

ARTICLE IX

GENERAL REGULATIONS

SECTION 9.0 PURPOSE: General regulations shall apply to all districts.

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 Section 18.5 of this ordinance.

SECTION 9.2 INTERFERENCE WITH TRAFFIC SIGNALS: 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 signals of any kind.

SECTION 9.3 VISION CLEARANCE AT CORNERS, CURB CUTS, AND RAILROAD CROSSINGS: No type of structure, vehicle, tree, planting, vegetation, sign, or 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 for each street, in accordance with the provisions of this ordinance.

SECTION 9.5 UTILITIES LOCATION: Electrical transformer stations, gas regulator stations, sewage and water treatment plants, pumping stations, standpipes for public water supply, and other similar utility uses, may be located in any zone subject to the approval of the board of adjustment, as set forth in Section 9.14 of this ordinance. The location of such facilities shall be in accordance with Kentucky Revised Statutes, and all other pertinent regulations, and the following requirements:

- A. Such facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the element is a part.

- B. A building or structure, except an enclosing fence, shall be set back at least fifty (50) feet from any property line.
- C. Such facilities shall be enclosed by a protective fence as regulated by Article XIII.
- D. Open spaces on the premises shall be suitably landscaped and maintained and a screening area according to Section 9.17 of this ordinance may be required in and along any yard.
- E. The storage of vehicles and equipment on the premises, unless enclosed or screened, shall be prohibited.
- F. The surrounding area shall not be adversely affected by, and shall be protected from, noise, odor, glare, dust, gas, smoke, and vibration, by such suitable means and conditions as the board of adjustment may specify.

SECTION 9.6 RAILROAD RIGHTS-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 of this ordinance providing said railroad rights-of-way meet the requirements of those sections of the Kentucky Revised Statutes and other pertinent state regulations.

SECTION 9.7 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, etc. without first insuring that all requirements of the Subdivision Regulations of the legislative body, if applicable, have been fulfilled and then obtaining a permit from the building inspector.
- B. The building inspector 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 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: Erosion and sedimentation 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 shall 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 run-off 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 shall be retained and protected.

SECTION 9.8 LANDSCAPING AND UNSIGHTLY OR UNSANITARY STORAGE: No rubbish, salvage materials, junk, or miscellaneous refuse shall be openly stored or kept in the open, and weeds shall not be allowed to go uncut within any zones, 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. Salvage and junkyards shall be adequately enclosed with a solid fence or wall, as regulated by Article XIII, and an approved permanent planting screen may be required as regulated by Section 9.17 of this ordinance.

SECTION 9.9 JUNKYARD LOCATION: No person shall operate any junkyard which is situated closer than two thousand (2,000) feet from the centerline of any county, state, federal, or limited access highway or turnpike, including bridges and bridge approaches, unless a permit for such operation shall have been obtained from the Kentucky Department of Transportation, Bureau of Highways, in accordance with

KRS 177.905 to 177.950.

SECTION 9.10 APPLICATION OF ZONING REGULATIONS

- A. Except as herein provided, no part of any yard, or other open space, or off-street parking or loading and/or unloading space about or in connection with any building, structure, or use permitted by this ordinance shall be considered to be part of a required yard, or other open space, or off-street parking or loading and/or unloading space for any other building, structure, or use.
- 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 building and permitted accessory structure on one (1) lot, nor shall any building be erected on any lot which does not abut a public right-of-way.
- C. Except as herein provided, accessory structures and uses shall not be permitted within any required minimum front yard or side yard (on each side of the lot) in any zone. Accessory structures and uses may be permitted to extend into the minimum rear yard areas, as defined herein, in all zones, provided that such structures are set back from the rear lot line a minimum of ten (10) feet, and required minimum side yard clearances are maintained. Location of off-street parking, loading and/or unloading areas, fences, and signs, are governed by their respective sections, as provided 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, providing they are not closer than two (2) feet to the property line to which they run approximately parallel to; steps, four (4) feet or less above grade, projecting not more than four (4) feet into the minimum required yards which are necessary for access to a lot from a street or alley; fire escapes and chimneys, projecting not more than eighteen (18) inches into the minimum required yards; arbors and trellises; flag poles; bird baths; trees; plants; shrubberies; ornaments; utility poles and wires; and outdoor furniture; fences and walls, subject to the requirements in Article XIII; and off-street parking as provided for in Article XI of this ordinance.
 - 2. In Minimum Front Yard Depths - Bay windows, projecting three (3) feet or less into the minimum required yard; overhanging eaves and gutters, projecting not more than three (3) feet into the minimum required front yard; air conditioning equipment; and awnings and canopies, extending

not more than four (4) feet into the minimum required front yard.

3. In Minimum Rear Yard Depths - Bay windows, overhanging eaves and gutters, and air conditioning equipment, projecting not more than three (3) feet into the minimum required rear yard; awning and canopies, provided they not extend more than ten (10) feet into the minimum required rear yards.
4. In Minimum Side Yard Width - Air conditioning equipment, excluding compressor for central air conditioning unit; and overhanging eaves and gutters, projecting not more than eighteen (18) inches into the minimum required side yard; awning and canopies, providing that they extend not more than two (2) feet into the minimum required side yard.

SECTION 9.11 SPECIAL REQUIREMENTS GOVERNING HOME OCCUPATIONS: Home occupations shall include the use of the premises 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 in other than that location). The following requirements shall apply to home occupations when permitted herein:

- A. No persons other than members of the family residing in 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 building or premises, or other visible evidence of the conduct of such home occupation, such as utilization of trucks, that will indicate from the exterior that the building 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 building, 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 a residential neighborhood.
- 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 9.12 NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE, AND NONCONFORMING SIGNS

A. NONCONFORMING LOTS OF RECORD:

- 1. Any lot of record which does not meet the requirements of this ordinance shall be considered a nonconforming lot of record.
- 2. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership 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 requirements for lot width and area, as established by this ordinance, the lands 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 lot width and 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 single nonconforming lot of record exists having a lot area 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 right-of-ways, 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 dimensional variance from any minimum yard, setback, etc., is necessary to develop on said lot, an application for dimensional variance shall be submitted for review and approval by 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 -- it shall become a legal nonconforming use. However, no nonconforming use or structure may be enlarged or extended beyond its area of use at the time it becomes a legal nonconforming use, unless and until the use is brought into conformance with all provisions of this ordinance.
2. **CHANGE FROM ONE NONCONFORMING USE TO ANOTHER:** As regulated by Article XVIII, 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 twelve (12) 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 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 and a determination is made by the board of adjustment that this structure should not be reconstructed.
 - 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 and a determination is made by the board of adjustment that this structure should not be reconstructed.

- d. Whenever said nonconforming use is determined to be detrimental or injurious to the public health, safety, or general welfare.
- 4. ZONE CHANGE: The foregoing provisions shall apply to uses which become legally nonconforming due to zone changes which take place thereafter.

C. NONCONFORMING STRUCTURES

- 1. CONTINUANCE: Except as herein provided, any lawful nonconforming structure, existing at the time of adoption of this ordinance, 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 operate a 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 and a determination is made by the board of adjustment that the structure should not be reconstructed.
 - 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 and a determination is made by the board of adjustment that the structure should not be reconstructed.
 - c. Whenever said nonconforming structure is determined to be detrimental or injurious to the public health, safety, or general welfare.

3. ZONE CHANGE: The foregoing provisions shall apply to structures which become legally nonconforming due to zone changes which take place thereafter.
- D. REPAIRS AND MAINTENANCE: On any building 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 building, 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 Section 9.12, B., 3., b., or 9.12, C., 2., b.

E. NONCONFORMING SIGNS

1. CONTINUANCE: Except as herein provided, any lawful nonconforming sign, existing at the time of adoption of this ordinance, may be continued provided, however, that no such sign shall be changed in any manner unless it is changed in compliance with all 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 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 twelve (12) consecutive months.
3. ZONE CHANGE: The foregoing provisions shall also apply to signs which become legally nonconforming due to zone changes which take place thereafter.

SECTION 9.13 EXCEPTIONS AND MODIFICATIONS**A. EXCEPTIONS TO HEIGHT LIMITS**

1. The height limitations of this ordinance shall not apply to such things as church spires, various types of towers, smoke stacks, other related structures, and necessary mechanical appurtenances, etc. 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 shall be constructed so that the centerlines of the pumps shall be at least twenty-five (25) feet from any street right-of-way line.**C. FRONT YARD VARIANCE**

1. Where the average depth of existing front yards within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front yard depth required by this ordinance, the required minimum 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.

SECTION 9.14 CONDITIONAL USES**A. DETERMINATION:** Subject to the requirements of Section 18.7, 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:

1. 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
2. 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.

- 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, said conditional use permit shall be recorded in the office of the county clerk and one copy of said permit attached to the deed for the property for which it is issued. The board shall have the power to revoke conditional use permits, or variances 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 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 permits.

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 adjustments finds that the facts alleged in the report of the zoning administrator are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the zoning administrator to revoke the conditional use permit and take 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 with the county clerk, as required in KRS 100.344. Thereafter said use, if it continues to meet the other requirements of this ordinance, will be treated as a permitted use.

SECTION 9.15 BUILDING REGULATIONS AND WATER AND SANITARY SEWER SERVICE

- A. **BUILDING REGULATIONS:** All structures shall be designed, erected, or altered in accordance with the legislative body's housing and building codes.
- B. **WATER AND SANITARY SEWER SERVICE:** No 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.

Where existing buildings are presently unserved by a public sanitary sewer system and are located within a reasonable distance of an existing or newly extended sanitary sewer line, as determined by the legislative body and/or the Northern Kentucky District Board of Health, said building shall be required to connect with the public sanitary sewer system and the private sewage disposal system shall be prohibited.

SECTION 9.16 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 legislative body, 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.
- B. **COMPLIANCE:** All buildings, structures, and improvements shall comply with the legislative body's housing and building code, and all other applicable codes and regulations.
- C. **PROCEDURE-PERMITS:** The applicant shall submit to the building inspector, the following:
 - 1. An application for a building permit requesting an inspection of the building, structure, or improvement to be moved or set;
 - 2. A plot plan, footing and foundation plan, and construction plans for any new construction;
 - 3. A statement from the applicable legislative body(s) insuring that all past and current taxes have been paid.
 - 4. 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 legislative body and determine if the proposed development will comply with all applicable codes and regulations.
 - 5. The move and set shall be referred to the zoning administrator for approval or denial of compliance with this ordinance.
 - 6. Upon approval by the zoning administrator and building inspector, a

building permit to move and set shall be issued. The legislative body's engineer shall then be notified of same and shall issue a transport permit. The legislative body's engineer or his agent will designate the route to be traveled. The transport permit is good only for the date specified on 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 legislative body.

7. No transport or building permit to move and set shall be issued until the applicant has first obtained the necessary permits from the telephone company, public utilities companies, railroad companies, and the Kentucky Department of Transportation, and the county road supervisor, whichever is applicable.

D. FEES

1. There will be a building investigation fee, as established by the legislative body, to cover the costs of investigation and inspection for determining the structural soundness of buildings, structures, or improvements to be moved, the fee is payable in advance and must accompany the application provided for herein. This fee is not returnable. If any alterations or improvements to be made are found to be in compliance with the legislative body's applicable codes and regulations, a building permit to move and set will be issued and the fee will be based on the cost of new foundations and all work necessary to place the building or structure in its completed condition in the new location. This fee is in addition to the building investigation fee.
2. No person, corporation, or company shall transport, move, or set any building, structure, or improvement in the legislative body, 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 legislative body. Such bond shall be made by a surety corporation authorized to do business in the state of Kentucky.

SECTION 9.17 SCREENING AREA: Screening areas shall be provided for the purpose of minimizing the friction between incompatible land uses and improving the aesthetic and functional quality of new development.

- A. **SCREENING AREA REQUIREMENTS:** All screening areas shall be approved

by the zoning administrator (or planning commission, where required by this ordinance) according to a submitted site plan, as regulated by the applicable requirements of Section 9.19 of this ordinance. Screening areas shall be designed, provided, and maintained according to the following:

1. Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question, every effort shall be made to retain such conditions. In such cases, additional screening may not be required, provided that provision is made for maintenance of such areas.
2. Whenever screening is required in this ordinance, all trees shall be evergreen.
3. All trees shall be a minimum of ten (10) feet in height when planted, unless otherwise required according to the submitted site plan.
4. All hedges shall be a minimum of three (3) feet in height when planted, unless otherwise required according to the submitted site plan.
5. All trees, shrubs and other planting materials shall be living plants (not artificial) and shall be suitable to the Northern Kentucky Area and the specific conditions of the site in question, such as, but not limited to, soil conditions, slopes, reduction of noise pollution, maintenance necessary, and the type of screening needed. The legislative body may require review of the proposed screening plan from the U.S. Soil Conservation Service, the applicable County Agricultural Extension Service.
6. Screening areas are to be provided within the required minimum yard setbacks as required in each district's regulations. In the case where property is located adjacent to another governmental jurisdiction, screening requirements shall be the same as if the zone in the adjacent legislative body (or a zone containing the most similar types of permitted uses as provided herein) were located within this legislative body.
7. In the case where a zoning map change occurs, resulting in adjacency to a different zoning district than was previously the case, and where development has already occurred on property in the unchanged district, required additional setbacks and screening requirements (as required in each district's regulations) shall be provided for the property in the district where the zone change has occurred.

B. PROVISION AND MAINTENANCE: Required screening areas shall be

provided as a condition of development by the owner and/or developer. All required screening (including the planting of trees and other vegetation) shall be maintained by the property owner.

- C. **INCLUSION ON SITE PLAN AND/OR SUBDIVISION IMPROVEMENT DRAWINGS:** Areas to be set aside as screening areas shall be identified on the required site plans, as regulated in Section 9.19, and where applicable, on the improvement drawings as regulated by the subdivision regulations. Sufficient bond, adequate to cover the required improvements as determined by the legislative body, may be required to be posted. It shall be unlawful to occupy any premises unless the required screening has been installed in accordance with the requirements as provided herein.

SECTION 9.18 OUTDOOR SWIMMING POOLS

- A. **PRIVATE SWIMMING POOLS:** All private swimming pools shall be regulated according to the following requirements:
1. Except as herein provided, no swimming pool, or associated equipment, shall be permitted within any required yards, nor within any public utility right-of-way easement.
 2. Swimming pools which are constructed in-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or the property on which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than seven (7) feet in height (only classes 1, 3, 4, or 5 fences are permitted, as regulated in Article XIII of this ordinance); such fences or walls shall be constructed in such a manner that a small child may not reach the pool from the street or any property without climbing the fence or wall or opening the gate or door.
 3. Swimming pools which are located above-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or property upon which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than seven (7) feet in height (only classes 1, 3, 4, and 5 are permitted, as regulated by Article XIII of this ordinance). Such fence or wall shall be constructed in such a manner that a small child may not reach the pool from the street or any adjacent property without scaling a fence or wall or opening the gate or door. Said wall may be the wall of the above-ground pool, providing that said wall is at least four (4) feet in height above the surrounding ground level.

Any access to above ground pools by means of a ladder or stairway shall be provided with a self-closing or self-latching door or gate, or some other device that would prevent a small child from gaining access to the pool by means of a ladder.

4. Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.
 5. All swimming pools and associated equipment shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the legislative body. Water used in the swimming pool, which is obtained from other than a public source, shall be approved by the Northern Kentucky District Health Department.
 6. All swimming pools existing at the time of adoption of this ordinance, which are unprotected by a surrounding fence or wall, including gates or doors, as regulated herein, shall be required to comply with the provisions of this ordinance section within sixty (60) days after its adoption.
- B. PUBLIC, SEMI-PUBLIC, AND COMMERCIAL SWIMMING POOLS: All public, semi-public, and commercial swimming pools shall be regulated according to the following requirements:
1. Except as herein provided, no swimming pool and associated equipment shall be permitted within any required yards or within the limits of any public utility right-of-way 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-locking door or gate (only classes 1, 3, 4, and 5 fences are permitted, as regulated by Article XIII of this ordinance). Such fence or wall shall be at least five (5) feet in height, but not exceeding the height as permitted herein, and of such construction that a small child may not reach the pool from the street or from adjacent property without climbing the wall or fence or opening a gate or door.
 3. Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.
 4. All swimming pools and associated equipment of the swimming pool shall be constructed and erected in accordance with all applicable

codes, ordinances, and regulations of the legislative body. Water used in the operation of the swimming pool, which is obtained from other than a public source, shall be approved by the Northern Kentucky District Health Department.

5. No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent residential properties.

SECTION 9.19 SITE PLAN REQUIREMENTS: No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel in zones where a site plan is required, except in accordance with the regulations of this section and an approved site plan as hereinafter required. Before a permit is issued for construction, one (1) copy of the site plan of the area at a scale no smaller than one (1) inch to one hundred (100) feet, shall be filed with the Northern Kentucky Area Planning Commission and (1) copy with the building inspector and the zoning administrator. The site plan shall identify and locate, where applicable, the information as listed in Section 9.20, B. -- Stage II Plan Requirements.

All such site plans shall be reviewed by the planning commission, or its duly authorized representative, and the factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of this ordinance, and the comprehensive plan for the city. However, no action of approving or rejecting any site plan shall be taken unless and until a review of the proposal has been made by the Northern Kentucky Area Planning Commission staff.

All site 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 9.20 PLAN REQUIREMENTS - STAGES I, II, AND RECORD PLAT:

- A. STAGE I -- PLAN REQUIREMENTS: The Stage I Plan shall identify and provide

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 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 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 setback and height of buildings;
 - (2) Attached housing - location and description of the various housing types (i.e., townhouse, 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 uses - location and type of all uses including approximate number of acres, gross floor area and heights 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 acreage, and height of buildings;
- g. Location of proposed pedestrian walkways, identifying approximate dimensions;
- h. Location of proposed streets, identifying approximate dimensions of pavement, right-of-way widths, and grades;
- i. Location of all existing and proposed water, sanitary sewer, and storm drainage lines, indicating approximate pipe sizes. Indication should also be given regarding the provision of electric and telephone service.
- j. Certification from appropriate water and sewer agencies that services will be available.
- k. Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed methods of handling said problems.
- l. Other information that may be determined necessary for description and/or to insure proper integration of the proposed project in the area.
- 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.
 - (4) Nonresidential buildings and uses, in order of priority.

The aforementioned information required 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 -- PLAN REQUIREMENTS:** The Stage II Plan shall conform to 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;
 - b. All housing units on the subject property:
 - (1) Detached housing - Location, arrangement, and number of all lots, including lot dimensions and setbacks, and maximum height of buildings;
 - (2) Attached housing - Location, height, and arrangement of all buildings, indicating the number of units in each building, and, where applicable, location, arrangement and dimensions of all lots;
 - c. Location, height, arrangement, and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions;
 - d. Location and arrangement of all common open space areas, and recreational facilities, including lot dimensions. Methods of ownership and operation and maintenance of such lands shall be identified;
 - e. Landscaping features, including identification of planting areas and the location, type, and height of walls and fences;
 - f. Location of signs indicating their orientation and size and height;
 - g. All utility lines and easements:
 - (1) Water distribution systems, including line sizes, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;

- (2) Sanitary sewer system, including pipe sizes, width of easements, gradients, type of pipes, invert elevations, location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances;
 - (3) Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of retention and/or sedimentation basins, and data indicating the quantity of storm water entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of storm water generated by development of the subject area, and the quantity of storm water to be discharged at various points to areas outside the subject property;
 - (4) Other utilities (e.g., electric, telephone, etc.) including the type of service and the width of easements;
- h. Location of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking and loading and/or unloading spaces;
- i. Circulation System:
 - (1) Pedestrian walkways, including alignment, grades, type of surfacing, and width;
 - (2) Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details, and typical cross sections;
- j. Provisions for control of erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction;
- k. A schedule of development, including the staging and phasing of:
 - (1) Residential area, in order of priority, by type of dwelling unit;

- (2) Streets, utilities, and other public facility improvements, in order of priority;
- (3) Dedication of land to public use or set aside for common ownership; and
- (4) Non-residential buildings and uses, in order of priority.

The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated.

- C. **RECORD PLAT REQUIREMENTS:** The applicant shall submit a record plat, in conformance with the Stage II approved plans. If the record plat is submitted in sections, and index shall be developed showing the entire plan area. The particular number of the section, and the relationship of each adjoining section shall be clearly shown by a small key map on each section submitted. The record plat shall conform to the applicable requirements of the subdivision regulations, unless specifically waived by the planning commission.

SECTION 9.21 REGULATIONS CONCERNING AIR RIGHTS: Any proposed use of air rights, as defined herein, shall be in the form of a site plan (as regulated in Section 9.19 of this ordinance) submitted to the planning commission, or its duly authorized representative, for its review.

SECTION 9.22 REGULATIONS CONCERNING DESIGN AND CONSTRUCTION OF IMPROVEMENTS: Any proposed development which does not constitute a subdivision, shall be required to provide streets (including curb and gutters), sidewalks, sewers (sanitary and storm), and water lines. Improvements to be provided shall be designed and constructed in accordance with the applicable articles and sections of the Subdivision Regulations, unless specifically waived.

SECTION 9.23 REGULATIONS PERTAINING TO PARKING OR STORING OF TRAILERS, MOBILE HOMES, CAMPERS, INOPERABLE VEHICLES, AND OTHER SUCH TYPE EQUIPMENT

- A. No motor vehicle which is inoperable shall be stored on any lot in any zone or parcel of ground unless it is in a completely enclosed building.
- B. It shall be unlawful for any person(s) to live in any boat, automobile, camper, recreational vehicle, or truck, within the jurisdiction of the legislative body.
- C. The outside storage of any trailer, mobile home, recreational vehicle, camper, boat, or similar type equipment, shall be restricted to the rear yard of all lots within the jurisdiction of the legislative body, except as herein provided, and in cases where, due to unique conditions, topographic or other, which do not allow

use of the rear yard, the zoning administrator may permit such storage on another part of the lot.

- D. It shall be unlawful to park or to keep any truck of over one (1) ton capacity at any place on property located in a residential district zone, except in a completely enclosed garage.

SECTION 9.24 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 shall occur in a manner 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 before development may occur. In those areas which are identified in the Comprehensive Plan as "Physically Restrictive Development Areas" and containing slopes less than 20 percent, the requirements contained herein may be waived; if, after review of the proposed site plan by the engineer, it is determined that said development will not result in any significant hillside slippage or soil erosion.
 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 (1) above, may occur until plans and specifications for such work have been submitted in the form of a site plan as regulated by Section 9.19 of this ordinance. In addition to site 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 site plan and other information required in this Section shall be reviewed by the engineer and the Northern Kentucky Area Planning Commission staff, 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 recommendation, 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 of the ordinance, the planning commission, or its duly authorized representative, determines that said proposed plans will not minimize hillside slippage, the planning commission shall deny a permit for the development of said land.

SECTION 9.25 FLOOD PROTECTION DEVELOPMENT CONTROLS

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

1. To permit only that development of flood prone areas which: (a) is appropriate in light of the probability of flood damage and the need to reduce flood losses; (b) is an acceptable social and economic use of the land in relation to the hazards involved; and (c) does not increase the danger to human life; and
2. To prohibit all other development in flood prone areas not identified in Subsection A., 1., above, including non-essential or improper installation of public utilities and public facilities.

- B. Areas of land adjacent to streams, rivers, or bodies of water which have a high degree of susceptibility to flooding shall be limited to development according to the following regulations, notwithstanding any other section of this ordinance or any other ordinance adopted by the city.

1. The limits of the floodplain (areas subject to flooding during the occurrence of a 100-year flood) are shown on the Official Zoning Map of

the city in a screen pattern, designated as a Flood Protection Control Area (which pattern may overlap and include one or more zoning districts). The limits of the floodway are contained within the flood protection control area and also identified on the Official Zoning Map.

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.

Figure I-A identifies the elevation of the 100-year flood level along the Licking River. In the case of any proposed activity located along other tributaries of the Licking River, a survey shall be made by a qualified, registered civil engineer establishing the elevation of the 100-year flood and floodway for said tributaries 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. Plans and specifications for such work shall be submitted to the city planning commission, or its duly authorized representative, and the Northern Kentucky Area Planning Commission for review to determine if said encroachment will meet the requirements of this Ordinance. Mobil homes shall be prohibited from being placed within the floodway.
4. All land outside the floodway of the Ohio and Licking Rivers, and their tributaries, but located within the floodplain, may be used for any purpose for which it is zoned, provided that: 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 which is used for living quarters elevated to or above the level of the 100-year flood; and any new nonresidential structures including any expansion or substantial improvements of nonresidential structures within the floodplain area shall have the lowest floor elevated to or above the level of the 100-year flood or together with attendant 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 hydrodynamic loads

and effects of frequency certified by a professional engineer or architect.

For purposes of this section of the ordinance, "Substantial Improvement" means any repair, reconstruction, or improvement which occurs as a result of damage to the structure, the cost of which equals or exceeds 50 percent of the actual market value of the structure before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences.

5. All roadway accesses and utilities constructed to serve structures to be located within the floodplain, but outside the floodway, shall be flood protected or the land filled, or any combination thereof, to the level of not less than the elevation of the 100-year flood level. Where the fill is partially within the floodplain, roadway access and utilities shall be provided from the "dry" side.
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.
7. 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.
8. 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.
9. 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.
10. 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.

SECTION 9.26 GENERAL MOBILE HOME REGULATIONS

The following regulations shall apply to all mobile homes located individually or in a mobile home park, where permitted herein. Requirements of the zone in which said mobile homes are permitted shall also apply:

- A. The mobile home shall, at a minimum, be equipped with plumbing and electrical connections designed for attachment to appropriate external systems.
- B. All health, sanitation (including sewers and/or private secondary sewage treatment plants approved by the Northern Kentucky District Health Department and the Sanitation District No. 1 of Campbell and Kenton Counties), and safety requirements applicable to a conventional dwelling, shall be equally applicable to a mobile home.
- C. The mobile home shall be set and adequately anchored on a concrete or hard surfaced slab in accordance with the Kentucky Mobile Home and Recreational Vehicle Park regulations, and the open space between the ground and the floor of the mobile home shall be enclosed with some material such as concrete block, corrugated metal, or other durable and suitable material.
- D. Any person, firm, or corporation desiring to locate a mobile home shall apply for a zoning/building permit and an occupancy permit. Applicable permits must be approved prior to the installation and occupancy of any mobile home. The proper permits must be displayed in a conspicuous location in each mobile home, signifying that all permits have been approved by the building inspector and zoning administrator.

SECTION 9.27 SANITARY LANDFILL REGULATIONS

- A. Minimum Site Area - Fifty (50) acres.
- B. The applicable regulations promulgated by the Kentucky Department of Natural Resources and Environmental Protection pertaining to landfill operations shall be strictly adhered to and are made a part of this ordinance.

In addition, all sanitary landfills shall operate in accordance with the performance standards of the Division of Air Pollution, Division of Water Quality, and other applicable performance standards of the state of Kentucky.

- C. Screening areas shall be provided along all boundary lines not protected by comparable vegetative screening, in accordance with the applicable requirements of Section 9.17 of this ordinance.

- D. Landfill operations shall not be conducted within one hundred (100) feet of any dedicated right-of-way or property line which is the exterior boundary of the landfill, or within three hundred (300) feet of any existing structure regularly occupied or utilized by any person for the conduct of residential, commercial, industrial, and public and semi-public type activities.
- E. Site Plan Requirements - Before a permit is issued, a site plan shall be prepared meeting the applicable requirements of Section 9.19 of this ordinance and submitted to the Board of Adjustment for approval. In addition, the following information shall also be submitted:
 - 1. A plan showing the specific reuse of the area after completion of landfill operations including the final grades to be established in meeting the needs of the proposed reuse of the landfill.