated that a particular off-street loading and/or unloading space will be used by shorter trucks, as provided for in Section 12.0, B. of this ordinance, the Zoning Administrator may reduce the minimum length to not less than thirty-five (35) 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-four (24) 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 9.15 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.

## ARTICLE XIII

### FENCES, WALLS, AND OBSTRUCTION TO VIEW REGULATIONS

**SECTION 13.0 VISION CLEARANCE AT CORNERS AND RAILROAD CROSSINGS:** Except as herein provided, no fence, wall, hedge, or other obstruction, above a height of thirty-six (36) inches, as measured above the curb level, shall be erected, placed, maintained, or continued in any zone, within that triangular portion of a corner lot formed by measuring fifty (50) feet from the intersection of the right-of-way lines of two (2) streets or of the right-of-way line of a street intersection with a railroad right-of-way line and joining these points with a straight line. No type of tree, planting, or other obstruction, shall be planted, placed, maintained, or continued in such a manner which would obstruct the vision clearance at corners and railroad crossings.

#### SECTION 13.1 CLASSIFICATION OF FENCES AND WALLS

A. The following shall be the classification of fences and walls for this ordinance:

1. Masonry walls
2. Ornamental iron (eighty percent (80%) open)
3. Woven wire (eighty percent (80%) open)
4. Wood or other materials (more than fifty percent (50%) open)
5. Solid fences, wood or other materials (less than fifty percent (50%) open)
6. Hedges
8. Earthen or concrete walls

#### SECTION 13.2 RESIDENTIAL ZONES

A. Fences and/or walls within all residential zones shall conform to the following requirements:

1. For all permitted uses in any residential zone herein, the requirements are as follows, except that where a fence and/or wall is required around a swimming pool, as provided for in Section 9.16 of this ordinance, the fence and/or wall may be of greater height and of a type not otherwise permitted in this section, so as to meet the minimum requirements of Section 9.18 of this ordinance (Figure 13-1 provides illustrations of these regulations).
  - a. Except as provided for in Sections 13.0 and 13.2, A., 3. of this ordinance, only class 6 fences and/or walls may be erected in front yards, up to a maximum height of thirty-six (36) inches.
  - b. Except as provided for in Sections 13.0 and 13.2, A., 3. of this

ordinance, class 1, 2, 3, 4, 5, or 6 fences and/or walls may be erected in side yards, up to a maximum height of forty-eight (48) inches, except for the following:

- (1) Where the lot is a corner lot or a double frontage lot, only class 6 fences and/or walls may be erected in the side yard which abuts a street, up to a maximum height of thirty-six (36) inches.
  - c. Except as provided for in Sections 13.0 and 13.2, A., 3. of this ordinance, class 1, 2, 3, 4, 5, or 6 fences and/or walls may be erected in rear yards, up to a maximum height of eighty-four (84) inches, except for the following:
    - (1) Where the lot is a corner lot or a double frontage lot, only class 6 fences and/or walls may be erected in that portion of the rear yard between the adjacent street and a line extending from the side building wall of the principal structure toward the rear lot line, up to a maximum height of thirty-six (36) inches.
  - d. Class 8 walls shall be permitted, but shall conform to the requirements of the building code.
2. For all non-residential uses conditionally permitted in any residential zone herein, the requirements are as follows:
- a. Except as provided for in Section 13.2, A., 3. of this ordinance, only class 2 or 3 fences and/or walls may be erected in front yards, up to a maximum height of seventy-two (72) inches.
  - b. Except as provided for in Sections 13.0 and 13.2, A., 3. of this ordinance, class 1, 2, 3, 4, 5, or 6 fences and/or walls may be erected in side and rear yards, up to a maximum height of seventy-two (72) inches, except for the following:
    - (1) General purpose recreational areas may be enclosed with fences and/or walls of Class 1, 2, 3, 4, 5, or 6, up to a maximum height of ninety-six (96) inches.
    - (2) Class 3 fences and/or walls may be erected to enclose tennis courts or as back-stops for baseball and/or softball fields, up to a maximum height of one hundred forty-four (144) inches.

- c. Class 8 walls shall be permitted, but shall conform to the requirements of the building code.
- 3. For all permitted and conditionally permitted uses in any residential zone herein, an ornamental structure (inclusive of ornamental, wooden and masonry structures, planters, hedges, etc.) where used and developed as an integral part of the landscaping of the lot, may be permitted according to the following requirements (Figure 13-2 provides illustrations of these regulations):
  - a. The average height of any ornamental structure shall not exceed forty-eight (48) inches, although the actual height may vary along any continuous section. In addition, one section of the structure, not to exceed ninety-six (96) inches in length, may be permitted up to a maximum height of ninety-six (96) inches).
  - b. The length of any ornamental structure shall be as follows:
    - (1) Along or approximately parallel to the front property line - Not greater than one-half ( $1/2$ ) the total width of the lot, provided further that any continuous section shall not exceed one-fourth ( $1/4$ ) of the total width of the lot.
    - (2) Along or approximately parallel to the side property line (between the front property line and the front setback line of the building) - Not greater than one-half ( $1/2$ ) of the total distance between the front property line and the building setback line, on each side of the lot.
    - (3) Along or approximately parallel to all other property lines not described in (1) or (2) above - No restrictions as to length.

### **SECTION 13.3 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 13.4 COMMERCIAL AND INDUSTRIAL ZONES:** Fences and/or walls within all commercial and industrial zones shall conform to the following requirements:

- A. Except as provided for in Section 13.0 of this ordinance, class 1, 2, 3, 4, 5, or 6 fences and/or walls may be erected in front yards of commercial zones, up to a

maximum height of forty-eight (48) inches.

- B. Except as provided for in Section 13.0 of this ordinance, class 1, 2, 3, 4, 5, or 6 fences and/or walls may be erected in side or rear yards of commercial zones, up to a maximum height of seventy-two (72) inches.
- C. Except as provided for in Section 13.0 of this ordinance, class 1, 2, 3, 4, 5, 6, or 7 fences and/or walls may be erected in front yards, up to a maximum height of forty-eight (48) inches and up to a maximum height of eighty-four (84) inches in side and rear yards of all industrial zones, except for industrial park zones. In industrial park zones, only class 2 or 3 fences and/or walls may be erected in front yards, up to a maximum height of seventy-two (72) inches.
- D. Class 8 walls shall be permitted, but shall conform to the requirements of the building code.

#### **SECTION 13.5 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.

**SECTION 13.6 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 higher finished grade. The fence portion must be of the class and height permitted within this ordinance for the applicable zone. Said measurement shall be made at and along the location of the fence and retaining wall.

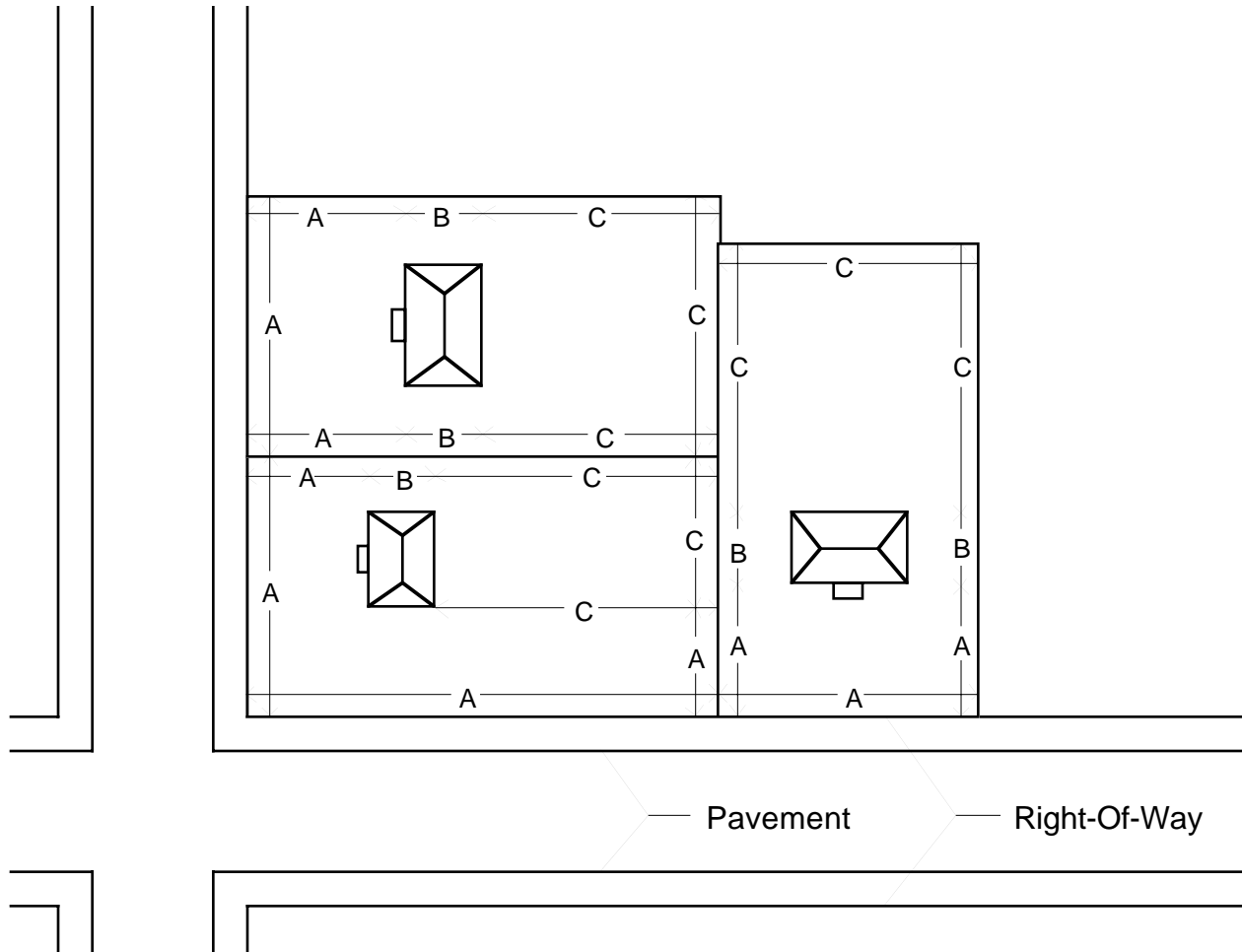
**SECTION 13.7 ELECTRIFIED FENCES:** No fence and/or wall carrying an electrical charge shall be permitted in any zone except when such fence and/or wall is used in conjunction with an agricultural use, and provided the fence and/or wall is not located along the perimeter with adjacent property.

**SECTION 13.8 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 for such by the zoning administrator and the building inspector, in accordance with Sections 16.1 and 16.2 of this ordinance.

**SECTION 13.9 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 13.10 DILAPIDATED FENCES:** All fences and/or walls shall be kept in a state of good repair.

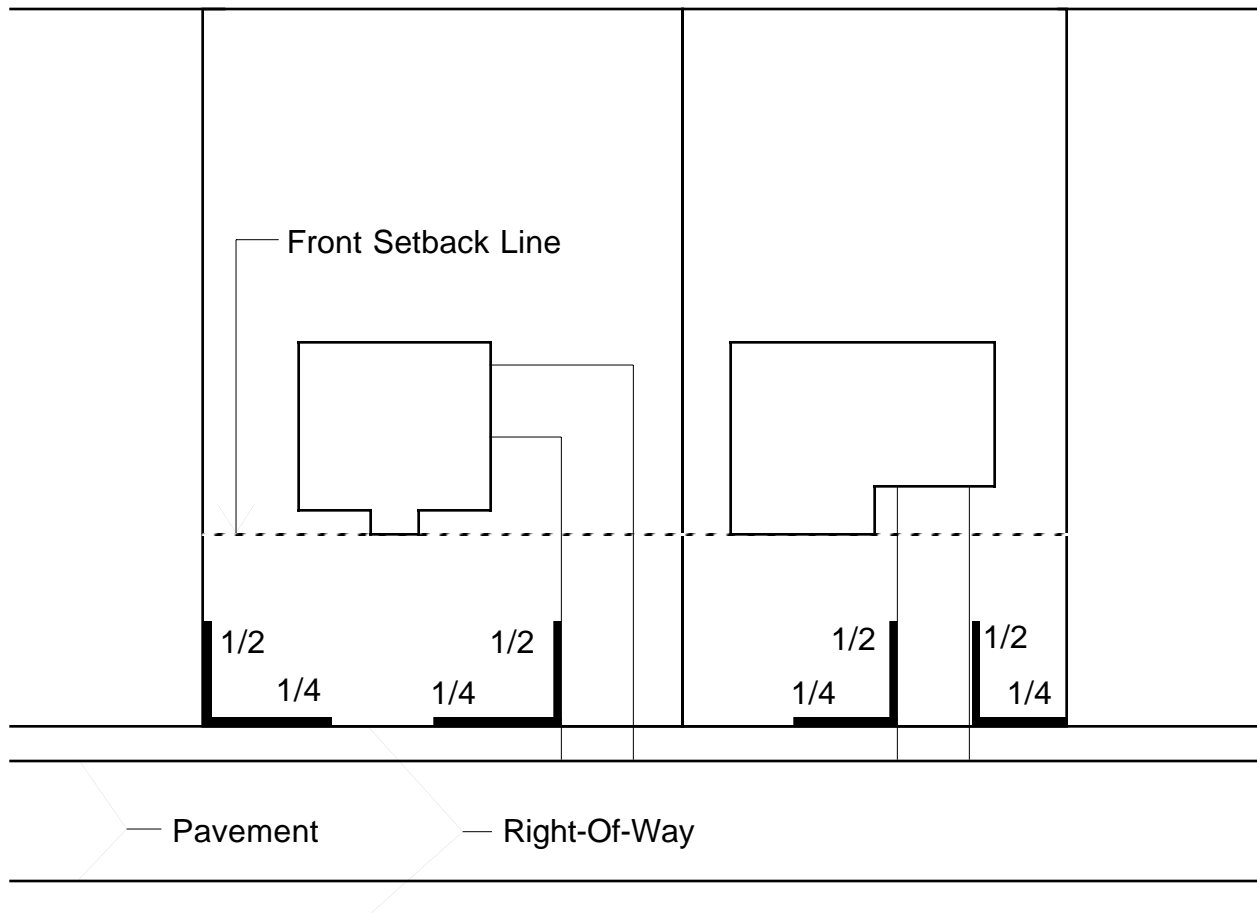
FIGURE 13-1

ILLUSTRATIONS OF CLASS AND HEIGHT OF FENCES AND/OR WALLS  
FOR RESIDENTIAL ZONES

TYPE, CLASS, AND HEIGHT OF FENCES AND/OR WALLS PERMITTED UNDER SECTION 13.3, A. OF THIS ORDINANCE		
TYPE	CLASS	MAXIMUM HEIGHT
A	6	36"
B	1, 2, 3, 4, 5, 6	48"
C	1, 2, 3, 4, 5, 6	84"

FIGURE 13-2

## ILLUSTRATIONS OF ORNAMENTAL FENCES AND/OR WALLS FOR RESIDENTIAL ZONES



## ARTICLE XIV

### SIGN REGULATIONS

**SECTION 14.0 SCOPE OF REGULATIONS:** The regulations set forth herein shall apply and govern signs in all zones, except as otherwise specifically provided within this ordinance.

#### SECTION 14.1 GENERAL RULES, REGULATIONS, AND LIMITATIONS

- A. All business and identification signs, as defined herein, shall be deemed accessory structures and all advertising signs, as defined herein, shall be deemed non-accessory structures.
- B. No sign shall be erected, maintained, or continued unless it is in full compliance with the regulations for the zone in which it is located, all applicable provisions and regulations of this ordinance, and any other applicable laws, codes, or ordinances of the city. The Zoning Administrator shall have the duty and authority to remove, or cause to be removed, any sign which is not in full compliance with all applicable provisions and regulations of this ordinance or any other applicable laws, codes, or ordinances of the city when the owner or agent has failed to comply within the time specified by the Zoning Administrator to make said sign comply. Said owner or agent shall bear full costs of such removal, including, but not limited to, attorney fees and court costs, and shall be assessed as civil damages all costs of removal and compliance.
- C. **TIME SCHEDULE FOR COMPLIANCE OF SIGN REGULATIONS:** Compliance with the provisions of this article of the ordinance shall be according to the following time schedule:
  - 1. All new signs shall comply when erected.
  - 2. Except as herein provided, signs which become nonconforming upon the adoption of this ordinance may be continued and maintained. Nonconforming signs may be 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.
- D. No sign constituting a nuisance, because of light, glare, focus, noise, animation, flashing, intensity of illumination as to unduly disturb the use of surrounding properties or causing a traffic hazard, shall be erected, maintained, or continued in any zone.

- E. No radio, phonograph, tape recorder, whistle, bell, gong, siren, or other sound or noise-making or transmitting device or instrument shall be allowed, permitted, or continued in connection with any sign or may it be used separately for advertising purposes in any zone.
- F. No sign shall be erected, maintained, or continued which constricts the flow of air through any window or door.
- G. No sign shall be erected, maintained, or continued which is misleading, fraudulent, obscene, immoral, indecent, or unsightly in character.
- H. No advertising sign, except those of a governmental entity, shall be erected, maintained, or continued unless the following provision is complied with; and said provision shall go into effect ninety (90) consecutive calendar days after the effective date of this ordinance:
  - 1. The name of the company or person owning, maintaining, or erecting said sign is plainly displayed thereon.
- I. No sign shall be erected, maintained, or continued over or into any street, public way, alley, or right-of-way, unless specifically provided for within this ordinance.
- J. It shall be unlawful and a violation of this ordinance for any person to fasten, place, paint or attach in any way: any sign, handbill, poster, advertisement, or notice of any kind, whether political or otherwise, or cause the same to be done in or upon any curb-stone, lamp post, telephone pole, telegraph pole, electric light or power pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest station building, tree, or in or upon any portion of any public sidewalk, street or sign, except as specifically permitted within this ordinance.
- K. No sign, except for a reader board, shall be erected, maintained, or continued upon the inside of a curve of a street which causes any interference to sight distance.
- L. No sign shall be erected, maintained, or continued displaying flashing or intermittent lights, or lights of changing degrees of intensity, with changes alternating on not less than a five (5) second cycle.
- M. No sign shall be erected, maintained, or continued in any zone which does not comply fully with Section 13.0 of this ordinance, except as specifically permitted within this ordinance.

- N. No sign shall be erected, maintained, or continued in any zone, except as provided for in Section 14.1, C. of this ordinance, unless the sign complies with all of the following regulations:
1. Is erected and maintained to advertise a use specifically permitted in the zone in which the sign is located, or for a nonconforming use subject to the limitations contained in Section 9.12, E., of this ordinance.
  2. Is clearly incidental, customary to, and commonly associated with the operation of the use being advertised.
  3. Is established and controlled under and by the same ownership as the use being advertised.
  4. Is limited in location to the premises on which the use being advertised is located.
  5. Is limited in subject matter to the name, design, picture or phone number and address of owner, operator, builder, sales agent, managing agent, lessor, lessee, of the premises or of the activities (including merchandise handled or services rendered) on the premises on which such sign is located and does not include any general commercial advertising unrelated to or extending in substantial degrees beyond the specifically permitted subject.
  6. Compliance with the exemptions listed in Section 14.2 of this ordinance.
- O. When any sign becomes defective or dangerous, as determined by the building inspector, the Zoning Administrator shall have the power and the authority to remove or cause to have removed such sign when the owner or agent has failed to comply within the time specified by the Zoning Administrator to repair or make said sign safe or has failed to satisfy the building inspector that the sign is not defective or dangerous. The owner or agent of said sign shall bear the full costs of such removal and shall be billed accordingly. If the building inspector determines that said sign is of possible immediate danger to persons or vehicles, which may be passing nearby, the Zoning Administrator shall place or cause to have placed, signs or barriers indicating such danger.
- P. Whenever any sign, which does not comply with the provisions and regulations of this ordinance, collapses, burns, or if said sign is removed from its location, except for normal maintenance, said sign shall not be replaced or reconstructed, except in full compliance with all of the provisions and regulations of this ordinance. However, if such a sign is removed or destroyed, other than by intentional means of the owner, the sign may be reconstructed, but shall not be enlarged, extended, or moved.

It is further provided, however, that if a nonconforming sign, which was permitted at the time it was installed, is required to be moved due to deed restrictions or encroachment over property boundaries which existed at the time of the original installation, or due to a taking or condemnation for public roadway improvements, and such taking is limited to only a portion of the sign, then the sign may be moved the minimum distance necessary, at an angle perpendicular to the property line at the point of encroachment or taking or condemnation, to comply with the deed restriction or property boundary, as long as it can be maintained on the same site, and provided that there shall be no dimensional changes relative to height, square footage, or total usable area.

- Q. The Zoning Administrator shall have the power and authority to remove, or cause to have removed, any and all signs which have been determined to be a traffic hazard, when the owner or agent responsible for the maintenance of said sign has failed to eliminate such traffic hazards within two (2) weeks from the date that the written notice is mailed by the Zoning Administrator. Said owner or agent shall bear the full costs of such removal and shall be billed accordingly.
- R. Except as otherwise specified in this ordinance, signs shall be in conformance with the building code, where applicable, and shall be subject to the inspection and approval by the Building Inspector.

**SECTION 14.2 SPECIAL SIGNS:** With the exception of signs in Subsection A, 1., the following signs may be permitted in any zone without a fee. A fee shall be required for signs within Subsection A., 1. Signs in subsections A., 2. and A., 3. shall not require a sign permit. All other signs within this section shall require an application for a sign permit, as provided for in Section 14.4 of this ordinance.

**A. TEMPORARY SIGNS**

- 1. Temporary miscellaneous signs, including those which are placed on the exterior of structures (i.e., banners, posters, pennants, or similar type devices) shall be permitted in all zones, subject to the following requirements:
  - a. For permitted uses within residential zones, temporary signs may only be utilized for yard/garage sales and personal messages (i.e., happy birthday, congratulations, etc.). Temporary signs for personal messages shall be permitted without permits or fees. Personal message signs are limited to one (1) per property, no more than thirty-two (32) square feet in size, no more than eight (8) feet off the ground, and can be up for no more than five (5) days at a time. However, these restrictions shall not apply to signs relating to holidays (i.e., Christmas, Easter, etc.).

- b. Such signs, when permitted, shall not be used for a period to exceed fourteen (14) consecutive days, and not more than four (4) permits shall be issued for any site or use in any calendar year.
  - c. Temporary signs, identified as mobile signs, on wheels, carts, or free-standing devices, with or without illuminated message boards, are not permitted in any zone.
  - d. Temporary signs placed on the inside of windows of retail and service commercial uses, such as food stores, drug stores, furniture stores, general merchandise stores, dry cleaners, service stations, and new and used car/truck sales, to advertise sales and special events, shall be permitted without permits or fees. Such signs shall not be illuminated.
2. Real estate signs shall be permitted in all zones, subject to the following requirements:
- a. Such signs are limited to one (1) per lot.
  - b. Such signs shall not exceed twelve (12) square feet in outside area nor exceed a maximum height of eight (8) feet.
  - c. Such signs may be illuminated, but only from a concealed light source, and only until 10:00 PM.
  - d. Such signs shall advertise the sale, rental, or lease of the premises on which the sign is located.
  - e. No part of any sign shall be located closer than ten (10) feet from any property line.
  - f. Such signs shall be removed by owners or agents within ten (10) consecutive calendar days after the sale, rental, or lease of the premises.
3. Political signs may be permitted in all zones in accordance with the following regulations:
- a. On each lot, there may be located one (1) sign per candidate supporting the candidacy of any person for local, state, or national office, or any local or state issue.

- b. Permission to install the sign must be obtained from the occupant of the premises.
  - c. Such signs shall be permitted not more than sixty (60) days prior to the date of the election and not more than ten (10) days after the date of the election.
  - d. Such signs shall not exceed forty (40) square feet in size nor be located closer than five (5) feet to any property line.
- 4. Signs, not over twenty (20) square feet in outside area, single or double faced, maximum height of eight (8) feet, denoting the person/firm, architect, engineer, or contractor, when placed upon the premises where construction work is being performed. Said sign shall be removed by owner or agent within ten (10) consecutive calendar days after completion of project or that person/firm's part of the project.
- 5. Special Event Signs: When churches, schools, or other charitable organizations are planning a special event open to the public, a sign not larger than thirty-two (32) square feet may be erected on the same premises as the event. The sign must be set back a minimum distance of twenty (20) feet from any right-of-way or property line. The sign may be illuminated, but only by concealed lighting. The sign may be erected ten (10) days prior to the event and must be removed within twenty-four (24) hours after the event is completed.
- B. Professional name plates, not exceeding one (1) square foot in outside area; single or double faced. Such signs shall not be animated nor illuminated.
- C. Memorial signs or tablets, containing the name of the building and the date of erection when built into the walls of the building and constructed of bronze, brass, marble, stone, or other incombustible materials.
- D. Traffic signs, provided that said signs are designed and located in accordance with the "Manual on Uniform Traffic Control Devices for Streets and Highways", U.S. Department of Transportation, Federal Highway Administration.
- E. Temporary signs, where permitted or required by the Zoning Administrator, to fulfill requirements of this ordinance or other resolutions or regulations imposed by a governmental entity.
- F. Repainting or cleaning of an advertising structure or the changing of the advertising copy or message thereon, unless a structural change is made.

**SECTION 14.3 SIGN PERMIT REQUIRED FOR ERECTION OF SIGNS:** No sign shall be erected, except as exempted or specified within this ordinance, until all required fees have been paid to the proper authorities, or their agents, and a permit has been issued for such, by the zoning administrator and building inspector.

- A. 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. 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. If any sign is removed from one location and erected at a new location, a new permit shall be obtained.
- D. Alteration or enlargement of any sign shall require a permit the same as for a new sign.
- E. No permit shall be granted until and after an application has been filed with the designated administrative official, showing the plans and specifications, including dimensions, materials, and details of construction of proposed structure and meeting all provisions of this ordinance.

**SECTION 14.4 APPLICATION FOR A SIGN PERMIT**

- A. Application for a sign permit shall be made and submitted at the office designated by the city on the appropriate forms furnished by said city.
- B. If any required information is left off of the application, or if any of the submitted information is misrepresented on the application, the permit shall be denied or shall become null and void if already issued, regardless of actual construction being started or completed.
- C. 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 ordinance, and the owner or agent shall be given a two (2) week notice to remove said sign or correct the error.

**SECTION 14.5 SIGN PERMIT FEES:** The fee for a sign permit shall be as provided for in the building code or as otherwise established by the legislative body.

**SECTION 14.6 PERMITTED USE AND LOCATION OF SIGNS:** The following classes of signs may be erected and maintained in the following zones:

ZONES	USES	PERMITTED SIGN CLASSES
R-RE, R-1C R-1D, R-1DD, and R-1F	(1) Any use permitted in these zones	4
	(2) In addition to sign classes permitted in (1): (a) Conditional uses permitted in these zones	5 and 8* or 6 and 8*
	(3) Ground sign for identification of a residential development as approved by the Planning Commission	11
R-2 and R-3	(1) Any use permitted in these zones	4
	(2) In addition to sign classes permitted in (1): (a) Off-street parking areas (excluding parking garages) (b) Conditional uses permitted in these zones	3 5 and 8* or 6 and 8*
	(3) Ground sign for identification of a residential development as approved by the Planning Commission	11
PUD and RCD	As approved according to the Final Development Plan	

\* A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

\*\* Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.

\*\*\* When a class 8 ground sign is used to identify a business on an outlot/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.

ZONES	USES	PERMITTED SIGN CLASSES
NSC	(1) Any permitted or conditionally permitted use in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas (excluding parking garages)	3
	(b) All uses other than off-street parking areas, (however, including parking garages), permitted in this zone	5 or 6*
	(c) Signs for identification of name of a shopping complex (3 or more businesses located in a unified building or attached group of buildings)	9
	(d) Outlots/outparcels which are part of a shopping complex, ground signs only	8***
PO	(1) Any use permitted in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas	3
	(b) Signs for identification of names of office complex (3 or more office uses located in a unified building or attached group of buildings)	7
	However, each individual office including accessory uses as provided herein in this complex may have	5 or 6*
	(c) All other uses not located in an office complex (3 or more offices located in a unified building or attached group of buildings)	5 and 8* or 6 and 8*

\* A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

\*\* Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.

\*\*\* When a class 8 ground sign is used to identify a business on an outlot/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.

ZONES	USES	PERMITTED SIGN CLASSES
NC	(1) Any use permitted in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas (excluding parking garages)	3
	(b) Signs for identification of name of a shopping complex (3 or more businesses located in a unified building or attached group of buildings) However, each individual business in this complex may have	7 5 or 6*
	(c) All other uses not located in a shopping complex (3 or more businesses located in a unified building or attached group of buildings) including parking garages	5 and 8* or 6 and 8*
IP	(1) Any use permitted in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas (excluding parking garages)	3
	(b) All uses other than off-street parking areas, (however, including parking garages), permitted in this zone	5 and 8* or 6 and 8*

\* A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

\*\* Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.

\*\*\* When a class 8 ground sign is used to identify a business on an outlot/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.

ZONES	USES	PERMITTED SIGN CLASSES
HC	(1) Any use permitted in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas (excluding parking garages)	3
	(b) Signs for identification of the name of a shopping complex (3 or more businesses located in a unified building or attached group of buildings) However, each individual business in this complex may have	7 5 or 6*
	(c) All other uses not located in a shopping complex (3 or more businesses located in a unified building or attached group of buildings) including parking garages	5 and 8* or 6 and 8*
SDA	(1) Any use permitted in this zone	1, 2, 4, and 5 or 6*
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas	3
	(b) Each development site	10
	(c) Rear entrances to any permitted use in this zone	5 or 6*
MUPD	As approved according to the Stage I and Stage II Development Plans	

\* A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

\*\* Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.

\*\*\* When a class 8 ground sign is used to identify a business on an outlot/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.

**SECTION 14.7 CLASSIFICATION OF SIGNS**

- A. CLASS 1: The following signs, meeting the following specifications, shall constitute Class 1 and shall be only business or identification signs, as defined herein:
1. Structural Type - Flat or window sign; single faced only
  2. Maximum Size Of Single Sign - One (1) square foot
  3. Maximum Height Above Grade At Top Of Sign - Attached to building, parallel to wall face
  4. Limitation On Number Of Signs - One (1) sign for each separate permitted use
  5. Other Limitations - Shall be neither animated nor illuminated
- B. CLASS 2: The following signs, meeting the following specifications, shall constitute Class 2 and shall be only business or identification signs, as defined herein:
1. Structural Type - Flat, window, or projecting sign, single or double faced
  2. Maximum Size Of Single Sign - Two (2) square feet
  3. Maximum Height Above Grade At Top Of Sign - Attached to building and projecting no more than eighteen (18) inches from the wall face of the building
  4. Limitation On Number Of Signs - One (1) sign for each separate permitted use
  5. Other Limitations - Shall be neither animated nor illuminated
- C. CLASS 3: The following signs, meeting the following specifications, shall constitute Class 3 and shall be only business or identification signs, as defined herein:
1. Structural Type - Flat, ground or pole sign, single or double faced
  2. Maximum Size Of Single Sign - Six (6) square feet
  3. Maximum Height Above Grade At Top Of Sign - Twelve (12) feet
  4. Limitation On Number Of Signs - One (1) sign for each curb cut, plus any number within off-street parking areas
  5. Other Limitations
    - a. May be illuminated, but only from a concealed light source and shall not be flashing, glaring, nor animated
    - b. Shall be limited in subject matter to off-street parking directions and instructions and shall have no merchandise, manufacturing, or service advertising
    - c. No part of any ground or pole sign shall be located closer than five (5) feet from any property line

D. CLASS 4: The following signs, meeting the following specifications, shall constitute Class 4 and shall be only business and identification signs, as defined herein:

1. Structural Type - Flat, window, or ground sign; single or double faced
2. Maximum Size Of Single Sign - Twelve (12) square feet, except as specified in Subsection D., 4., below
3. Maximum Height Above Grade At Top Of Sign - Twenty (20) feet
4. Limitation On Number And Total Area Of Signs - The total area of all signs, in a single designated land area, shall not exceed in square feet the product of the number of acres, or fractions of acres, in the designated land area multiplied by twenty-five (25), provided, however, that no single sign shall have an area of more than thirty-five (35) square feet on premises already developed or an area of not more than seventy-five (75) square feet on premises not developed
5. Other Limitations
  - a. Shall not be animated, may be illuminated, but only from a concealed light source and only until 10:00 PM.
  - b. Shall be temporary only, for advertising development, new construction, or the sale, lease, rental, remodeling and rebuilding of designated structures or a designated land area. Permits shall be temporary, and shall be valid for a period not exceeding one hundred eighty-two (182) consecutive calendar days, but are renewable one (1) time only for an additional one hundred eighty-two (182) consecutive calendar days. Such signs shall be removed within ten (10) consecutive calendar days after the completion of the project.
  - c. Shall be located only on the premises of the property being referred to.
  - d. No part of any ground sign shall be located closer than five (5) feet from any property line.

E. CLASS 5: The following signs, meeting the following specifications, shall constitute Class 5 and shall be only business or identification signs, as defined herein:

1. Structural Type - Individual letters, single faced only
2. Maximum Size Of Individual Sign
  - a. One (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

- 
- b. The total size for individual letter signs shall be computed by taking the area enclosed within a rectangle that is needed to completely encompass each individual letter or insignia of the sign.
  3. Maximum Height Above Grade At Top Of Sign - Attached flat to building, but shall not extend above the top or ends of the wall surface on which the sign is placed
  4. Limitation On Number Of Signs - One (1) sign for each street frontage of the lot on which the primary permitted use is located, except that where a complex of buildings is an attached shopping complex or a coordinated group of buildings, only one (1) such sign shall be permitted for each individual separate business building. Separate business building shall be construed to mean space allotted to the operation of one (1) firm, company, or incorporation having separate ownership, or separate rental or lease. A professional office building within such a complex, if permitted within the zone under consideration, shall not be considered as containing separate businesses for this purpose, but shall have only one (1) such sign regardless of how many firms, companies, or incorporations having separate ownership, rental or lease are located within said office building
  5. Other Limitations
    - a. Shall be neither flashing nor animated.
    - b. May be illuminated, but only from a concealed light source.
    - c. Shall not extend outward from the building wall more than twelve (12) inches, except that if the sign is illuminated, the reflectors may project not more than four (4) feet beyond the face of the sign.
- F. CLASS 6: The following signs, meeting the following specifications, shall constitute Class 6 and shall be only business or identification signs, as defined herein:
1. Structural Type - Single faced flat sign, mounted to the face of the building; single faced sign painted, applied, or otherwise installed in a display window; single faced sign painted, applied, or otherwise installed on an awning or canopy.
  2. Maximum Size Of Single Sign
    - a. A combination of building mounted, window, awning, or canopy signs may be used, provided that the total square footage does not exceed two (2) square feet of sign area for each horizontal linear foot of building width upon which the sign or signs are to be located.
    - b. The total size for window or awning signs shall be computed by taking the area enclosed within a rectangle that is needed to completely encompass the sign. In no case shall the total square

footage of a window sign exceed twenty percent (20%) of the total area of the display window on which the sign is placed.

3. Maximum Height Above Grade At Top Of Sign - Attached to building, but shall not extend above the top or ends of the wall surface on which the sign is placed
  4. Limitation On Number Of Signs - Not more than two (2) signs when a combination of building mounted, window, or awning signs is utilized. When no combination is used, one (1) sign for each street frontage of the lot on which the permitted use is located except that where a complex of buildings are so constructed and maintained that said complex of buildings is an attached shopping complex or a coordinated group of buildings, only one (1) such sign shall be permitted for each individual separate business building. Separate business building shall be construed to mean space allotted to the operation of one (1) firm, company, or incorporation having separate ownership, or separate rental or lease. A professional office building within such a complex, if permitted within the zone under consideration, shall not be considered as containing separate businesses for this purpose, but shall have only one (1) such sign regardless of how many firms, companies, or incorporations having separate ownership, rental, or lease are located within said office building
  5. Other Limitations
    - a. Shall be neither flashing nor animated.
    - b. May be illuminated, but only from a concealed light source.
    - c. Shall not extend outward from the building wall more than twelve (12) inches, except that if the sign is illuminated, the reflectors may project not more than four (4) feet beyond the face of the sign.
    - d. For the purpose of this section, awnings or canopies shall be defined as roof-like coverings made of canvas, plastic, or similar flexible materials, on a retractable or fixed frame.
    - e. In the case of an internally illuminated awning, the entire surface of the awning shall be included in the calculation of the sign area.
    - f. For any awning sign, lettering or graphic elements shall be located only on that portion of the awning that is parallel to the building facade.
- G. CLASS 7: The following signs, meeting the following specifications, shall constitute Class 7 and shall be only business and identification signs, as defined herein:
1. Structural Type - Pole sign or ground sign, single or double faced
  2. Maximum Size Of Single Sign - Sixty (60) square feet
  3. Maximum Height Above Grade At Top Of Sign - Pole: twenty (20) feet; Ground: ten (10) feet

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4. Limitation On Number Of Signs - One (1) sign may be erected for each street frontage of the lot or building site on which the permitted use is located
  5. Other Limitations
    - a. Such sign shall be neither flashing nor animated.
    - b. No part of any ground or pole sign shall be located closer than five (5) feet from any property line.
- H. CLASS 8: The following signs, meeting the following specifications, shall constitute Class 8 and shall be only business or identification signs, as defined herein:
1. Structural Type - Ground sign, single or double faced
  2. Maximum Size Of Single Sign - Twenty-five (25) square feet
  3. Maximum Height Above Grade At Top Of Sign - Seven (7) feet
  4. Limitations
    - a. One (1) sign may be erected for each street frontage of the lot or building site on which the permitted use is located.
    - b. One (1) sign may be erected for identification purposes of a residential development at each major street entrance
  5. Other Limitations
    - a. Shall be neither flashing nor animated.
    - b. May only be illuminated from a concealed light source.
    - c. No part of any sign shall be located closer than five (5) feet from any property line.
- I. CLASS 9: The following signs, meeting the following specifications, shall constitute Class 9 and shall be only business or identification signs, as defined herein:
1. Structural Type - Pole or ground signs, single or double faced
  2. Maximum Size Of Single Sign - One hundred fifty (150) square feet
  3. Maximum Height Above Grade At Top Of Sign - Pole sign: thirty (30) feet; ground: seven (7) feet
  4. Limitations
    - a. One (1) sign may be erected on each abutting street identifying a shopping complex and/or tenants of three (3) or more businesses which are located in a unified building or a coordinated group of buildings.

- b. One (1) sign may be erected for identification purposes of an industrial development for each entrance.

5. Other Limitations

- a. Shall be neither flashing nor animated.
- b. May only be illuminated from a concealed light source.
- c. No part of any ground or pole sign shall be located closer than five (5) feet from any property line.

J. CLASS 10: The following signs, meeting the following specifications, shall constitute Class 12 and shall be only business or identification signs, as defined herein:

- 1. Structural Type - Ground sign, single or double faced
- 2. Maximum Size Of Single Sign - Forty (40) square feet for the first one hundred fifty (150) linear feet of frontage. However, if the site in question has frontage in excess of one hundred fifty (150) linear feet, the sign area may be increased by five (5) square feet for every fifty (50) linear feet, up to a maximum sign area of sixty (60) square feet
- 3. Maximum Height Above Grade At Top Of Sign - Seven (7) feet
- 4. Limitations On Number Of Signs

- a. One (1) sign may be erected for each street frontage of the lot or building site on which the primary permitted use is located
- b. One (1) sign may be erected for identification purposes of a residential development for each major entrance

5. Other Limitations

- a. Shall be neither flashing nor animated
- b. May only be illuminated from a concealed light source
- c. A maximum of twenty-five (25) percent of the total sign area may be used for a reader board
- d. No part of any ground sign shall be located closer than five (5) feet from any property line or right-of-way line

K. CLASS 11: Signs attached to ornamental structures, as permitted in Section 13.3, A., 3., identifying a residential subdivision entryway.

- 1. Structural Type - Letters placed on an ornamental structure.
- 2. Maximum Size - Limited by size of ornamental structure.
- 3. Maximum Height Above Grade At Top Of Sign - Limited by height of ornamental structure.

4. Limitations - An ornamental structure may be placed on either side of each major entrance to a subdivision. The sign attached to this ornamental structure may be affixed to either or both ornamental structures.
5. Other Limitations
  - a. Shall be neither flashing or animated
  - b. May only be illuminated from a concealed light source.
  - c. Maximum height of the letters used may not exceed 24 inches in height.

## ARTICLE XV

### PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES

**SECTION 15.0 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.

**SECTION 15.1 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:

- A. All new installations shall comply as of going into operation.
- B. All existing installations not in compliance as of the effective date of the 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.

### SECTION 15.2 PERFORMANCE STANDARDS

- A. **BUILDING ENCLOSURES:** Except as herein provided, every use in any industrial zone shall be operated in its entirety within a completely enclosed building.
- B. **LANDSCAPING:** In all industrial zones, all required yards shall either be landscaped or be left in a natural state if acceptable to the Planning Commission. If said area is to be landscaped, it shall be landscaped with lawn, trees, shrubs, etc.

Any landscaped areas shall be maintained in a sightly and well kept condition.

Any areas left in a natural state shall be properly maintained in a well kept condition.

- C. NOISE: For the purpose of measuring the intensity and frequencies of a sound, a sound level meter and an octave band analyzer which conforms to specifications published by the American National Standards Institute (specifications for Sound Level Meters S1.4 - 1971, and Specifications for Octave, Half Octave, and Third Octave Band Filter Sets S1.11 - 1966, American National Standards Institute, 1430 Broadway, New York, New York, 10018, or the latest edition of such standards) 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 continuously from any activity shall not exceed the value given in Tables 15-1 and 15-2 of this section of this ordinance, at the location of the receiving land use. If the noise is not smooth and continuous, one or more of the corrections in Table 15-2 of this section of this ordinance shall be added to or subtracted from each of the decibel levels given in Table 15-1 of this section of this ordinance.

In any industrial zone, the sound pressure of noise radiated from any activity shall not exceed the values given in Table 4 of this section in any octave band frequency at any point on or beyond any property line.

In any industrial zone, industrial noise shall be muffled so as not to become objectionable due to intermittence, beat, frequency, or shrillness.

- D. 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 Department for Natural Resources and Environmental Protection, Division of Air Pollution, Cincinnati Air Quality Region.
- E. HUMIDITY, HEAT OR GLARE: In all industrial zones, any activity producing humidity, in the form of steam or moist air, heat, or glare, shall be carried on in such a manner that the humidity, heat, or glare is not perceptible at any lot line. Detailed plans for the elimination of humidity, heat, or glare may be required before the issuance of a building permit.
- F. EXTERIOR LIGHTING: Any lights used for exterior illumination, except for overhead street lighting, warning, or traffic signals shall direct light away from the adjoining zones.
- G. VIBRATION: Vibrations shall be measured at the lot line in all industrial zones. No vibration is permitted which is discernible to the human sense of feeling for three minutes or more duration in any one hour. Vibration shall not produce, at any time, an acceleration of more than 0.1 gravities or shall result in any

combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin No. 442, "Seismic Efforts of Quarry Blasting", on any structure. The methods and equations of said Bulletin No. 442, or any subsequent revision or amendment thereto, shall be used to compute all values for the enforcement of these provisions. Detailed plans for the elimination of vibrations may be required before the issuance of any building permit.

- H. EMISSIONS AND OPEN BURNING: No emission of particulate matter, sulfur, compound, carbon monoxide, hydrocarbon, nitrogen oxide, and open burning shall be allowed in any industrial zone in excess of regulations adopted by the Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution, Cincinnati Air Quality Region.
- I. RADIATION: In any industrial zone, all sources of ionizing radiation shall be registered or licensed by the Kentucky State Department of Health and operated in accordance with their regulations.
- J. ELECTRICAL RADIATION: In any industrial zone, 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.
- K. STORAGE: The storage of any materials, supplies, or products outside of a completely enclosed building shall be prohibited within any industrial zone.
- L. FIRE AND EXPLOSIVE HAZARDS: The storage, utilization, or manufacture of solid materials or products, including free burning and intense burning shall be prohibited within any industrial zone.
- M. WASTE: Within any industrial zone, no waste material or refuse shall be dumped upon, or permitted to remain upon, any part of the property outside of the buildings constructed thereon. All sewage and industrial waste shall be treated and disposed of in such 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.
- N. 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 Department for Natural Resources and Environmental Protection, Division of Reclamation. Any excavation or processing operations shall be subject to the regulations of the Kentucky Water Pollution Control Commission.

- O. **BLASTING AND EXPLOSIVES:** All blasting and the use of explosives must be conducted in accordance with the regulations set forth by the Department of Mines and Minerals, 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).

TABLE 15-1

MAXIMUM PERMISSIBLE SOUND PRESSURE LEVEL (DECIBELS) AT  
SPECIFIED POINTS OF MEASUREMENT FOR NOISE RADIATED  
CONTINUOUSLY FROM A FACILITY

RECEIVING LAND USE	7:00 AM - 10:00 PM	10:00 PM - 7:00 AM
Residential	55	50
Commercial and Industrial Park	60	55
Industrial	65	65

TABLE 15-2

CORRECTION IN MAXIMUM PERMITTED SOUND PRESSURE LEVEL  
IN DECIBELS TO BE APPLIED TO TABLE 15-1

TYPE OF OPERATION OF CHARACTER OF NOISE	CORRECTION IN DECIBELS
Noise source operates less than twenty (20) percent of any one hour period	plus 5*
Noise source operates less than five (5) percent of any one hour period	plus 10*
Noise source operates less than one (1) percent 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

## ARTICLE XVI

### ADMINISTRATION

**SECTION 16.0 ENFORCING OFFICER:** A Zoning Administrator shall administer and enforce this ordinance. He/she may be provided with assistance of such other persons as the city directs.

#### A. VIOLATIONS

1. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he/she shall take such action as is permitted by law.
2. In addition to the foregoing, the Zoning Administrator shall have the authority to order discontinuance of any illegal use of land, buildings, structures, signs, fences, additions, alterations, or structural changes thereto, or any illegal work being done.
3. If, in the judgment of the Zoning Administrator, there is a violation of any provisions contained in the Official Zoning Ordinance, except violations regarding performance standards for industrial zones, the Zoning Administrator shall give written notice, by registered mail or certified mail, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the Zoning Administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the Zoning Administrator within thirty (30) consecutive calendar days of receipt of such notification. The notice shall state that failure to reply or to correct the alleged violation to the satisfaction of the Zoning Administrator within thirty (30) consecutive calendar days of receipt of said notice constitutes admission of violation of the terms of this ordinance.
4. If there is no reply within thirty (30) consecutive days of receipt of said notice, but the alleged violation is corrected to the satisfaction of the Zoning Administrator, he/she shall note "violation corrected" on his/her copy of the notice, and shall retain it among his/her official records, taking other such action as may be warranted.
5. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice and the alleged violation is not corrected to the satisfaction of the Zoning Administrator within the established time limit, he/she shall proceed to take or cause to be taken such action as is warranted by continuation of a violation after notice to cease including, but not limited

to, hiring a person and/or company to correct the violation at the owner, occupant, or tenant's expense. Said owner, occupant, or tenant shall be billed directly for the cost of said correction or, in the alternative, the cost of said correction shall be attached and made part of their respective annual tax bill at the discretion of the City Council.

6. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the Zoning Administrator, but requesting additional time, the Zoning Administrator may grant an extension if he/she deems it warranted in the circumstances of the case and if the extension will not, in his/her opinion, cause imminent peril to life, health, or property.
7. Notwithstanding any part of this ordinance to the contrary, it shall be the responsibility of the person or persons responsible for violations of any provisions of this ordinance to correct said violations with or without notification by the Zoning Administrator. Any violation of any part of this ordinance shall be subject to Section 16.9.

All questions of interpretation and enforcement shall be first presented to the Zoning Administrator. Such questions may be presented to the Board of Adjustment by an applicant or aggrieved party only on appeal from the decision of the Zoning Administrator, and recourse from the decisions of the Board of Adjustments shall be to the courts, as provided by the Kentucky Revised Statutes.

It shall be unlawful for any person or entity to interfere with the Zoning Administrator's performance of his/her duties, as defined herein.

It shall be recognized by the zoning administrator, that consistent with 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.

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 16.1 ZONING PERMITS:** Zoning permits shall be issued in accordance with the following provisions:

- A. **ZONING PERMIT REQUIRED:** 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.

B. APPLICATION FOR ZONING PERMITS: All applications for zoning permits shall be accompanied by:

1. A completed application form provided by the Zoning Administrator.
2. The required fee for a zoning permit, as provided for in Section 19.0 of this ordinance.
3. A Stage II Development Plan, if required by this ordinance, or a plot plan, in duplicate, drawn at a scale of not less than one (1) inch to one hundred (100) feet, showing the following information, where applicable:
  - a. The location of every existing and proposed building with the number of floors and gross floor area, the use or uses to be contained therein, the number of structures including dimensions and height, and the number, size and type of dwelling units.
  - b. All property lines, shape and dimensions of the lot to be built upon.
  - c. Lot width at building setback line.
  - d. Minimum front and rear yard depths and side yard widths.
  - e. Existing topography with a maximum of two foot contour intervals. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations not more than fifty (50) feet apart shall be required.
  - f. The proposed finished grade of the development area shown by contours with intervals not larger than two (2) feet supplemented where necessary by spot elevations.
  - g. Total lot area in square feet.
  - h. Location and dimensions of all curb cuts, driving aisles, off-street parking and loading and/or unloading spaces including number of spaces, angle of stalls, and illumination facilities.
  - i. Layout, type of surfacing, cross sections and drainage plans for all off-street parking facilities.
  - j. A drainage plan of the lot area including provisions for adequate

control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.

- k. All sidewalks, malls, and open spaces.
- l. Location, type and height of all walls, fences and screen plantings.
- m. Location, size, height, class and orientation of all signs.
- n. Location of all existing and proposed streets, including rights-of-way and pavement widths.
- o. All existing and proposed water and sanitary and storm sewer facilities to serve the lot, indicating all pipe sizes, types, and grades.
- p. A schedule of development including the staging and phasing of:
  - 1. Residential areas, 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 with a preliminary statement indicating how maintenance of the latter will be handled.
  - 4. The construction of non-residential buildings, in order of priority.
- q. And such other information as may be required by the Zoning Administrator to determine conformance with and provide for enforcement of this Ordinance and the Kentucky Revised Statutes.

C. **ISSUANCE OF ZONING PERMIT:** 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 thereon. Such disapproval shall be attested by the zoning administrator's signature. The other copy, similarly marked, shall be retained by the zoning administrator.

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.

- D. **FAILURE TO COMPLY:** Failure to obtain a zoning permit shall be a violation of this Ordinance and punishable under Section 16.9 of this ordinance.
- E. **EXPIRATION OF ZONING PERMIT:** If a building permit, as required herein, has not been obtained within ninety (90) consecutive calendar days from the date of issuance of the zoning permit, said zoning permit shall expire and be canceled by the Zoning Administrator and a building permit shall not be obtainable until a new zoning permit has been obtained.

**SECTION 16.2 BUILDING PERMITS:** Building permits shall be issued in accordance with the following provisions:

- A. **BUILDING PERMITS REQUIRED:** No building or other structure shall be erected, moved, added to, or structurally altered without a building 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. **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 19.0 of this ordinance.
  - 4. An approved Stage II Development Plan or plot plan.
  - 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:** 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 thereon. Such disapproval shall be attested by the building inspector's signature. The second copy, similarly marked, shall be retained by the Building Inspector.

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 second 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 city 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 OF BUILDING PERMIT
1. Building permits, for the complete construction of any principal structure for any use identified as a permitted use, in any zone described and identified as a multi-family residential zone, an overlay zone, a commercial zone, a professional office building zone, an industrial zone, an industrial park zone, a special development zone, or an area protection overlay zone, shall expire, terminate, and be canceled by the building inspector, unless the foundation of the construction, and work authorized thereby, has been completed within ninety (90) consecutive calendar days after the date on which the building permit was issued, and all of the construction, and work authorized thereby, has been completed within five hundred forty (540) consecutive calendar days after the date on which such building permit was issued.
  2. Building permits for the complete construction of any principal structure for any use identified as a permitted use, in any zone described and identified as a conservation zone or a single-family residential zone, or the construction of any additions to any principal structures for any use identified as a permitted use in any zone, shall expire, terminate, and be canceled by the building inspector, unless the foundation of the construction, and work authorized thereby, has been completed within ninety (90) consecutive calendar days after the date on which the

building permit was issued, and all of the construction, and work authorized thereby, has been completed within three hundred sixty-five (365) consecutive calendar days after the date on which such building permit was issued.

3. Building permits for any construction, other than the complete construction of any principal structure for any use identified as a permitted use in any zone, or any additions thereto, shall expire, terminate, and be canceled by the building inspector, unless the construction, and work authorized thereby, is completed within one hundred eighty (180) consecutive calendar days after the date on which the building permit was issued.
  4. Any dates established hereby for the expiration, termination, and cancellation of any building permit may be extended by the building inspector for any circumstances beyond the control of the person to whom the permit was issued, in which event the permit shall expire, terminate, and be canceled by the building inspector at the end of such extended period of time.
- G. **CONSTRUCTION AND USE:** To be as provided in application, plans, and permits, zoning permits and building permits issued on the basis of plans and applications approved by the Zoning Administrator and/or Building Inspector authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement or construction at variance with that authorized shall be deemed in violation of this ordinance and punishable as provided in Section 16.9 of this ordinance.

**SECTION 16.3 CERTIFICATE OF OCCUPANCY:** It shall be unlawful for an owner to use or permit the use of any structure or land, or part thereof, hereafter created, changed, converted, or enlarged, wholly or partly, until a certificate of occupancy, which shall be a part of the building permit, shall have been issued by the Building Inspector. Such certificate shall show that such structure or land, or part thereof, and the proposed use thereof, are in conformity with the provisions of this ordinance. It shall be the duty of the Building Inspector to issue a certificate of occupancy, provided that he/she has checked and is satisfied that the structure, and the proposed use thereof, conform with all the requirements of this ordinance and the Building Code.

**SECTION 16.4 CERTIFICATE OF OCCUPANCY FOR EXISTING BUILDING:** Upon written request from the fee owner, the building inspector shall issue a certificate of occupancy for any structure or land existing at the time of enactment of this ordinance, certifying, after inspection, the extent and kind of use made of the structure or land, and whether such use conforms with the provisions of

this ordinance.

**SECTION 16.5 CERTIFICATE OF OCCUPANCY FOR LAWFUL NONCONFORMING USES AND STRUCTURES:** A certificate of occupancy shall be required of all lawful nonconforming uses of land or structures created by this ordinance. A fee, as provided for in Section 19.0 of this ordinance, shall be charged for said certificate.

Applications for such certificates of occupancy for nonconforming uses of land and structures shall be filed with the building inspector by the owner or lessee of the land or structure occupied by such nonconforming uses within six (6) consecutive calendar months of the effective date of this ordinance. Failure to apply for such certificate of occupancy will place upon the owner or lessee the entire burden of proof that such use of land or structures lawfully existed on the effective date of this ordinance.

It shall be the duty of the building inspector to issue a certificate of occupancy for lawful nonconforming uses upon application and such certificate shall identify the extent to which the nonconforming use exists at the time of issuance of such certificate.

**SECTION 16.6 DENIAL OF CERTIFICATE OF OCCUPANCY:** Except as herein stated, a certificate of occupancy shall not be issued unless the proposed use of a structure or land conforms to the applicable provisions of this ordinance and to plans for which the building permit was issued.

**SECTION 16.7 CERTIFICATE OF OCCUPANCY RECORDS:** A record of all certificates of occupancy shall be kept on file in the offices of the building inspector and copies shall be furnished, on request, to any person having a proprietary structure affected by such certificate of occupancy.

**SECTION 16.8 COMPLAINTS REGARDING VIOLATIONS:** Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the zoning administrator. The zoning administrator shall maintain a record of such complaints, investigate same, and take action thereon, as provided by this ordinance and in conformity with Kentucky Revised Statutes.

#### **SECTION 16.9 PENALTIES**

- A. Any person or entity who violates any of the provisions of this ordinance, except for Section 16.12 of this ordinance, shall, upon conviction, be fined not less than ten dollars (\$10.00) but no more than five hundred dollars (\$500.00) for each conviction. Each day of violation shall constitute a separate offense.
- B. Any person who intentionally violates any of the provisions of Section 16.12 of this ordinance shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars

(\$500.00).

- C. In addition to any provisions set forth in subsections A. and B. above, the violator of this ordinance shall be assessed as civil penalty any costs attributable to the enforcement of this ordinance by the zoning administrator, including attorney fees, expert witness fees, and court costs.

**SECTION 16.10 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES:** It is the intent of this ordinance that:

- A. 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.
- B. Where technical complexity, non availability of equipment, or extraordinary expense makes it unreasonable, in the opinion of the zoning administrator, for the legislative body to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be established for:
1. Causing corrections in apparent violations of performance standards;
  2. For protecting individuals from arbitrary, capricious and unreasonable administration and enforcement of performance standard regulations; and
  3. For protecting the general public from unnecessary costs for administration and enforcement.
- C. If the zoning administrator finds, after investigations have been made by qualified experts, that there is a violation of the performance standards, shall take, or cause to be taken, lawful action to cause correction to, within limits set by such performance standards.

**SECTION 16.11 DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES:** If, in the judgment of the zoning administrator, there is probable violation of the performance standards as set forth, the following procedures shall be followed:

- A. The zoning administrator shall give written notice, by registered mail, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the zoning administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation, to the satisfaction of the zoning administrator, within thirty (30) consecutive calendar days of receipt of such notification. The

notice shall state that failure to reply or to correct the alleged violation, to the satisfaction of the zoning administrator within thirty (30) consecutive calendar days of receipt of said notice, constitutes admission of violation of the terms of this ordinance.

- B. The notice shall further state that, upon request of those to whom said notice is directed, a technical investigation will be made by a qualified expert or experts and that, if violations as alleged are found, costs of such investigations shall be charged against those responsible for the violations, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the investigation will be paid by the legislative body.
- C. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice, but the alleged violation is corrected to the satisfaction of the zoning administrator, shall note "violation corrected" on his copy of the notice, and shall retain it among his official records, taking such other action as may be warranted.
- D. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice and the alleged violation is not corrected to the satisfaction of the zoning administrator within the established time limit, he/she shall proceed to take, or cause to be taken, such action as is warranted by continuation of a violation after notice to cease.
- E. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the zoning administrator, but requesting additional time, the zoning administrator may grant an extension if he/she deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.
- F. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice requesting technical determination as provided in this ordinance, and if the alleged violations continue, the zoning administrator shall call in properly qualified experts to investigate and determine whether violations exist.

If expert findings indicate violations of the performance standards, the costs of the investigations shall be assessed against the properties or persons responsible for the violations, in addition to such other penalties as may be appropriate under the terms of Section 16.9 of this ordinance.

If no violation is found, the cost of the investigation shall be paid by the legislative body without assessment against the properties or persons involved.

## **SECTION 16.12 FILING OF CERTIFICATE OF LAND USE**

**RESTRICTIONS:** A "Certificate of Land Use Restriction" shall be filed in the office of the county clerk by the planning commission, legislative body, and/or board of adjustment, whichever body(s) impose(s) any land use restrictions according to the provisions of KRS 100.3681 to 100.3684. The actual recording fee, per statute, for recording such filing shall be collected by the body imposing the restriction. This fee shall be paid over to the county clerk. An additional fee, not to exceed the maximum administrative fee, permitted by statute, may be imposed by the body imposing the restriction for costs of completing and filing the certificate.

## **ARTICLE XVII**

### **AMENDMENT PROCEDURE**

#### **SECTION 17.0 AMENDMENT PROCEDURE**

- A. **FILING OF AMENDMENT APPLICATION:** All applications for amendments to this ordinance shall be filed, in writing, with the Zoning Administrator, to be transmitted to the Planning Commission on forms finished by the Zoning Administrator. The fee required for applying for such amendment shall be as provided for in Section 19.0 of this ordinance.
- B. **PLANNING COMMISSION REVIEW REQUIRED:** A proposal for a zoning map amendment to this ordinance may originate with the planning commission, any fiscal court or legislative body, or with an owner of the property in question. A proposal to amend the text of this ordinance may originate with the planning commission or with the legislative body. Regardless of the origin of the proposed amendment, it shall be referred to the Planning Commission for its action before adoption.
- C. **PUBLIC HEARING REQUIRED, NOTICE GIVEN**
1. The Planning Commission shall hold at least one public hearing on the proposed amendment/Stage I Development Plan, at which hearing parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, but may be published two or more times, in a newspaper of general circulation in the county, provided that one publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.
  2. In addition to the public notice requirements prescribed herein, when the planning commission, fiscal court, or legislative body originates a proposal to amend the zoning map, notice of the public hearing before the planning commission, fiscal court, or legislative body shall be given at least thirty (30) days in advance of the hearing, by first class mail, to an owner of every parcel of property, the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner.
- D. **OTHER HEARING REQUIREMENTS, ZONING MAP AMENDMENT/STAGE I DEVELOPMENT PLAN:** In addition to the public hearing notice required in Section 17.0, C. of this ordinance, the following notices shall also be given when

a proposal is submitted by a property owner to amend the official zoning map or when a Stage I Development Plan is proposed:

1. Notice of the hearing shall be posted conspicuously on the property, the classification of which is proposed to be changed, for fourteen (14) consecutive days immediately prior to the hearing. Said posting shall consist of one or more signs, constructed of durable material, and clearly depicting the following information: the words "ZONE CHANGE" (three (3) inch high lettering); current zoning classification of property and proposed zoning classification (three (3) inch high lettering); date, place, and time of public hearing (one (1) inch high lettering); and address, including telephone number where additional information regarding hearing may be obtained; and
2. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, with certification by the commission secretary, or other officer of the planning commission, 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 said property adjoins a street or alley, property abutting the opposite side of such street or alley shall be considered adjoining property. It shall be the duty of the person(s) proposing the amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. 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 shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.
3. If the property, the classification of which is proposed to be changed or is the area of the Stage I Development Plan, adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, to certain officials, as follows:
  - a. If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or
  - b. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

4. All procedures for public notice and publication, as well as for adoption, shall be the same as for the original enactment of a zoning regulation, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.
- E. FINDINGS NECESSARY FOR MAP AMENDMENT: Before any map amendment is granted, the Planning Commission, or legislative body, must find that the amendment is in agreement with the adopted Comprehensive Plan, or in the absence of such a finding, that one or more of the following apply, including the making of a written report, setting forth explicitly, the reasons and substantiation as to how each would apply, and such finding and report shall be recorded in the minutes and records of the Planning Commission or legislative body.
1. That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and
  2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and which have substantially altered the basic character of such area.
- F. MINIMUM SIZE OF NEW ZONES: No amendment to this ordinance shall be adopted whereby the zoning classification of an area is changed unless the total area being applied for meets the following requirements as to minimum size: the zoning map shall not be amended, changed, or modified in such a manner as to create a free standing zone of less than five (5) acres, except where such area is specifically referred to in the adopted comprehensive plan. For the purpose of computing the total size of an area to be rezoned for compliance herewith, there shall be added to such area: (1) the area of public rights-of-way interior to the area being changed; (2) one-half the area of public rights-of-way abutting the area being changed; and (3) the area of any land which is contiguous to the area being changed (including land located outside the city but contiguous to the city's corporation line) and which land already bears the zoning classification sought for the area being changed. For the purpose of this section of this ordinance, neither continuity nor abutment shall be destroyed by the existence of a street, alley, or city's corporation line.

## G. PLANNING COMMISSION ACTION

1. MAP AMENDMENT: Following the public hearing held by the planning commission on a proposed map amendment, the commission shall, within sixty (60) calendar days from the date of its receipt, make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the legislative body, including a statement setting forth explicitly the reasons and substantiation for such action and, in the case of a map amendment, the submission of a written report as required in Section 17.0, E. of this ordinance. The findings of fact and recommendation shall include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment. A tie vote shall be subject to further consideration by the planning commission for a period not to exceed thirty (30) days, at the end of which, if the tie has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval.
2. TEXT AMENDMENT: Following the public hearing held by the planning commission on a proposed text amendment, the commission shall make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed text amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed text amendment.

## H. LEGISLATIVE BODY DISPOSITION

1. MAP AMENDMENT: The legislative body or fiscal court shall take final action upon a proposed map amendment within ninety (90) days of the date upon which the planning commission takes its final action upon such proposal. 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 legislative body or fiscal court 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 legislative body or fiscal court adopting the zoning map amendment shall be deemed to have passed by operation of law.

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2. TEXT AMENDMENT: It shall take an affirmative vote of a majority of the legislative body or fiscal court to adopt a proposed text amendment.
- I. SUBMISSION OF DEVELOPMENT PLAN AS CONDITION TO COMMERCIAL, MULTI-FAMILY RESIDENTIAL, OR INDUSTRIAL ZONING MAP AMENDMENT: Any request for a zoning map amendment, excluding those submitted by the legislative body (other than for a zone change for land under city ownership that the city intends to develop) and the Planning Commission, to any commercial zone, multi-family residential zone, or industrial zone shall be made in accordance with all applicable requirements of this ordinance, including the following:
    1. APPLICATION AND PROCESSING: Application for a zoning map amendment shall be processed in two stages:
      - a. In addition to the amendment application filing requirements, as provided for in Section 17.0, A. of this ordinance, an application for a zoning map amendment shall also be filed with the zoning administrator and shall include a Development Plan indicating the applicable requirements of Section 9.18, A. of this ordinance. The zoning administrator may waive the submission of such data involving detailed engineering study until such time as the zoning amendment has been granted.
      - b. The Planning Commission shall hold a public hearing on the proposed application and review said application with regard to the required elements of the development plan, and other applicable requirements of this ordinance. Upon holding such a hearing, the Planning Commission shall make one of the following recommendations to the legislative body: approval, approval with condition(s), or disapproval. The Planning Commission shall submit, along with their recommendations, a copy of the development plan and the bases for their recommendation.
      - c. 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 the proposed development plan. Such approval 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 said conditions shall be resubmitted to the Planning Commission for further review and recommendations in accordance with the process required for the initial review.

Approval of the zoning map amendment shall require that development be in accordance with the approved development plan. Additionally, upon approval of the zoning map amendment, the official zoning map shall be amended for the area shown on the approved development plan.

- d. The legislative body shall forward a copy of the approved Stage I Development Plan to the Zoning Administrator, or the city's duly authorized representative, for further processing, in accordance with the applicable requirements of this ordinance.
- e. If the detailed engineering data required under Section 9.18, A. of this ordinance had been waived by the zoning administrator in the initial submission of the Stage I Development Plan, then such data shall be submitted for review in accordance with the requirement of Section 9.17 of this ordinance before a permit may be issued for construction.

The planning commission, or its duly authorized representative, in reviewing the Stage II Development Plan, may authorize minor adjustments from the approved Stage I Development Plan, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and/or pedestrian), decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

- 2. **AMENDMENTS:** Any amendments to plans, except for the minor adjustments which may be permitted by the planning commission, or its duly authorized representative, as noted above, shall be made in accordance with the procedure required by this ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.
- 3. **EXPIRATION:** The zoning map amendment 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 zoning map amendment should revert to its original designation. A public hearing may be initiated if substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage I Development Plan by the legislative body, 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 I Development Plan obsolete. The amount of construction that constitutes initiating substantial construction shall be as approved in the Stage I Development Plan.

J. PLANNING COMMISSION - TO HEAR AND DECIDE APPLICATIONS FOR VARIANCES AND CONDITIONAL USE PERMITS AS PART OF A MAP AMENDMENT APPLICATION

1. In accordance with KRS 100.203, an applicant, at the time of filing of the application for a map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustment as otherwise provided for in this ordinance.
2. Application to review a variance and conditional use permit shall include submission of a development plan, in accordance with the applicable requirements of Section 9.18, A., of this ordinance. In review and approval of said application, the planning commission shall assume all powers and duties otherwise exercised by the board of adjustment, pursuant to KRS 100.231, 100.233, 100.241, 100.247, and 100.251.
3. Any judicial proceedings to appeal the planning commission's actions in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2).

## ARTICLE XVIII

### BOARD OF ADJUSTMENT

#### **SECTION 18.0 ESTABLISHMENT OF BOARD OF ADJUSTMENT; MEMBERSHIP; APPOINTMENT; TERMS; VACANCIES; OATHS; COMPENSATION; REMOVAL; OFFICERS**

- A. A Board of Adjustment is hereby established.
- B. The Board of Adjustment shall consist of five (5) members, all of whom must be citizen members and not more than two (2) of whom may be citizen members of the Planning Commission.
- C. The mayor shall be the appointing authority of members to the Board of Adjustment, subject to the approval of the legislative body.
- D. The term of office for the Board of Adjustment members shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years, respectively.
- E. Vacancies on the Board of Adjustment shall be filled within sixty (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.
- F. All members of the Board of Adjustment shall, before entering upon 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, within the district or county in which they reside.
- G. Reimbursement for expenses or compensation or both may be authorized for members on the Board of Adjustment.
- H. 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, in 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 shall have the right of appeal from the removal to the circuit court of the county in which he/she resides.

- I. The Board of Adjustment shall elect annually a chairman, vice-chairman, and secretary, and any other officers it deems necessary, and any officer shall be eligible for re-election at the expiration of their term.

**SECTION 18.1 MEETINGS OF BOARD; QUORUM; MINUTES; BY-LAWS; FINANCES; SUBPOENA POWER; ADMINISTRATION OF OATHS**

- A. The Board of Adjustment shall conduct meetings at the call of the chairman, who shall give written or oral notice to all members of the board at least seven (7) 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. Written notice of the meeting containing date, time, and place of the meeting, shall also be provided to the applicant, by first class mail, at least seven (7) days prior to the meeting.
- B. A simple majority of the total membership of the Board of Adjustment, as established by regulation or agreement, shall constitute a quorum. 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 from voting on the question.
- C. 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.
- D. The Board of Adjustment shall 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.
- E. The Board of Adjustment shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.
- F. The chairman of the Board of Adjustment shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.
- G. The board of adjustment may appoint one (1) 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 based upon a transcript or record of the hearing.

**SECTION 18.2 PROCEDURE FOR ALL APPEALS TO BOARD:** 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. A fee, as required by Section 19.0 of this ordinance, shall also be given to the Zoning Administrator at this time. Said Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon 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 appearance, and all shall be given an opportunity to be heard.

The Board of Adjustment shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least one (1) calendar week prior to the hearing, and shall decide on the appeal within sixty (60) consecutive calendar days. The affected party may appear at the hearing in person or by attorney.

**SECTION 18.3 APPEALS FROM PLANNING COMMISSION, BOARD OF ADJUSTMENT, OR LEGISLATIVE BODY:** Any appeal from the Planning Commission, Board of Adjustment, or legislative body action may be taken in the following manner:

- A. Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the circuit court of the county in which the property, which is the subject of the commission's action, lies. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. Provided, however, any appeal of a planning commission action granting or denying a variance or conditional use permit, as provided for in Section 17.0, J. of this ordinance, shall be taken pursuant to this subsection. In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the circuit court.
- B. 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 thirty (30) consecutive

calendar days after the final action of the board of adjustment. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The board of adjustment shall be a party in any such appeal filed in the circuit court.

- C. Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of any city, county, or urban-county government, relating to a map or text amendment, shall appeal from the action to the circuit court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the circuit court.
- D. The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.
- E. For purposes of this ordinance, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

**SECTION 18.4 STAY OF PROCEEDINGS:** An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken, certifies to the Board of Adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and/or property. In such case, proceedings shall not be stayed other than by a court of record on application, or on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

**SECTION 18.5 POWERS OF BOARD OF ADJUSTMENT:** The Board of Adjustment shall have the following powers:

- A. To hear and decide on applications for variances.
- B. 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 the Zoning Administrator in the enforcement of this Ordinance. Such appeal shall be taken within thirty (30) consecutive calendar days.
- C. To hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein, which may be suitable only in specific locations in the zone only if certain conditions are met, as specified in Section 9.12 of this ordinance.

- D. To hear and decide, in accordance with the provisions of this ordinance, requests for interpretation of the official zoning map or for decisions upon other special questions upon which said board is authorized to act upon.
- E. To hear and decide, in accordance with the provisions of this ordinance and the adopted comprehensive plan, requests for the change from one nonconforming use to another.

## **SECTION 18.6 VARIANCES; CHANGE FROM ONE NONCONFORMING USE TO ANOTHER; CONDITIONS GOVERNING APPLICATIONS; PROCEDURES**

### **A. VARIANCES**

- 1. A variance shall not be granted by the board of adjustment unless and until:
  - a. A written application for a variance (including the required fee per Section 19.0 of this ordinance) and a Development Plan, subject to the applicable requirements of Section 9.17 of this ordinance, are submitted.
  - b. Notice of public hearing shall be given in accordance with Section 18.1 of this ordinance.
  - c. The public hearing shall be held. Any person may appear in person, or by agent, or by attorney.
  - d. Prior to granting a variance:
    - (1) The board of adjustment shall make findings that the requirements of this section of this ordinance have been met by the applicant for a variance.
    - (2) The board of adjustment shall further make a finding that reasons set forth in the application justify the granting of a variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - e. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under

Section 16.9 of this ordinance.

2. Before any variance is granted, the board of adjustment must 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.
  3. 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.
- B. VARIANCE CANNOT CONTRADICT ZONING REGULATION: The board of adjustment shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by this ordinance in the zone in question, or to alter the density of dwelling unit requirements in the zone in question.
- C. VARIANCE RUNS WITH LAND: 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.
- D. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: A nonconforming use shall not be changed to another nonconforming use without the specific approval of the board of adjustment, as provided for herein.
1. The board of adjustment shall have the power to hear and decide on applications to convert or change nonconforming use to another nonconforming use, subject to the following:

- a. A written application for a change from one nonconforming use to another (including the required fee as per Section 19.0 of this ordinance) and a Development Plan, if applicable, subject to the applicable requirements of Section 9.17 of this ordinance, shall be submitted to the board.
- b. Notice of public hearing shall be given in accordance with Section 18.1 of this ordinance
- c. The public hearing shall be held. Any person may appear in person, by agent, or by attorney
- d. Prior to granting a change from one nonconforming use to another, the board of adjustment shall find that the new nonconforming use is in the same or more restrictive classification of use as the prior nonconforming use. In the determination of the same or more restrictive classification of use, the applicant shall establish and the board of adjustment shall find:
  - (1) That the new nonconforming use shall generate less vehicular traffic (automobile and truck) than the prior nonconforming use; and
  - (2) That the new nonconforming use is of a nature which will emit less noise and air pollution than the prior nonconforming use; and
  - (3) That the new nonconforming use will be more in character with the existing neighborhood than the prior nonconforming use, in that it is more in conformance with the adopted comprehensive plan, and also, more in conformance with the uses permitted in the zone in which the use is located, than the prior nonconforming use.
- e. Any change of nonconforming use granted by the board of adjustment shall conform to the requirements of this ordinance, including, but not limited to, parking requirements, sign regulations and yard requirements, and all other pertinent ordinances of the legislative body.
- f. The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at which time its use became nonconforming.
- g. The board of adjustment, in granting a change of nonconforming

uses, may attach such conditions thereto as it may deem necessary and proper. The action, limitations, and conditions imposed, if any, shall be in writing, directed to the applicant, with a copy to be furnished to the zoning administrator.

- h. The change of 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.
- i. In the case where the change of nonconforming use has not occurred within one (1) year after the date of granting thereof, the change of nonconforming use permit shall be null and void and reapplication to the board of adjustment shall have to be made.

**SECTION 18.7 CONDITIONAL USE PERMITS:** Conditional use permits shall not be issued without the specific approval of the Board of Adjustment, as provided for herein.

- A. The Board of Adjustment shall have the power to hear and decide on applications for conditional use permits, subject to the following:
  - 1. A written application for a conditional use permit (including the required fee, per Section 19.0 of this ordinance) and a development plan subject to the applicable requirements of Section 9.17 of this ordinance, shall be submitted to the Board;
  - 2. Notice of public hearing shall be given in accordance with Sections 9.12 and 18.1 of this ordinance;
  - 3. The public hearing shall be held. Any person may appear in person, or by agent, or by attorney; and
  - 4. Prior to granting a conditional use permit, the Board of Adjustment shall find that the application for a conditional use permit meets the requirements of this ordinance and Section 9.12 of this ordinance.
  - 5. **CRITERIA:** Evaluation of the proposed conditional use and/or development plan shall be based upon the following criteria:
    - a. Agreement with the various elements of the Comprehensive Plan, and where applicable, any other adopted plan.
    - b. Extent to which the proposed development plan is consistent with the purpose of the zoning district in which it is proposed to be located.

- 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 and adjacent buildings.
- h. Heights of structures should be compatible with the height of existing structures adjacent to the site.
- i. 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.
- j. Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.
- k. Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.
- l. 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.
- m. Open spaces and landscaping along the perimeter of the site shall be compatible with adjoining uses and zones.
- n. 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.

## **SECTION 18.8 DECISIONS OF THE BOARD OF ADJUSTMENT**

- A. In exercising the aforementioned powers, the Board of Adjustment may, so long as such action is in conformity with the provisions of this 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.

- B. A majority of Board of Adjustment members present and voting shall 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 ordinance; or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.
- C. The details of the decision of the Board shall be forwarded to the Zoning Administrator.

## **ARTICLE XIX**

### **SCHEDULE OF FEES**

**SECTION 19.0:** Fees shall be as provided by separate ordinance of the legislative body.

## **APPENDIX A**

### **SPECIFICATIONS FOR PAVING OF OFF-STREET PARKING AND LOADING AND/OR UNLOADING AREAS**

All new off-street parking facilities shall be paved with asphalt or portland cement concrete and shall be designed and constructed in accordance with the standards and procedures established and identified in Appendices A, B, and C of the Cold Spring Subdivision Regulations.

## **APPENDIX B**

### **ZONES AS REGULATED BY THE CAMPBELL COUNTY FISCAL COURT**

#### **SECTION 10.2 R-RE RESIDENTIAL RURAL ESTATE ZONE**

##### **A. USES PERMITTED**

1. Single-family dwellings

##### **B. ACCESSORY USES**

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article XIII of this ordinance
3. Home occupations, subject to the restrictions and limitations established in Section 9.11 of this ordinance
4. Signs, as regulated by Article XIV of this ordinance
5. Living quarters for domestic servants, if attached to the main structure
6. The keeping of not more than two (2) roomers or boarders
7. Privately owned swimming pools
8. Public utility stations, after approval of the commission

##### **C. CONDITIONAL USES: No Building or occupancy permit shall be issued for any of the following uses or any customary accessory buildings and uses be permitted until and unless the location of said use shall have been applied for and approved of by Board of Adjustment, as set forth in Section 9.14.**

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Institutions for higher education, providing they are located adjacent to an arterial street
4. Institutions for human medical care - hospitals, clinic sanitariums, convalescent home, nursing homes, and homes for the aged, providing they are located on arterial streets
5. Nursery schools
6. Police and fire stations, provided they are located adjacent to an arterial street
7. Public and parochial schools
8. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools, riding stables, saddle clubs, and libraries

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9. Recreational uses, other than those publicly owned and/or operated as follows:
- a. golf courses
  - b. country clubs
  - c. semi-public swimming pools
  - d. tennis courts/clubs
  - e. fishing lakes and clubs
  - f. gun clubs and ranges
  - g. riding stables and saddle clubs
- D. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES: No building shall be erected or structurally altered hereafter except in accordance with the following regulations:
- 1. Minimum Lot Area - One (1) acre
  - 2. Minimum Lot Width - One hundred (100) feet
  - 3. Minimum Front Yard Depth - Fifty (50) feet
  - 4. Minimum Side Yard Width On Each Side Of Lot - Total: Twenty-eight (28) feet; One Side: Ten (10) feet
  - 5. Minimum Rear Yard Depth - Twenty-five (25) feet
  - 6. Maximum Building Height - Thirty-five (35) feet
- E. OTHER DEVELOPMENT CONTROLS
- 1. Off-street parking and loading and unloading shall be provided in accordance with Articles XI and XII of this ordinance.
  - 2. No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right-of-way, or into any residential zone.
  - 3. All buildings for the storage of animals and/or manure shall be located a minimum of two hundred (200) feet from all front, side, and rear property lines.

**SECTION 10.3 R-1A RESIDENTIAL ONE - A ZONE****A. PERMITTED USES**

1. Single - family dwellings

**B. ACCESSORY USES**

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article XIII
3. Signs, as regulated by Article XIV
4. Home occupations, subject to the restrictions and limitations established in Section 9.11 of this ordinance
5. Public utility stations, after the approval of the commission

**C. CONDITIONAL USES:** No Building or occupancy permit shall be issued for any of the following uses or any customary accessory buildings and uses be permitted until and unless the location of said use shall have been applied for and approved of by Board of Adjustment, as set forth in Section 9.14.

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
5. Nursery schools
6. Public and parochial schools
7. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries
8. Recreational uses other than those publicly owned and/or operated, as follows:
  - a. Golf courses
  - b. Country clubs
  - c. Semi - public swimming pools

**D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:** No buildings shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum Lot Area - One (1) acre
2. Minimum Lot Width - One hundred (100) feet.
3. Minimum Front Yard Depth - Fifty (50) feet
4. Minimum Side Yard Width On Each Side Of Lot - 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

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum Lot Area - One (1) acre
2. Minimum Lot Width - One hundred (100) feet.
3. Minimum Front Yard Depth - Fifty (50) feet
4. Minimum Side And Rear Yard Depths - Twenty - five (25) feet
5. 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 Articles XI and XII.
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, road, or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single - family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance shall be required.

**SECTION 10.5 R-1C RESIDENTIAL ONE - C ZONE****A. PERMITTED USES**

1. Single - family dwellings, with a central sewage system, in the county; or within the city limits

**B. ACCESSORY USES**

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article XIII
3. Signs, as regulated by Article XIV of this ordinance
4. Home occupations, subject to the restrictions and limitations established in Section 9.11 of this ordinance
5. Public utility stations, after the approval of the commission

**C. CONDITIONAL USES:** No Building or occupancy permit shall be issued for any of the following uses or any customary accessory buildings and uses be permitted until and unless the location of said use shall have been applied for and approved of by Board of Adjustment, as set forth in Section 9.14.

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations
4. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
5. Nursery schools
6. Public and parochial schools
7. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries
8. Recreational uses other than those publicly owned and/or operated, as follows:
  - a. Golf courses
  - b. Country clubs
  - c. Semi-public swimming pools

**D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:** No buildings shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum Lot Area - Twelve thousand five hundred (12,500) square feet
2. Minimum Lot Width - Seventy (70) feet
3. Minimum Front Yard Depth - Thirty-five (35) feet
4. Minimum Side Yard Width On Each Side Of Lot - 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

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum Lot Area - Twenty - two thousand five hundred (22,500) square feet
2. Minimum Lot Width - One hundred (100) feet
3. Minimum Front Yard Depth - Fifty (50) feet
4. Minimum Side And Rear Yard Depths 0 Twenty-five (25) feet
5. 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 Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

**SECTION 10.6 R-1CC (RESIDENTIAL ONE-CC) ZONE:****A. PERMITTED USES:**

1. Single-family residential dwellings (detached).
2. Two-Family residential dwellings.

**B. ACCESSORY USES:**

1. Customary accessory buildings and uses.
2. Fences and walls, as regulated by Article XIII of this ordinance.
3. Signs, as regulated by Article XIV of this ordinance.
4. Home occupations, subject to the restrictions and limitations established in Section 9.11 of this ordinance.

**C. CONDITIONAL USES:** The following uses or any customary accessory buildings or uses subject to the approval of the Board of Adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance:

1. Cemeteries
2. Churches and other accessory buildings for the purpose of recognized religious worship providing they are located adjacent to an arterial or collector or local street.
3. Fire and police stations, providing they are located adjacent to an arterial street.
4. Governmental offices.
5. Institutions for higher education, providing they are located adjacent to an arterial street.
6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street.
7. Nursery schools
8. Public and parochial schools
9. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries.
10. Recreational uses other than those publicly owned and/or operated, as follows:
  - a. Golf courses
  - b. Country clubs
  - c. Swimming pools
11. Funeral homes, provided they are located adjacent to an arterial street.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

1. Minimum Lot Area
  - a. Single Family - Twelve thousand five hundred (12,500) square feet
  - b. Two-Family - Eighteen thousand seven hundred fifty (18,750) square feet
2. Minimum Lot Width at Building Setback Line
  - a. Single Family - Seventy (70) feet
  - b. Two-Family - Eighty (80) feet
3. Minimum Front Yard Depth - Thirty-five (35) feet
4. Minimum Side Yard Width
  - a. Total - 20 feet
  - b. One Side - 7 feet
5. Minimum Rear Yard Depth - Twenty-five (25) feet
6. Maximum Building Height - Thirty-five (35) feet

E. 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 (on each side of lot) and Yard Depths - Fifty (50) feet
4. 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 Articles XI and XII.
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 adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.

**SECTION 10.12 R-3 RESIDENTIAL THREE ZONE:****A. USES PERMITTED:**

1. Multi-family dwellings.
2. Two family dwellings.

**B. ACCESSORY USES:**

1. Customary accessory buildings and uses.
2. Fences and walls as regulated by Article XIII of this Ordinance.
3. Signs as regulated by Article XIV of this Ordinance.
4. Public Utility Stations, after the approval of the Commission.

**C. CONDITIONAL USES:** No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of said use shall have been applied for and approved of by the Board of Adjustment as set forth in Section 9.14 of this ordinance.

1. Cemeteries.
2. Churches and other accessory buildings for the purpose of recognized religious worship providing they are located adjacent to an arterial or collector or local street.
3. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged providing they are located adjacent to an arterial street.
4. Nursery school.
5. Public and parochial schools.
6. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools, and libraries.
7. Recreational uses other than those publicly owned and/or operated as follows:
  - a. golf courses
  - b. country clubs
  - c. semi-public swimming pools
8. Police and Fire Stations.
9. Clubs, fraternities, and sororities.

**D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:** No buildings shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum Lot Area
  - a. Two-Family - Twenty two thousand (22,000) square feet; two thousand (2,000) square feet for each additional dwelling unit
  - b. Multi-Family - Twenty two thousand five hundred (22,500) square feet for the first four (4) dwelling units; two thousand (2,000) square feet for each additional dwelling unit
2. Minimum Lot Width - One hundred (100) feet
3. Minimum Front Yard Depth - Forty (40) feet
4. Minimum Side Yard Width - Ten (10) feet
5. Minimum Rear Yard Depth - Thirty (30) feet
6. Maximum Building Height - Forty (40) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum Lot Area - Twenty two thousand five hundred (22,500) square feet
2. Minimum Lot Width - One hundred (100) feet
3. Minimum Front Yard Depth - Fifty (50) feet
4. Minimum Side Yard Width - Twenty-five (25) feet
5. Minimum Rear Yard Depth - Twenty-five (25) feet
6. Maximum Building Height - Same as for a conforming lot

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XI and XII 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, road, highway, deeded right-of-way or into any adjacent property.
4. Where any yard of any use permitted in this zone abuts property in a single family zone, a ten (10) foot wide screening area as regulated by Section 9.17 of this Ordinance shall be required.
5. A site plan, as regulated by Section 9.19 of this Ordinance, shall be required for any use permitted in this zone, except when development is proposed under the Planned Unit Development regulations as regulated by Section 9.19 of this Ordinance.

**SECTION 10.18 HC HIGHWAY COMMERCIAL ZONE****A. USES PERMITTED:** The following retail sales and service businesses:

1. Automobile, motorcycle, and truck sales, new or used
2. Automotive service and repairs, providing that all business activities shall be conducted within a completely enclosed building
3. Banks and other financial institutions including savings, loan, and finance companies, with drive-in windows
4. Boat and other marine equipment sales and service, new and used
5. Bowling alleys
6. Car wash
7. Eating and drinking places, including drive-ins
8. Flea market
9. Floor covering warehouse and retail sales
10. Food stores/retail sales
11. Hotels and motels
12. Kennels
13. Mobile home and trailer sales, rental and service (new and used)
14. Off-street parking lots and garages
15. Police and fire stations
16. Service station
17. Skating rinks, golf driving ranges, miniature and par-3 golf courses
18. Single and two-family residential uses, provided that such uses occupy the second or third floor or attached to the rear of a commercial use. In the case of this use, more than one principal use may be constructed on one lot
18. Theater, drive-in
19. Veterinary clinics and animal hospitals

**B. ACCESSORY USES**

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV of this ordinance
4. Swimming pools, indoor and outdoor, in connection with motel or hotels
5. Uses as listed below, included within and entered from within, any motel or hotel building, 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

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

1. Minimum Lot Area - One (1) acre
2. Minimum Lot Width - One hundred (100) feet
3. Minimum Front Yard Depth - Fifty (50) feet
4. Minimum Side Yard Width On Each Side Of Lot - 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. 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 - Twenty-five (25) feet
6. Maximum Building Height - Forty (40) feet

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII 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, road, highway, deeded right-of-way, or into any adjacent property.
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by section 9.17 of this ordinance.
5. A site plan, as regulated by Section 9.19 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 five hundred (500) feet from the boundary of any residential zone.
7. 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 or the 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.

## APPENDIX C

### SUMMARY OF AMENDMENTS

<u>ORDINANCE NUMBER</u>	<u>PAGES AFFECTED</u>	<u>DATE OF APPROVAL</u>
96-696	Entire Text	12/17/96
97-698	Table Of Contents, 10-35 through 10-52	4/15/97
97-700	9-5 through 9-22, 10-31 through 10-34	5/20/97
97-708	10-1 through 10-52	1/29/98
98-710	9-31 through 9-47, 14-1 through 14-18	3/17/98
98-718	10-50, 10-51, 10-52, 15-1 through 15-5	5/19/98
98-719	11-1 through 11-22, 14-1 through 14-18	5/19/98
00-742	Table of Contents, Article VIII, Article X, Article XIV	4/19/00
00-745	Article X	5/17/00
00-749	Table of Contents, Article VII, Article IX	6/21/00
00-759	10-35, 10-36, 10-37	9/20/00
01-777	Table of Contents, Article VII, Article X, Article XI	9/19/01
01-783	Article X	12/5/01
01-784	Article XI	1/2/02
03-800	Table of Contents, Article XI	2/24/03
03-801	Article X	3/24/03
03-808	Article X	6/2/03
03-813	Table of Contents, Article XX	7/28/03
03-815	Article XVII	8/25/03
03-821	Appendix B	10/27/03
03-825	Article VII	12/22/03
03-826	Table of Contents, Article VII, Article IX, Article X	12/22/03
04-841	Article X	7/12/04
04-848	Article X	10/25/04
05-855	Table of Contents, Article XIV	3/28/05
05-860	Article X	4/25/05
05-889	Appendix B	12/12/05
06-912	Appendix B	9/11/06
06-915	Article X	7/24/06
07-930	Table of Contents, Article IX	9/24/07
07-934	Article X	10/22/07
07-935	Table of Contents, Article XI	10/24/07