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ARTICLE I

A ZONING ORDINANCE

SECTION 1.0 AN ORDINANCE DIVIDING THE CITY OF EDGEWOOD, STATE 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 ADJUSTMENTS AND REPEALING ALL REGULATIONS, RESOLUTIONS, ORDERS, ORDINANCES AND/OR CODES IN CONFLICT WITH THIS ORDINANCE.

BE IT ORDAINED BY THE CITY OF EDGEWOOD,
STATE OF KENTUCKY, AS FOLLOWS:
ARTICLE II

AUTHORITY AND PURPOSE

SECTION 2.0 AUTHORITY: The City of Edgewood, Kentucky, in pursuance of 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 Edgewood, Kentucky and shall be known, referred to, and recited to as the "OFFICIAL ZONING ORDINANCE OF THE CITY OF EDGEWOOD, 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 safety, health, 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 the ordinance, said permit or license shall be void.
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 Edgewood, Kentucky, to enact each section, and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force 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.

ACCESSORY BUILDING OR USE, CUSTOMARY: A "customary accessory building or use" is one which:

a. Is subordinate to and serves the principal building or principal use;
b. Is subordinate in area, extent, or purpose to the principal building or principal use served;
c. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
d. Is located on the same lot as the principal building 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 building or use served.

ACCESS POINT: An access point is:

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

AGRICULTURE: The use of land for agricultural purposes, including agriculture, dairying, farming, floriculture, horticulture, pasturage, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities. The slaughter, storage, processing, packing or distributing of animals shall not be included in the definition of agriculture.
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 affords a secondary means of access to abutting property.

AMERICAN ASSOCIATION OF NURSERYMEN, 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, MULTI - FAMILY.

AUTOMOBILE LAUNDRY: A building or portion thereof, containing facilities for washing more than two (2) automobiles, 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.

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

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 less than the vertical distance from the average level of the adjoining grade to the ceiling.

BILLBOARD: a sign, having an area greater than twenty-five (25) square feet, and which meets any one or more of the following criteria:
a. a permanent structure sign which is used for the display of offsite commercial messages;
b. a permanent structure sign which constitutes a principal, separate or secondary use, as opposed to an accessory use, of the parcel on which it is located; or
c. an outdoor sign used as advertising for hire, i.e., on which display space is made available to parties, other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel as the sign), in exchange for a rent, fee or other consideration.

BOARD OF ADJUSTMENTS: Board of Adjustments of the legislative body.

BUFFER AREA: Areas so planned and/or zoned which act as a buffering or separation area between two (2) or more uses or structures not compatible, 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, or any addition to a building, or movement of a building from one location to another.

BUILDING AREA OR LOT COVERAGE BY BUILDING: That portion of a lot or building site that can be legally occupied by the ground floor of the principal building or use and all permitted accessory 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 or tract of land.

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 surfaces, if a flat roof; to the deck line of a mansard roof; and to the average height level between eaves and ridge for gable, hip, and gambrel roofs.

BUILDING INSPECTOR: The official or officials appointed by the legislative body to administer and enforce the building codes.
BUILDING PERMIT: A permit issued by the legislative body'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 legislative body's ordinances, regulations, and codes for 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 open on three (3) sides serving the purpose of protecting pedestrians from rain, snow, sun, or hail, which structure projects from a building.

CARPORT: See GARAGE, PRIVATE.

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

CHANGEABLE COPY SIGN, MANUAL: "Manual changeable copy sign" means any sign on which copy for all or a portion of the sign can be changed by a human being removing or rearranging letters, symbols or numerals. All changeable copy shall be included within the allotted face of sign square footage.

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

CLINIC, ANIMAL: A building used by medical persons for the treatment of small animals on an out-patient basis only, without animal runs.
CLUB: An association of persons for some common objective, usually jointly supported and meeting periodically.

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

COMMISSION (PLANNING COMMISSION OR PLANNING AND ZONING COMMISSION): The Kenton County and Municipal Planning and Zoning Commission, Kenton County, State of Kentucky.

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

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

COMPREHENSIVE (MASTER) 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, and others.

CONCEALED LIGHTING: An artificial light source intended to illuminate the face of a sign, the direct source of which is 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 adjustments, consisting of two parts:

A. A statement of the factual determination by the board of adjustments 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 or more persons within which is provided living and sleeping facilities, shared meal preparation services, common dining areas, laundry services, and/or common recreation or social facilities. This use may include convalescent and nursing facilities.

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

CURB CUT: Any interruption, or break in the line of a street curb in order 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.

DAY CARE CENTER: A facility operated for the care and/or education of children and/or adults, but which is not an accredited school or group home. This use may be operated during day, evening, and night time hours, but is not a residential living facility.

DAY CARE, IN-HOME: A day care facility within a residential dwelling unit that is licensed by the state to provide care for up to 6 children, in addition to any children related to the day care provider.

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, 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

DORMITORY: A residence hall providing rooms for individuals or groups.

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

DWELLING, ATTACHED, SINGLE - FAMILY: A dwelling unit which is attached to one or more dwelling units, each of which has independent access to the outside of the building to ground level and which has no less than two (2) exterior walls fully exposed and not in common with the exterior walls of any other unit.

DWELLING, DETACHED, SINGLE - FAMILY: A dwelling standing by itself and containing only one (1) dwelling unit, separate from other dwellings by open space, but shall not include mobile homes.

DWELLING, TRAILER: See MOBILE HOME.

DWELLING, TWO - FAMILY: A residential building designed, arranged, or used exclusively by two (2) families, each of which has independent access to each dwelling unit, living independently of each other.

DWELLING, MULTI - FAMILY: A residential building having three (3) or more dwelling units, as separate housekeeping units, each of which has independent access to each dwelling unit.

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

EASEMENT: A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, sewer lines, water lines, and transmission lines, or the right, distinct from the 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: A restaurant is an establishment selling food items ordered from a menu and prepared on the premises for immediate consumption.

A. Carry-out -- A fast service restaurant which does not have sit down eating arrangements and consumption of food on the premises is prohibited (or discouraged).

B. Drive-in -- A restaurant where consumption of food on the premises is encouraged (in car, no seating facilities) and where food is provided by "car-hop" or self-service.

C. Sit-Down Restaurants -- Those restaurants which provide seating arrangements.

D. Combination -- A restaurant which provides any combination of sit down, carry out, and/or drive-in services.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, including but not limited to: underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety, or general welfare.

FAMILY: An individual or two (2) or more persons related by blood or marriage, or group of not more than three (3) persons (excluding servants) who need not be related by blood or marriage, living together in a single housekeeping unit as their common home for the time, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.

FENCE: A structure made of wire, wood, metal, masonry, or other material, including hedges.

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 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 centerline of walls or partitions separating dwelling units.

For uses other than residential, the gross floor area shall be measured from the exterior faces of the exterior walls or from the centerlines of walls or partitions separating such uses and shall include all floors, lofts, balconies, mezzanines, cellars, basements, and similar areas devoted to such uses.

The gross floor area shall not include floors used for parking space when such parking pertains to a residential, commercial, or office used in the same structure.

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

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

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

GARAGE, PRIVATE: A building used for the storage of vehicles and clearly accessory to the principal use permitted. Said accessory private garage may contain additional rooms for family recreational purposes, or storage, without facilities for the preparation of food, i.e., kitchen.
GASOLINE PUMP: A single dispensing unit designed and intended to serve no more than two motor vehicles simultaneously.

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

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

HOSPITAL (HUMAN CARE): A building used by medical persons for treatment of persons generally on an in-patient basis.

HOSPITAL (ANIMAL): A building used by medical persons for treatment of animals generally on an in-patient basis and may have outside runs.

HOTEL - MOTEL: A building or buildings to be used for the temporary abiding place for travelers and transient guests.

HOUSE TRAILER: See MOBILE HOME.

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: Any area specifically used for the raising, boarding, or harboring of small domestic animals.

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

LAUNDROMAT: 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 designed for tenant occupancy and exclusive use, including but not limited to: basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.
LEGIBLE: A sign or message is “Legible” when it can be understood by a person with an eighth-grade education (or more). Where this Article requires a determination of “visibility” or “legibility,” the standard shall be based on the eyesight of an adult eligible to receive a Kentucky driver’s license (wearing any corrective lenses required by such license). Where the height of the person is material to the determination, the person shall be presumed to be more than five feet and less than six feet tall.

LEGISLATIVE BODY: The City of Edgewood.

LIVESTOCK: Domestic 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 a building group, 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, the waters of any lake or river, and shall be in one (1) zone only.

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

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

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

LOT, INTERIOR: A lot other than a corner lot with only one (1) frontage on a deeded and occupied 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 the street right - of - way line toward which the principal or usual entrance to the main building faces.

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. In the case of a corner lot, providing that all requirements for yard space are complied with, the owner may choose either side not abutting a street as the rear lot line, even though it is not opposite the front lot line. Once the choice has been made, it cannot be changed unless all requirements for yard space can be complied with.

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, state of Kentucky.

LOT WIDTH: The width of the lot as measured 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.

MINIMUM BUILDING 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.

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.

MOBILE HOME PARK: Any lot, parcel, or premises, subdivided, designed, maintained, intended, and/or used to accommodate ten (10) or more mobile homes, and meets the requirements as specified in this ordinance. For the purpose of this ordinance, any lot or premises used for the wholesale or retail sale of mobile homes shall not be included within this definition. Double width mobile structures, which are fabricated on individual chassis with wheels and are designed to be joined shall be considered a mobile home for purposes of this ordinance.

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

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

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

a. The area shall consist of at least 20 acres that are geographically contiguous;

b. The area shall have direct access from local streets to one or more collector and/or arterial streets;

c. The area shall not be part of another designated neighborhood for which permits for which permanent entrance signs have been issued; and

d. The area shall either have been developed as one planned complex, subdivision or center, or it shall have established its identity as a neighborhood through activities of a community association, neighborhood festivals or other continuing activities separate from the desire for an entrance sign.

NITA measure of luminance. One nit is equal to one candela per square meter (1cd/m²). Ten thousand nits are equal to one stib. A candela, on which the definition is based, is a unit of measurement of the intensity of light. Part of the SI system of measurement, one candela (cd) is the monochromatic radiation of 540THz with a radiant intensity of 1/683 watt per steradian in the same direction. Another way of putting it is that an ordinary wax candle generates approximately one candela.

NOBODY: The word “nobody” means no human being, or any organization or combination thereof, in the form of a corporation, partnership, joint venture, unincorporated association or otherwise.

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 building, sign, fence, 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 and including all accessory buildings.

NURSERY SCHOOL: Any building used for the daytime care or education of more than five (5) preschool age children, at one time, with or without compensation, and including all accessory buildings and play areas.

NURSING HOME: A health establishment which provides nursing care under the direction of a Kentucky licensed physician to patients who, for reason of illness or physical infirmities, are unable to care for themselves properly.

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, alley, or place, 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.

PDS: Planning and Development Services of Kenton County.
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 landscaping 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.

PLANNED UNIT DEVELOPMENT (PUD): A large scale, 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 as is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
C. Has a width of at least twenty (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 RIGHTS - 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 large scale, 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.

REST HOME: Any building, institution, residence, or home used as a place of abode for the reception and care of three (3) or more persons, who by reasons of age, mental, or physical infirmities, are not capable of properly caring for themselves.

SCHOOLS, PAROCHIAL: An institution or a place for instruction or education belonging to and maintained by a religious organization.

SCHOOLS, PRIVATE: An institution or place for instruction or education belonging to and maintained by a private organization.

SCHOOLS, PUBLIC: An institution or place for instruction or education belonging to and maintained under public authority and open to the public for their attendance.

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

SERVICE FACILITIES, PUBLIC UTILITIES: Service facilities include 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, structure, or land, used for the dispensing, sale, or offering for sale, at retail, of any automobile fuels, oils, or accessories and in connection with which is performed general automotive servicing other than body work.

SHORT-TERM RENTAL: The phrase “Short Term Residential Rental” means the lease, rent, let or license of a residence for compensation for any period of time that is less than 28 continuous calendar days.

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

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

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

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

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

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

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

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 be no floor above it, then the space between such floor and the ceiling next above it. For purposes of this ordinance, a basement shall not be counted as a story.

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

STREET, PRIVATE: A paved private roadway which affords access to abutting property for private 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 roadway, 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.

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.

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

STREET, FREEWAY: A divided multi-lane highway 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, street separated therefrom by a dividing strip and providing access to abutting properties.

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

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

STRUCTURE: Anything constructed or erected, 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 such as: buildings, mobile homes, signs, fences, etc.

SUBDIVISION: The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five acres or more 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.

SWIMMING POOL, OUTDOOR: Any structure or device of any kind that is intended for swimming purposes, including but not limited to: any pool or tank of any material or type of construction, or any depression or excavation in any natural or constructed...
material, or any dike or berm of any material or type of construction; including all appurtenances 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.

Outdoor swimming pools shall be deemed to consist of the following classes: private, semi-public, public, and commercial, as follows:

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: Any establishment selling alcoholic and nonalcoholic beverages by the drink for consumption on the premises.

TRAILER: See CAMPING/VACATION MOBILE UNIT.

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

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

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

VEHICLE: Any device meeting the definition of "motor vehicle" under KRS. §186.010.

VEHICULAR USE AREA: Any area containing more than one thousand five hundred (1,500) square feet and used by two or more vehicles for parking, sales, or service, exclusive of 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 across 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 legislative body 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:

- CO  CONSERVATION ZONE
- R-RE  RESIDENTIAL RURAL ESTATE ZONE
- R-1B  RESIDENTIAL ONE - B ZONE
- R-1C  RESIDENTIAL ONE - C ZONE
- R-1D  RESIDENTIAL ONE - D ZONE
- R-1DD  RESIDENTIAL ONE - DD ZONE
- R-1E  RESIDENTIAL ONE - E ZONE
- R-1F  RESIDENTIAL ONE - F ZONE
- PUD  PLANNED UNIT DEVELOPMENT OVERLAY ZONE
- CC  COMMUNITY COMMERCIAL ZONE
- HC  HIGHWAY COMMERCIAL ZONE
- NC  NEIGHBORHOOD COMMERCIAL ZONE
- NSC  NEIGHBORHOOD SHOPPING CENTER ZONE
- PO  PROFESSIONAL OFFICE BUILDING ZONE
- IP  INDUSTRIAL PARK ZONE
- INST - 1  INSTITUTIONAL - ONE ZONE
- INST - 2  INSTITUTIONAL - TWO ZONE
- SC  SHOPPING CENTER ZONE
- R-3B  MULTI - FAMILY RESIDENTIAL - MEDIUM DENSITY ZONE
- INST-2  INSTITUTIONAL TWO ZONE
- CC  COMMUNITY COMMERCIAL 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 EDGEWOOD, KENTUCKY" and shall so remain on file in the offices of Planning and Development Services of Kenton County. A copy shall also be on file in the office as designated by the legislative body.

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 promptly after the amendment to this ordinance has been approved by the legislative body. PDS shall be provided a certified copy of the amendment to this ordinance in order that the Official Zoning Map may be changed.

No changes of any nature shall be made on the Official Zoning Map which are not in conformity with the procedures set forth in this ordinance.
SECTION 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 major corrections in location of rights-of-way or subdivisions, the legislative body may cause to have prepared and adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map, but no such corrections 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, 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 Rules A through F of this section, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map, if an accurate legal description cannot be determined.

SECTION 8.5  AREAS NOT INCLUDED WITHIN ZONES: When an area is annexed to or otherwise becomes a part of the legislative body, or in any case where property within the legislative body has not been included within a zone, either through
error or omission, such property shall be officially included in the "C-O" Zone until otherwise classified.

Within sixty (60) calendar days after an annexed area officially becomes a part of the legislative body, or an error or omission is recognized, the legislative body shall take action to initiate a zone change review of the area in question, as per Article XVII, to insure its appropriate zoning classification in conformity with the official adopted comprehensive plan.
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 one street, one-half of the minimum front yard depth shall be provided for each other street upon which the lot has any frontage, 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, stand pipes 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 and/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 UNSIGHTLY OR UNSANITARY STORAGE/WEEDS:

Rubbish, salvage materials, junk, or miscellaneous material, such as but not limited to empty boxes, barrels, waste paper, excelsior or other like combustible materials shall not be openly stored or kept in the open. The storage of refuse, trash, garbage or other such waste material which constitutes a hazard to the public health, welfare, or safety, because of the danger of attracting and propagating vermin, rodents, or insects is prohibited. Weeds, to include but not limited to thistles, burdock, Jimson weed, ragweed, milk weed, poison ivy, poison oak, iron weed, and all other poisonous weeds and grass...on improved or unimproved real estate to include occupied and vacant lots, shall not be permitted to accumulate in piles, bundles or heaps. Such weeds shall not grow or stand to a height in excess of six (6) inches on lots developed in residential, commercial or industrial use and shall further not overlay curbs or obstruct traffic. Undeveloped areas shall be cut to a height of six (6) inches at a minimum distance of 10 feet back from a street.

In addition to the above, approved subdivision plats which contain:

A. less than seven (7) lots, vacant lot(s) contiguous to developed lots on both sides must be maintained at a height not to exceed six (6) inches;
B. seven (7) lots or more, vacant lot(s) contiguous to developed lots on both sides must be maintained at a height not to exceed six (6) inches; if the subdivision is more than 75% developed all undeveloped lots must be maintained to a height not to exceed six (6) inches; if the subdivision is less than 75% developed the undeveloped lots must be maintained to a height not exceed six (6) inches, at a minimum distance of 10 feet back from the street.

Any lot having 80% or more of its area covered by trees (developed or undeveloped) is required only to be maintained at a height not to exceed six (6) inches at a minimum distance of 10 feet back from the street. No cutting is required if the lot is 80% or more of its area is covered by trees extend to the street. Noxious odors and smoke, including the burning of leaves, trash and refuse, which emits into the atmosphere odors, dust and/or smoke or other matter, in a manner to render the ordinary physical occupation of other property uncomfortable shall be prohibited.

All violations of Section 9.8 shall be acted upon by the zoning administrator in the following manner.

A. The zoning administrator shall notify the property owner, by registered or certified mail, indicating the nature of the violation. The letter shall provide for a 10-day period to eliminate the specified violation.

B. If the specified violation has not been remedied within the 10-day period, the zoning administrator shall enforce the provisions of Section 9.8 by having the violation corrected by the city staff or private contractor.

1. If the remedy is provided by the city of Edgewood, the amount charged shall be based upon the number of employees, the number of hours required utilizing a "double time" rate of pay, and the cost for the use of the equipment at a rate to be twice that which has been set by Executive or Municipal order.

2. If the remedy is provided by a private contractor, the amount charged shall be the amount charged to the city of Edgewood by the contractor, plus $100.00 for the first offense - $200 for each subsequent offense.

C. When a violation of this section of the ordinance occurs, the zoning administrator shall take the necessary action to either directly bill said person or persons for the cost of removing the specified violation or have the cost of such labor for removing the same attached to and made a part of said person or persons tax bill.

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, customary accessory buildings or uses serving principal permitted uses shall not be permitted within any front yard or side yard (on each side of the lot) in any zone. In each residential zone, the following customary accessory building or use serving the principal permitted uses are permitted, provided that such uses are located in the rear yard only, set back from the rear lot line a minimum of twenty (20) feet, and, required side yard clearances are maintained:

1. A building for storage, provided that no such building shall exceed one hundred (100) square feet in gross floor area may be permitted to extend into the minimum rear yard areas, as defined herein, 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. Except the Zoning Administrator may only grant an exception to the location of the structure in the event of extenuating circumstances such as topography or obstructions. When the Zoning Administrator grants such an exception, the adjoining property owners shall be notified that a zoning permit has been approved.

2. A private tennis court, including shelter house, and a gazebo.

3. A child's play house, not to exceed one hundred (100) square feet in gross floor area.

4. Barbecues and outdoor cooking structures, play equipment.

5. Fall-out shelters.
6. Any other customarily found and in conjunction with and required for full utilization and enjoyment of the principal use and which meets the definition of customary accessory building or use.

7. For single-family dwellings, private garages or carports not to exceed five hundred (500) square feet in gross floor area or a maximum coverage of ten (10) percent of the available yard area in which said structure is to be located, whichever is greater. In all cases, the floor area of such structures shall be less than the gross floor area of the principal structure.

8. For two-family residential dwellings, private garages or carports not to exceed five hundred (500) square feet in gross floor area or a maximum coverage of ten (10) percent of the yard area in which said structure is to be located, whichever is greater. In all cases, the floor area of such structures shall be less than the gross floor area of the principal structure.

D. In each residential zone, the following customary accessory buildings or uses may be permitted to locate in the rear or side yards, provided that said uses are set back a minimum of thirty (30) feet from the rear and side lot lines:

1. For single family dwellings, private recreational buildings not to exceed 800 square feet in gross floor area or a maximum coverage of 10 percent of the available yard area in which said structure is to be located, whichever area is greater. In all cases, the floor area of such structures shall be less than the gross floor area of the principal structure.

Accessory buildings or uses serving conditional uses as permitted within the respective zones, shall be permitted subject to the approval of the board of adjustment, as set forth in Section 9.14 and 18.7 of this Ordinance.

Location of off - street parking, loading, and/or unloading areas, fences, walls, and signs are governed by their respective sections as provided herein.

E. In all residential zones, the following customary accessory buildings or uses may be permitted to be located in all yards, subject to restrictions:

1. Basketball Goals, subject to the following setbacks:
   a. Front Yard Setback – Basketball goals shall be closer to the front of the principal building than to the street edge of pavement.
   b. Side Yard Setback – One (1) Foot
   c. Rear Yard Setback – Ten (10) Feet
F. 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 into the minimum required yard; overhanging eaves and gutters projecting not more than three (3) feet into the minimum required front yard; window air conditioning units, awning and canopies extending not more than three (3) 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) into the minimum required 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 - Window air conditioning units; 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
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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, non used, 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 non use 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 non bearing 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. Non use 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 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. EXCEPTIONS TO MINIMUM FRONTAGE, AREA, AND HEIGHT REGULATIONS:

1. In any subdivision of any existing or proposed development in any commercial (CC, HC, NC, NSC, PO, INST-1, INST-2, SC) 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 site plan conforming to the provisions of Section 9.19 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; and

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; and

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 the legislative body of the city, and recorded in the office of the County Clerk of Kenton County, Kentucky, which include provisions that:

(1) Specifically identify such common areas by a metes and bounds description thereof; and

(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; and

(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 aforesaid 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; and

(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 contractor thereof, and cause to occur thereon the aforedescribed 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 of Edgewood upon such common areas benefited abutting property; and

(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 9.14 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, a certificate of Land Use Restriction shall be filed pursuant to Section 9.31 of this ordinance. 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 adjustment finds that the facts alleged in the report of the zoning administrator are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the zoning administrator to revoke the conditional use permit and take 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.
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, except the R-RE 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. In the case of the R-RE Zone, private sewage disposal systems may be permitted, provided they are approved in accordance with the requirements of the Northern Kentucky District Board of Health.

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. The inspection shall determine what will be necessary to bring buildings, structures, or improvements into compliance with all applicable codes and regulations should the building not comply. This fee is not returnable. If buildings, structures, or improvements 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 fifty thousand dollars ($50,000.00) 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 LANDSCAPE REGULATIONS

A. PURPOSE: The purpose of these regulations is to promote and to protect the health, safety and welfare of the community through reduction of noise, air, and visual pollution, air temperature and 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 if deemed appropriate by the Zoning Administrator.

C. TYPES OF LANDSCAPING REQUIRED: Landscaping required per these regulations includes perimeter landscaping, vehicular use area (parking lot) or interior landscaping, 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.

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, except for single and two-family residential.

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 will be defined per the criteria established below:

<table>
<thead>
<tr>
<th>Where Existing Structure Is</th>
<th>Substantial Increase An Addition Of</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 1,000 sq. ft.</td>
<td>101% or greater</td>
</tr>
<tr>
<td>1,001 - 10,000 sq. ft.</td>
<td>40% or greater</td>
</tr>
<tr>
<td>10,001 - 25,000 sq. ft.</td>
<td>30% or greater</td>
</tr>
<tr>
<td>25,001 - 50,000 sq. ft.</td>
<td>20% or greater</td>
</tr>
<tr>
<td>50,001 sq. ft. and above</td>
<td>10% or greater</td>
</tr>
</tbody>
</table>

Perimeter landscaping 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.

c. When a land use changes to a different land use requiring the construction of additional parking.

F. PLANTING MANUAL AND LANDSCAPE REGULATIONS GUIDELINES: The legislative body shall have on file a manual that outlines recommended plant materials, illustrations of the landscape ordinance applications and minimum requirements for other landscape materials. This manual shall be used as a guideline to anyone preparing a landscape plan in order to meet the requirements of this Landscape 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.

G. 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 approval is granted by the holder of the easements. Trees placed under overhead utility wires must be from List B. The rights-of-way of any public street may also be utilized for the required landscaping provided that approval is granted by the appropriate government. It must be noted that an Encroachment Permit shall be required from the Kentucky Transportation Cabinet to plant within state right-of-way. When rights-of-ways are used for required landscaping it shall be the responsibility of the property owner to maintain said landscaping and to replace any required landscaping subsequently removed by the Kentucky Transportation Cabinet or local legislative bodies.

2. SIGHT TRIANGLE: That area at street or drive intersections where all landscaping is prohibited, except ground covers and trees that are without limbs, with a ground clearance 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 landscape 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.
5. 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.

H. 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 weather-proof materials. This includes the use of synthetic or other construction materials or pressure treated lumber or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with wood or synthetic slat material shall not be used to meet the requirements of these regulations.

2. PLANTS AND TREES: All plants are to be healthy and part of the acceptable plants listed in the Planting Manual. All plants must be replaced if they die. A plant manual should be obtained from the legislative body 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 Kenton County and having trunk(s) which can be maintained with a minimum of seven (7) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by a grouping of the same so as to create the equivalent of a fifteen (15) foot crown spread. A minimum 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 1 1/2 inch immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet from such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four (4) inches thick reinforced concrete.
c. Evergreen Trees: Shall be a minimum of five (5) 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 four (4) years after the date of the final approval of each planting or replanting. Privet, Ligustrum species cannot meet the opacity requirements and may not be used to satisfy the requirements of this Article. The height of the planting shall be measured from the level of the surface of the vehicular use area at the edge closest to the screening.

e. Grass or Ground Cover: Grass of the fescus (Gramineak) or Bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in Kenton County, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover shall be planted not more than 15 inches on center and in such a manner as to present and have 75% of complete coverage after two complete growing seasons.

3. EARTH MOUNDS: Earth mounds shall be constructed with slopes which allow easy maintenance of grass or other ground cover. Differences in elevation between areas requiring screening does 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 of the property shall be responsible for the continued property maintenance of all landscaping materials, including existing trees, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three months. Topping trees or cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper for the maintenance of trees as required by this Article. Tree pruning cuts shall be made sufficiently close to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub so that closure can readily start under normal conditions. All branches that are so heavy as to cause bark splitting or peeling are to be precut. Violation of these installation and
maintenance provisions shall be grounds for the legislative body to refuse a building occupancy permit, require replacement of the landscape material or institute legal proceedings to enforce the provisions of this Article.

I. SUBMISSION REQUIREMENTS

1. 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.

2. TREE PROTECTION PLAN: Identify all trees within the disturbed limits that are to be preserved and are to be part of the required landscaping. Such trees shall be protected during the construction phase, per guidelines in the Planting Manual and Landscape Ordinance Guidelines, Section II, C.

3. BUILDING OR ZONING PERMIT: A building or zoning permit shall not be issued until the required landscape plans have been approved.

4. CERTIFICATE OF OCCUPANCY: A temporary Certificate of Occupancy may be issued even though the required landscaping has not yet been installed. A final Certificate of Occupancy shall not be issued unless either:

   a. All landscaping has been installed and accepted by the Building or Zoning Inspector, 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 10%.

The owner shall have up to six (6) months, as determined by the Zoning Administrator to install the required landscaping. If, after the established time frame, the landscaping is not installed, the legislative body will contract the landscaping using the posted bond. Two one-month extensions of the bond may be allowed beyond the established time if it is determined that planting will be detrimental to the plant material.

J. PLANTING ADJUSTMENTS
1. The Zoning Administrator shall have the authority to grant a waiver of any of the requirements in this section upon receipt of a written request which outlines the rationale for the planting adjustment. The Zoning Administrator shall review each written request and grant a waiver only: (1) under unusual or extreme circumstances which cause an unreasonable hardship such as the size of the lot; (2) when an innovative or alternative approach can be made which still meets the intent and purpose of this section; or (3) when the requirements of this section are impractical or unreasonable because of the existence of conditions specified in subsection J., 4. Of this section. All decisions made by the Zoning Administrator may be appealed to the Board of Adjustment, pursuant to this ordinance and Kentucky Revised Statutes.

2. PLANNING COMMISSION - TO HEAR AND DECIDE APPLICATIONS FOR PLANTING ADJUSTMENTS

   a. An applicant, at the time of filing of the application for a map amendment, Stage I Development Plan review, or Stage II Development Plan review, may elect to have any planting adjustments for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, Stage I Development Plan review, or Stage II Development Plan review, or by the Zoning Administrator as otherwise provided for in this section.

   b. The planning commission shall review each adjustment request per the requirements of this ordinance and shall forward its findings to the Zoning Administrator. The ruling on the planting adjustment request shall be binding on the Zoning Administrator.

3. PLANTING ADJUSTMENTS: If the property owner wishes to request a planting adjustment of the Landscape Requirements of this article, an application shall be filed with the Zoning Administrator.

4. REVIEWING ADJUSTMENT REQUESTS: The Zoning Administrator or the planning commission, in its review of requests for adjustments, shall in making its decision consider all of the following criteria:

   a. The need for the adjustment is due to circumstances typical of the land in the general vicinity of the site or in the same zone.

   b. The strict application of the Landscape 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.

e. When an innovative or alternative approach can be made which still meets the intent and purpose of this section.

f. The existence of significant grade separations between adjoining developments or properties.

g. The horizontal distance between the proposed development and the adjoining property.

h. The existence of natural features (water bodies, tree lines, creeks or streams) that are proposed to be maintained.

i. The different land use intensities that can be found within the same land use categories (i.e., a small single tenant office use or a 24 hour gasoline/convenience store can both be developed in a commercial zone).
## Table 9-1
**Landcape Requirements Table**

<table>
<thead>
<tr>
<th>Developing Zone/Use</th>
<th>Adjoining Zone/Use</th>
<th>Minimum Planting Strip</th>
<th>Plant Material/Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any commercial or professional office zone or land use, or any conditional use</td>
<td>Any residential zone or land use</td>
<td>20 feet</td>
<td>Choose one of the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1. 1 tree per 35 linear feet, or fraction thereof, from List A* (shade trees), plus double row hedge from List E (evergreen/broadleaf shrubs)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2. 1 tree per 20 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus double row hedge from List E (evergreen/broadleaf shrubs)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3. 1 tree per 40 linear feet, or fraction thereof, from List A (shade trees), plus a hedge from List D, plus a 6 foot wall, fence, or earth mound</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>4. 1 tree per 40 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus a hedge from List D, plus a 6 foot wall, fence, or earth mound</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>5. Double row, staggered planting of trees from List C at 15 feet on center</td>
</tr>
</tbody>
</table>

* 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 pavements 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 2:6 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
<table>
<thead>
<tr>
<th>DEVELOPING ZONE/USE</th>
<th>ADJOINING ZONE/USE</th>
<th>MINIMUM PLANTING STRIP</th>
<th>PLANT MATERIAL/OPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any industrial zone or land use</td>
<td>Any residential zone</td>
<td>75 feet side and rear</td>
<td>Double row of staggered trees from List C (evergreen/broadleaf trees) at 15 feet on center, plus a 36 foot wide, 6 foot tall earthen berm</td>
</tr>
<tr>
<td></td>
<td>Any commercial or professional office zone</td>
<td>50 feet side and rear yard</td>
<td>Double row of staggered trees from List C (evergreen/broadleaf trees) at 15 feet on center</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>STORAGE YARD: A hedge from List E (evergreen/broadleaf shrubs) facing the front yard only and/or any public/private street plus a 6 foot fence or wall</td>
</tr>
</tbody>
</table>

- Plant lists can be found in the “Planting Manual And Landscape Regulation Guidelines”
- Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
- 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 38 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.
- If the vehicle use area is located in the front yard on either 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.
- 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.
- The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
- In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
<table>
<thead>
<tr>
<th>DEVELOPING ZONE/USE</th>
<th>ADJOINING ZONE/USE</th>
<th>MINIMUM PLANTING STRIP</th>
<th>PLANT MATERIAL/OPTIONS</th>
</tr>
</thead>
</table>
| Any multi-family residential (3 units per building or greater density) zone or land use | Any single family residential zone or land use | 20 feet | Choose one of the following:  
1. 1 tree per 45 linear feet, or fraction thereof, from List A* (shade trees), plus a double row hedge from List E (evergreen/broadleaf shrubs)  
2. 1 tree per 20 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus a double row hedge from List E (evergreen/broadleaf shrubs)  
3. A hedge from List D (deciduous shrubs), plus a 6 foot wall, fence, or earth mound  
4. Continuous double row, staggered planting of trees from List C (evergreen/broadleaf trees) at 15 feet on center |
| Any commercial, professional office or industrial zone or land use | The public right-of-way, public or private street | 10% of each yard area must be landscaped | Trees, shrubs, planting beds, and/or perennials in a motif designed by the owner. A minimum of 3 trees shall be planted per 100 linear feet, or fraction thereof, of road frontage. This is not in addition to other required landscaping. |

* Plant lists can be found in the "Planting Manual And Landscape Regulation Guidelines".
1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side, or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2:1 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
Table 9-1 (continued)

<table>
<thead>
<tr>
<th>DEVELOPING ZONE/USE</th>
<th>ADJOINING ZONE/USE</th>
<th>MINIMUM PLANTING STRIP</th>
<th>PLANT MATERIAL/OPTIONS</th>
</tr>
</thead>
</table>
| A junk, salvage, refuge, or parts yard or recycling center | Any residential zone | 75 feet | Choose one of the following:
- 1 tree per 35 feet of linear boundary, or fraction thereof, from either List A (shade trees) or List B (flowering and non-flowering trees), plus a single row hedge from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs), plus a 6 foot wall or fence.
- A double row, staggered planting of trees from List C (evergreen/broadleaf trees) at 15 feet on center, plus a 6 foot solid fence or wall. |
|                     | Any commercial or professional office zone | 50 feet | |
|                     | Any industrial zone or street (public or private) | 20 feet | |
| 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 tree every 60 feet on center (maximum) from List A (shade trees)
- 1 tree every 60 feet on center (maximum) from List F (street trees)
- 1 tree every 60 feet on center (maximum) from List B (flowering and non-flowering trees). |

*Plant lists can be found in the "Planting Manual and Landscape Regulation Guidelines".*

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2:1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
<table>
<thead>
<tr>
<th>DEVELOPING ZONE/USE</th>
<th>ADJOINING ZONE/USE</th>
<th>MINIMUM PLANTING STRIP</th>
<th>PLANT MATERIAL/OPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Vehicular Use Area (VUA) associated with any zone or land use, except single-family</td>
<td>Any public or private street</td>
<td>10 foot perimeter screening easement</td>
<td>Choose one of the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1. 1 tree per 40 linear feet, or fraction thereof, from List A* (shade trees), plus 8 shrubs per 40 linear feet, or fraction thereof, from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2. 1 tree per 25 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus 8 shrubs per 40 linear feet, or fraction thereof, from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs)</td>
</tr>
<tr>
<td>PLUS --</td>
<td>PLUS --</td>
<td>PLUS --</td>
<td>PLUS --</td>
</tr>
<tr>
<td>in all cases</td>
<td>If over 25 feet</td>
<td>If the planting strip exceeds 25 feet in width, shrubs are not required</td>
<td>1 tree per 250 square feet of interior landscaped area from either List A (shade trees) or List B (flowering and non-flowering trees) (1 tree minimum)</td>
</tr>
</tbody>
</table>

* 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 areas landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories; provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
FIGURE 9-1
REQUIRED PERIMETER LANDSCAPING FOR BUILDING ADDITIONS

ADDITION #1
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

Public Or Private Street

Commercial

Existing
Commercial
Building

Residential

20'

10'

Commercial

Residential

Residential

ADDITION #2
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

Public Or Private Street

Commercial

Existing
Commercial
Building

Residential

20'

10'

Commercial

Residential

Residential

Building Addition

Landscaping Area
FIGURE 9-1 (continued)
REQUIRED PERIMETER LANDSCAPING FOR BUILDING ADDITIONS

ADDITION #3
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

Public Or Private Street

Commercial

Exising Commercial Building

Residential

20'

20'

Commercial

Residential

Residential

ADDITION #4
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

Public Or Private Street

Commercial

Exising Commercial Building

Residential

20'

20'

Commercial

Residential

Residential

Building Addition

Landscaping Area
FIGURE 9-2
CITY STREETS/STATE HIGHWAY SIGHT TRIANGLES

1. Local, Subcollector, 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.

<table>
<thead>
<tr>
<th>(X) SIGHT DISTANCE</th>
<th>POSTED SPEED LIMIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>484 feet</td>
<td>55 miles per hour</td>
</tr>
<tr>
<td>396 feet</td>
<td>45 miles per hour</td>
</tr>
<tr>
<td>308 feet</td>
<td>35 miles per hour</td>
</tr>
<tr>
<td>220 feet</td>
<td>25 miles per hour</td>
</tr>
<tr>
<td>132 feet</td>
<td>15 miles per hour</td>
</tr>
</tbody>
</table>
## TABLE 9-2
**DUMPSTER SCREENING TABLE**

<table>
<thead>
<tr>
<th>DUMPSTER* OCCURS IN</th>
<th>WHICH ADJOINS</th>
<th>REQUIRED SCREENING**</th>
</tr>
</thead>
<tbody>
<tr>
<td>any zone or land use other than residential</td>
<td>any zone or land use other than residential</td>
<td>fencing per plant manual</td>
</tr>
<tr>
<td>any residential land use or zone</td>
<td>any zone or land use</td>
<td>fencing per plant manual plus hedge on three sides from list D or E</td>
</tr>
<tr>
<td>any zone or land use</td>
<td>any residential land use or zone</td>
<td>fencing per plant manual plus hedge on three sides from list D or E</td>
</tr>
</tbody>
</table>

* Includes dumpsters, compactors, and all other solid or other waste containers

** If a dumpster is oriented towards a street or toward the nearest perimeter of the site, and can be seen from the street or the adjoining property, that side must also be screened
SECTION 9.18 OUTDOOR SWIMMING POOLS

A. PRIVATE SWIMMING POOLS: All private swimming pools shall be regulated according to the following requirements:

1. Swimming pools constructed on properties of less than five (5) acres shall be permitted to be located only to the rear of the principal permitted use. Swimming pools constructed on properties of more than five (5) acres shall be permitted to be located only to the rear or side of the principal permitted use. No swimming pool or associated equipment shall be permitted within any required yards, nor within any public utility right-of-way easement, except that swimming pools may be permitted to extend into the minimum rear yard, provided they are set back twenty (20) feet from the rear lot 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, but not more than seven (7) feet in height (only classes 1, 2, 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 adjacent property without climbing the fence or wall or opening the gate or door. If a solid (class 5) fence is used, it may be set back no more than 15 feet from the interior edge of the pool wall and at least 20 feet from the property line.

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 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, 2, 3, 4, or 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 and 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 city (county). 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, 2, 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 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 Planning and Development Services of Kenton County and one (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 Zoning Administrator or his or her 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 Planning and Development Services of Kenton County 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 Zoning Administrator, or his or her 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; and
   (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, an 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 or other 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.

SECTION 9.23 REGULATIONS PERTAINING TO PARKING OR STORING OF TRAILERS, 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, or truck, within the jurisdiction of the legislative body.

C. It shall be unlawful for any person to store, or park, more than one trailer, recreational vehicle, camper, boat or similar type of equipment on a lot.

D. Except for temporary parking, as provided herein, the outside storage of any trailer, 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, parked on a concrete or asphalt pad of a size that is at least the length and width of the item being stored, located at least 5 feet from all adjoining property lines, 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, excluding the front yard, provided the item is being stored on a concrete or asphalt pad if needed. No trailers, recreational vehicles, campers, boats or similar type of equipment may be stored in the rear yard in violation of any of the following restrictions:

<table>
<thead>
<tr>
<th>ZONE</th>
<th>MINIMUM LOT SIZE</th>
<th>MAXIMUM EQUIPMENT LENGTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1B</td>
<td>½ acre</td>
<td>32 feet</td>
</tr>
<tr>
<td>R-1C</td>
<td>12,500 square feet</td>
<td>28 feet</td>
</tr>
<tr>
<td>R-1D</td>
<td>9,000 square feet</td>
<td>24 feet</td>
</tr>
<tr>
<td>R-1DD</td>
<td>9,000 square feet</td>
<td>24 feet</td>
</tr>
</tbody>
</table>
R-1E  7,500 square feet  22 feet
R-1F  6,500 square feet  20 feet

Temporary parking of said vehicles may be permitted on paved driveways of said lot for a period not to exceed forty-eight (48) hours for the purpose of loading and/or unloading and/or maintenance of said vehicle.

Temporary parking of vehicles providing medical services through temporary mobile medical equipment otherwise authorized under section 10.12, D., 7., may be permitted within off-street parking areas of said lot for a period not to exceed forty-eight (48) hours.

D. It shall be unlawful to park or to keep any truck of in excess of three-quarters (3/4) ton capacity, or any tractor trailer and/or trailer or tractor, 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 "Developmentally Sensitive 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 "Developmentally Sensitive 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 a Developmentally Sensitive 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 county engineer and Planning and Development Services of Kenton County staff, who will recommend to the legislative body, 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 legislative body, 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 legislative body, or its duly authorized representative, determines that said proposed plans will not minimize hillside slippage, the zoning administrator shall deny a permit for the development of said land.

SECTION 9.25 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 9.26 LAND USED FOR AGRICULTURAL PURPOSES: Pursuant to KRS 100, any land which is used for agricultural purposes (exclusive of land and building used for residences, except as herein provided), shall have no regulations, except that:

A. Setback lines shall be required for the protection of existing and proposed streets and highways, as required for the zone in which the use is located;

B. That all buildings or structures in a designated floodway or floodplain or which tend to increase flood heights or obstruct the flow of flood waters shall be in accordance with this ordinance; and

C. All dwellings to be constructed or provided as part of land used for agricultural purposes shall meet all requirements of the zone in which said use is located and all other requirements of this ordinance.

SECTION 9.27 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 building). 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.

SECTION 9.28 CITY GOVERNMENTAL USES: All City of Edgewood governmental or public service uses shall be a principal permitted use in all residential zones, providing they are located adjacent to an arterial street as designated in the locally adopted comprehensive plan and developed in accordance with the area and height regulations for conditionally permitted uses as provided for in the respective residential zones. In the event said governmental or public service uses are not located adjacent to an arterial street, as designated in the adopted comprehensive plan, then said uses shall be treated as conditional uses, as provided in this ordinance.

SECTION 9.29 FILING OF CERTIFICATE OF LAND USE RESTRICTIONS

A. FILING OF CERTIFICATES 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 adjustments, whichever body(s) impose(s) any land use restrictions according to the provisions of KRS 100.3681 to 100.3684. A $10.50 fee 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 $10.50, may be imposed by the body imposing the restriction for costs of completing and filing the certificate.

SECTION 9.30 REGULATIONS CONCERNING TELEVISION AND RADIO STATIONS

A. TELEVISION: Earth stations for the reception and/or transmittal of TV signals, programs, messages, etc., may be installed as accessory structures in any zone, in compliance with the following regulations:
1. Such structures, including support equipment, shall not be permitted within any front yard or side yard (on each side of the lot) in any zone. Such structures may be permitted to extend into the minimum rear yard depth, 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 side yard clearances are maintained.

2. Structures may be ground mounted or roof mounted, provided that maximum height limitations are maintained. If the structure is roof mounted, it shall be located in a manner so as to detract as little as possible from the architectural character of the building.

3. Structures shall be constructed to withstand a wind load of eighty (80) miles per hour.

4. Structures shall be grounded electrically and shall not cause to disturb, restrict, or impede the reception of equipment on adjoining properties.

B. RADIO: Earth stations for the reception and/or transmittal of radio signals, programs, messages, etc., may be installed as accessory structures in any zone, in compliance with the following regulations:

1. Such structures, including tower, mast, antenna, guy wires, support equipment, etc., shall not be permitted within any front yard or side yard (on each side of the lot) in any zone. Such structures may be permitted to extend into the minimum rear yard depth, 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 side yard clearances are maintained.

2. Such structures, including tower, mast, antenna, guy wires, support equipment, etc., shall not exceed seventy (70) feet in height, as measured from ground level to the highest point of the structure.

3. Structures shall be constructed to withstand a wind load of eighty (80) miles per hour.

4. Structures shall be grounded electrically and shall not cause to disturb, restrict, or impede the reception of equipment on adjoining properties.

SECTION 9.31 REGULATIONS CONCERNING UTILITIES

No utilities shall be extended into or within any subdivision for which a plat thereof was recorded in the office of the Kenton County Clerk after October 31, 1991, unless the extension thereof is beneath the surface of the ground.
SECTION 9.32 COMPATABILITY 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 may not be constructed until after an application has been accepted and approved in accordance with these regulations.

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 9.33 REGULATIONS OF SEXUALLY ORIENTED BUSINESSES

A. The city of Edgewood, together with the other cities in Kenton County together with the Kenton County Fiscal Court, after consultation among the mayors, councils, commissioners and staffs of the municipalities and the county within the County, found that a substantial need exists to revise significantly the ordinances regarding sexually oriented businesses within Kenton County.

B. The city of Edgewood, in association with Planning and Development Services of Kenton County and the Fiscal Court of adjacent Campbell County its cities in the Northern Kentucky Community, retained Duncan Associates to conduct a study of existing sexually oriented uses and related businesses in Kenton and Campbell Counties, which is part of a single, larger community.

C. Duncan Associates assigned two nationally-known planners, Eric Damian Kelly, FAICP and Connie B. Cooper, FAICP, to conduct that study.

D. Kelly and Cooper have completed that study, including the following elements:

1. Field study, involving visits to all identified existing sexually oriented businesses in Kenton and Campbell Counties;
2. Meetings with stakeholder groups involved in these businesses;
3. Consultation with the Kenton County, Campbell County Attorney, and the city attorneys for certain cities, and the community at large on this issue;
4. Consultation with the professional staff of Planning and Development Services of Kenton County on this issue;
5. Review of studies and litigation concerning sexually oriented businesses in other communities;
6. Investigation of regulatory approaches to massage therapy;
7. Review of existing ordinances in Kenton and Campbell Counties;
8. Review of similar ordinances in a number of communities outside the Commonwealth of Kentucky;
9. Review of Kentucky statutes related to regulating sexually oriented businesses.

E. Duncan Associates has summarized this work and presented recommendations to Planning and Development Services of Kenton County and Kenton and Campbell Counties and their cities in an August 2003 report entitled “Site Visit Analysis: Sexually Oriented and Related Businesses in Kenton and Campbell Counties” (hereinafter called simply the “Kelly and Cooper Study”).
F. That study has also been made available to the legislative bodies of Kenton and Campbell Counties for their consideration and use.

G. That study has been accepted and used by the Fiscal Court of Kenton County in adopting the countywide licensing ordinance, Kenton County Ordinance No. 451.9, as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus in 2004.

H. The United States Supreme Court in City of Renton v. Playtime Theater, Inc., 475 U.S. 41 (1986), held that local governments may rely upon the experiences of other cities as well as on its own studies in enacting local legislation to regulate sexually oriented businesses;

I. The United States Supreme Court in Renton and other cases has held that a local government may regulate such uses through content-neutral, time, place, and manner restrictions, so long as said regulations are designed to serve the government interest and do not unreasonably omit avenues of communication, and are aimed not at the content of protected speech within said establishments but rather at the secondary effects of said establishments on the surrounding communities.

J. The study by Kelly and Cooper found extensive physical interaction between patrons and dancers at many of the establishments in both Kenton and Campbell Counties.

K. Covington, the only municipality in Kenton County that has had sexually oriented businesses within its border, from January 1, 2002, to February 11, 2004, the police made a total of 469 calls to sexually oriented businesses in the city. The crimes committed at these establishments during this time period included robbery, assault, fraud, malicious mischief, public intoxication, and possession of illegal drugs. In addition, on June 13, 2003, Covington police arrested three individuals for prostitution-related charges at Liberty's Show Lounge, a sexually oriented cabaret in the city.

L. As the Sixth Circuit Court of Appeals noted in a decision addressing issues related to the Adult Entertainment ordinance in the City of Newport (Campbell County), there is a long history underlying efforts to regulate sex businesses in Northern Kentucky:

Defendant City of Newport ("City" or "Newport") long ago gained a reputation as home to a veritable smorgasbord of vice, attracting patrons from across the nation. For decades, the small city was considered the Midwest's answer to Las Vegas, and leaders of organized crime were said to operate its gambling casinos and nightclubs.
In the 1960's, public pressure began to demand that Newport be cleaned up. This pressure has continued until the present, with varying degrees of success.

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

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

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


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

Having considered the matter carefully, the court concludes that some leeway must be afforded the reform efforts of the City Council of Newport. This body has been elected by the citizens to attempt to "clean up the image" of the City.

To do this, it must overcome the sleazy impression of Newport and Northern Kentucky that survives from "the heyday" when things ran wide open; reform candidates were literally drugged and framed for morals offenses by public officials and police officers; the members of reform citizens groups were vilified and harassed; and a "liberal" in local parlance was a person favoring the continued open and notorious violation of the gambling and morals laws.
To illustrate that the Council's perception of a need to clean up the image of the City is not paranoid, the court notes the following statements in a national magazine's satirical Chapter on Newport's big sister, the city of Cincinnati.

"The city's streets fairly shine; the odd litterer draws a scornful stare. Wide avenues, bosky side streets, the most inviting of thoroughfares. And clean. So clean. No X-rated movie theaters, no adult-book stores, no bare-breasted night joints soil these streets, all of them long ago jettisoned over to the Kentucky side of the river."


This court holds that the City of Newport has the right to secede as Cincinnati's combat zone.

The court holds that the City has "an important and substantial governmental interest" in advancing these reform goals, which interest is furthered by the ordinances in question. Barnes, 111 S. Ct. at 2461. The court further finds and holds that in the case of the City of Newport, given its unique history, the ordinances' "incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest." Id. (quoting O'Brien, 391 U.S. at 376-77, 88 S. Ct. at 1678-79).

Newport's image affects that of all of Northern Kentucky, a community of nearly 300,000 people. That City and its community have the right to project a progressive and decent image. The nudity ordinances contribute to the enhancement of this interest and will be upheld. 830 F.Supp. at 384;

M. The Supreme Court had earlier noted in upholding another regulation in Newport, "it is plain that, as in Bellanca, the interest in maintaining order outweighs the interest in free expression by dancing nude." Newport v. Iacobucci, 479 U.S. 92, 97, 93 L. Ed. 2d 334, 340, 107 S. Ct. 383, 386 (1986). Although the significance of the opinion itself is now questionable (see J&B Social Club # 1 v. City of Mobile, 966 F. Supp. 1131, 1135 (S.D. Ala. 1996)), the quoted part of the opinion stands unchallenged.

N. The cities of Covington and Newport continue their efforts to improve their image. Since 1985, Covington has redeveloped its riverfront, creating several new office towers, high-end condominiums, hotels, and a convention center. In Newport, in conjunction with private development and Southbank Partners, Inc., the City has built a major entertainment center along the river. This initiative has promoted improved pedestrian and transit connections in Northern Kentucky's river cities to and from the stadiums and other attractions along the Cincinnati riverfront.
O. Despite these efforts, the areas of downtown Covington and Newport away from the riverfront continue to suffer in many ways. The study by Kelly and Cooper found in the area near to existing sexually oriented uses a number of building vacancies and building maintenance falling far short of that found in the revitalized areas near the river.

P. The city of Edgewood respects the Constitutional rights of its citizens, including the right to present certain types of entertainment that may not appeal to the entire population. Through this ordinance, it is the desire of the city of Edgewood to balance the Constitutional rights of businesses that present sexually oriented entertainment with the city of Edgewood interests in ensuring that this community not suffer from the same sorts of adverse effects that Covington and Newport have long suffered.

Q. From long experience in Covington and Newport, as well as from the following studies and others not listed, the city of Edgewood also finds that such businesses may have primary and secondary effects involving crimes related to the activities in the establishments, of which prostitution and crimes of violence are those of greatest concern. See for example:

10. "Survey of Appraisers in Monroe County, New York," Summer 2000. For detailed results of the survey, see Kelly and Cooper, Everything You

11. The Tucson “study” consisting of two memos: one from the Citizens Advisory Planning Committee, addressed to the Mayor and City Council, and dated May 14, 1990; and the other from an Assistant Chief of Police to the City Prosecutor, regarding “Adult Entertainment Ordinance,” dated May 1, 1990.

R. The city of Edgewood recognizes that some of the cited studies included bars without sexually oriented entertainment among the businesses studied; the city of Edgewood finds, nevertheless, that addressing the establishments that have live, sexually oriented entertainment is a more critical local issue than that of bars without such entertainment, for three reasons:

1. Bars in Kentucky are already regulated by the Commonwealth, and those state regulations directly address many of the concerns that arise with the service of alcohol;
2. The local history of prostitution and sex-related crimes has largely been related to businesses with live, sexually oriented entertainment, and not with other establishments that serve alcohol; and
3. The interaction between dancers who are paid to work with very limited clothing and the customers who pay to see them work in the establishments with live entertainment creates a sexually charged environment and the opportunity to negotiate for the provision of additional services that do not involve dancing or other protected expression and that are simply unacceptable under the standards of the County and its citizens.

S. As noted earlier in these findings, there is a long local history of prostitution and sex-related crimes at or incident to the operation of establishments with live, sexually oriented entertainment. Further, the studies shown herein provide further evidence of the potential crime-related secondary effects from such businesses. Although the methodologies and quality of these studies vary somewhat, local experience has demonstrated to the city of Edgewood that the relationship between crime and such establishments is a fact in Northern Kentucky and not just a theory published in a study.

T. The city of Edgewood has reviewed evidence and testimony presented at public meetings before the County, and information based on the past experiences of the Kenton and Campbell Counties and the cities of Covington and Newport, the experiences of the County Attorneys’ offices prosecuting numerous and varied offenses that have occurred in and around the sexually oriented entertainment establishments, and based upon the documented experiences of other governmental units within Kentucky and elsewhere in dealing with the impact of
sexually oriented entertainment, that such businesses can, if not properly regulated, be deleterious to said community.

U. The city of Edgewood finds that the countywide licensing ordinance related to sexually oriented businesses and service oriented escort bureaus adopted by the Fiscal Court of Kenton County is an effective tool for addressing the many operational issues that can arise with such businesses.

V. The city of Edgewood finds that amendments to the city’s Zoning Ordinance regarding the location and design of such businesses are important variables in the nature and extent of adverse secondary effects of sexually oriented businesses on the community, and further finds that location and design are among the types of issues that are typically addressed through zoning.

W. Based on the recommendations of Kelly and Cooper, which are based on their experience in other communities and their review of the studies cited above and other local efforts to address such secondary effects, the city of Edgewood finds that the following principles are essential to effective zoning controls of sexually oriented businesses:

1. Sexually oriented businesses should, to the maximum extent practicable, be separated from one another by a distance that is greater than a convenient walking distance, because experience elsewhere has shown that the location of such businesses near one another may increase the adverse secondary effects, particularly those related to crime, by a greater than arithmetic factor;

2. Sexually oriented businesses have the greatest adverse effect on residential neighbourhoods and should thus be separated to the maximum extent practicable from residential neighbourhoods;

3. Sexually oriented businesses are likely to attract criminal elements that prey on “soft targets,” including children, and it is thus important to separate sexually oriented businesses from schools, parks, recreation centers, and religious institutions, all of which are places where children are likely to congregate, often without parental protection;

4. Also because of the tendency of sexually oriented businesses to attract criminal elements that prey on soft targets, it is important to seek locations for such businesses that are not located along pedestrian routes, where young people, old people and others who are vulnerable, are likely to walk in going about their day-to-day business. Thus, locations to which the primary access is by automobile minimize the risk of persons going about their daily business encountering persons who are visiting or even loitering around the sexually oriented businesses.

X. In examining Kenton County for available sites that would be suitable for sexually oriented businesses that meet the above criteria, Kelly and Cooper identified a
number of such sites in the County, none of which were located in city of Edgewood.

Y. Edgewood currently has no sexually oriented businesses in the community.

Z. Edgewood currently has no area zoned for any type of commercial use.

AA. Edgewood currently has only limited areas zoned for commercial use, and those areas are small and adjacent to residential areas.

AB. Edgewood has within its limited commercial areas only small, local businesses generally serving the convenience needs of residents.

AC. Edgewood residents in these jurisdiction with limited commercial areas must go to larger, nearby cities for most of their retail purchases and entertainment.

AD. Staff of Edgewood can not recall ever receiving any applications for or inquiries about the establishment of any sexually oriented business in the city of Edgewood.

AE. Edgewood thus finds that the physical context and experience of the City of Edgewood support the findings by Kelly and Cooper.

AF. Edgewood finds that, in reliance on the Kelly and Cooper study, other municipalities in the County, including specifically Covington, Erlanger and Taylor Mill, all of which have large and diverse commercial or industrial areas with suitable sites that would be potentially available locations where sexually oriented businesses could legally locate.

AG. Edgewood acknowledges that it can re-evaluate these findings if, in the future, there is a substantial change in the character of the community and the potential for suitable sites for sexually oriented businesses within the community.

AH. Edgewood therefore finds that there are no suitable locations for sexually oriented businesses in the city of Edgewood and such businesses should therefore be prohibited.

AI. FINDINGS: The facts and other matters set forth in the previous clauses that form the preamble to this ordinance are hereby adopted as findings of fact in support of the legislative action of the city of Edgewood in adopting this amendment to the Zoning Ordinance. Upon adoption of this zoning amendment, these shall be incorporated into the Zoning Code by reference as if fully set forth therein to the adopting Resolution.

AJ. DEFINITIONS:
1. **CABARET OR THEATER, SEXUALLY ORIENTED** – a building or portion of a building which provides or allows the provision of sexually oriented entertainment to its customers or which holds itself out to the public as an establishment where sexually oriented entertainment is available. Signs, advertisements or an establishment name including verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult entertainment,” “strippers,” “showgirls,” “exotic dancers,” “gentleman’s club,” “XXX” or similar terms, shall be considered evidence that an establishment holds itself out to the public as an establishment where sexually oriented entertainment is available.

2. **CUSTOMER** – any person who:
   a. Is allowed to enter a business in return for the payment of an admission fee or any other form of consideration or gratuity; or
   b. Enters a business and purchases, rents, or otherwise partakes of any material, merchandise, goods, entertainment, or other services offered therein; or
   c. Enters a business other than as an employee, vendor, service person, or delivery person.

3. **DAY CARE CENTER** – a licensed facility providing care, protection and supervision for children 12 years old or younger or for any individual who is deemed mentally challenged.

4. **DISPLAY PUBLICLY** – the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others or from any portion of the premises where items and material other than sexually oriented media are offered for sale or rent to the public.

5. **ENCOUNTER CENTER, SEXUALLY ORIENTED** – a business or enterprise that, as one of its principal purposes, offers: physical contact between two or more persons when one or more of the persons is in a state of nudity or semi-nudity.

6. **ENTERTAINER, SEXUALLY ORIENTED** – any person paid as an employee, contractor, subcontractor, or agent of the operator of a cabaret who frequently appears in a state of semi-nudity at any establishment regulated by this chapter.
7. ENTERTAINMENT, SEXUALLY ORIENTED – any of the following activities, when performed by a sexually oriented entertainer at a sexually oriented business that is required to be licensed: dancing, singing, talking, modeling (including lingerie or photographic), gymnastics, acting, other forms of performing, or individual conversations with customers for which some type of remuneration is received.

8. ESCORT – a person who is held out to the public to be available for hire for monetary consideration in the form of a fee, commission, or salary, and who for said consideration consorts with or accompanies or offers to consort with or accompany, another or others to or about social affairs, entertainments, or places of amusement or within any place of public resort or within any private quarters, and shall include a “service oriented escort;” for purposes of this ordinance, the term “escort” shall not include any person who would be understood by a reasonably prudent person as providing “babysitting” services or working as an assisted living companion to the elderly, infirm, disabled, or handicapped, and shall further not include licensed health professionals.

9. ESCORT, SERVICE ORIENTED – an escort that:
   a. operates from an open office;
   b. does not advertise that sexual conduct will be provided to the patron or work for an escort bureau that so advertises; and
   c. does not offer to provide sexual conduct.

10. ESCORT BUREAU, SERVICE ORIENTED – an escort bureau that
    a. maintains an open office at an established place of business;
    b. otherwise operates in full accordance with the countywide licensing ordinance, Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus, as such ordinance may be amended from time to time.

11. ESCORT, SEXUALLY ORIENTED – an escort who:
    a. works for (either as an agent, employee, or independent contractor), or is referred to a patron by a sexually oriented escort bureau; or,
    b. either advertises that sexual conduct will be provided, or works for (either as an employee, agent, or independent contractor), or is referred to a patron by an escort bureau that so advertises; or,
    c. offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of
sexual conduct for a fee from an escort patron or a prospective escort patron.

12. ESCORT BUREAU, SEXUALLY ORIENTED – an escort bureau that operates in any of the following manners:

a. engages in fraudulent, misleading, or deceptive advertising that is designed to make the prospective client believe that acts of prostitution (as defined under Kentucky law) will be provided; or,

b. collects money (whether paid in advance or paid after the promised proscribed act) for the promise of acts of prostitution by its escorts; or,

c. uses as escorts persons known to have violated the law regarding prostitution, and refuses to cease the use of such a person; or,

d. operates an escort bureau as a “call girl” prostitution operation; or,

e. advertises that sexual conduct will be provided to a patron or customer, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron or customer; or,

f. solicits, offers to provide, or does provide acts of sexual conduct to an escort patron or customer; or,

g. employs or contracts with a sexually oriented escort, or refers or provides to a patron a sexually oriented escort.

13. ESTABLISHMENT – any business regulated by this Section.

14. EXPLICIT SEXUAL MATERIAL – any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or material of anthropological significance shall not be deemed to fall within the foregoing definition.

15. FLOOR AREA, GROSS PUBLIC – the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.

16. FREQUENTLY – two or more times per month.

17. MASSAGE – touching, stroking, kneading, stretching, friction, percussion, and vibration, and includes holding, positioning, causing movement of the
soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).

18. MASSAGE PARLOR – any business offering massages that is operated by a person who is not a state licensed “massage therapist” or that provides massages by persons who are not state licensed massage therapists.

19. MASSAGE THERAPY – the profession in which a certified massage therapist applies massage techniques with the intent of positively affecting the health and well being of the client.

20. MASSAGE THERAPIST – a person licensed as a massage therapist in accordance with the provisions of Kentucky Rev. Statues §309.350 et seq.

21. MEDIA – anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMS, DVDs, other magnetic media, and undeveloped pictures.

22. MEDIA, SEXUALLY ORIENTED – magazines, books, videotapes, movies, slides, CDs, DVDs or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas.”

23. MEDIA STORE WITH SOME SEXUALLY ORIENTED MEDIA – a retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area.

24. MEDIA STORE, SEXUALLY ORIENTED – an establishment that rents and/or sells sexually oriented media, and that meets any of the following three tests:
   a. More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
   b. More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
   c. It advertises or holds itself out in any forum as a “XXX,” “adult” or “sex” business, or otherwise as a sexually oriented business, other
than sexually oriented media outlet, sexually oriented motion picture theater, or sexually oriented cabaret.

25. MODELING STUDIO, SEXUALLY ORIENTED – an establishment or business that provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples, or small groups in a space smaller than 600 feet.

26. MOTEL, SEXUALLY ORIENTED – a hotel, motel, or similar commercial establishment that meets any of the following criteria:

   a. Offers accommodations to the public for any form of consideration and provides patrons with sexually oriented entertainment or transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;”

   b. Marketed as or offered as “adult,” “XXX,” “couples,” or “sexually oriented.”

27. MOTION PICTURE ARCADE, SEXUALLY ORIENTED – a building or portion of a building wherein coin-operated, slug-operated, or for any other form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images of “specified sexual activities” or “specified anatomical areas.”

28. MOTION PICTURE ARCADE BOOTH, SEXUALLY ORIENTED – any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat customers and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, CD-ROMs, books, DVDs, magazines or periodicals) to show images of “specified sexual activities” or “specified anatomical areas” for observation by customers therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth.”

29. MOTION PICTURE THEATER, SEXUALLY ORIENTED – a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are frequently shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” or that are marketed as or offered as “adult,” “XXX,” or sexually oriented. Frequently shown films, motion pictures, videocassettes, slides or other similar
photographic reproductions as characterized herein do not include sexually oriented speech and expressions that take place inside the context of some larger form of expression.

30. NUDE MODELING STUDIO – any place where a person who appears in a state of nudity or semi-nudity and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude model studio” shall not include a proprietary school licensed by the Commonwealth of Kentucky or a college, junior college, or university supported entirely or in part by public taxation; a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

31. NUDITY OR STATE OF NUDITY – the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola or nipple, or the showing of the covered male genitals in a discernibly turgid state. See, also, Semi-nude.

32. OPERATOR – any person operating, conducting, or maintaining a business regulated under this Chapter.

33. OWNER(S) – the individual owner of an establishment, or if the legal owner is a corporation, partnership, or limited liability company, the term shall include all general partners, any limited partner with a financial interest of ten percent (10%) or more, all corporate officers and directors, and any shareholder or member with a financial interest of ten percent (10%) or more. “Owner” includes the spouse(s) of any of the above individuals.

34. PERSON – an individual, firm, partnership, joint-venture, association, independent contractor, corporation (domestic or foreign), limited liability company, trust, estate, assignee, receiver or any other group or combination acting as a unit.

35. PREMISES – the physical location at which a business operates; as used in this Chapter, the term shall include all parts of that physical location, both interior and exterior, which are under the control of the subject business, through ownership, lease or other arrangement.
36. PRIMARY ENTERTAINMENT – entertainment that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

37. PROTECTED LAND USE – residential zoning district, school, religious institution, park, library, public recreation area, or day care center.

38. PUBLIC AREA – a portion of a sexually oriented business, excluding sexually oriented motels, that is accessible to the customer, excluding restrooms, while the business is open for business.

39. SADOMASOCHISTIC PRACTICES – flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

40. SEMI-NUDE OR IN A SEMI-NUDE CONDITION – the showing of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other apparel, provided the areola is not exposed in whole or in part.

41. SEX SHOP – an establishment offering goods for sale or rent and that meets any of the following tests:

   a. It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; sexually oriented novelties; and the combination of such items constitute more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area;

   b. More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or

   c. More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

42. SEXUALLY ORIENTED BUSINESS – an inclusive term used to describe collectively the following businesses: sexually oriented cabaret or theater; sexually oriented entertainment; sexually oriented motion picture theater; sexually oriented motion picture arcade; sexually oriented encounter center; sexually oriented media store; sexually oriented escort bureau; bathhouse; massage parlor; sex shop; sexually oriented modeling studio; or any other such business establishment whose primary purpose is to offer sexually oriented entertainment or materials. This collective term
does not describe a specific land use and shall not be considered a single use category for purposes of the County or any applicable municipal zoning code or other applicable ordinances.

43. SEXUALLY ORIENTED BUSINESS LICENSE – any license applied for under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus, adopted in 2004.

44. SEXUALLY ORIENTED TOYS OR NOVELTIES – instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts or designed or marketed primarily for use to stimulate human genital organs.

45. SPECIFIED ANATOMICAL AREAS – include:
   a. Less than completely and opaquely covered human genitals, pubic region, or the areola or nipple of the female breast; and
   b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
   c. Areas of the human anatomy included in the definitions of “nude” or “nudity.”

46. SPECIFIED SEXUAL ACTIVITIES – Acts of human masturbation, sexual intercourse, or sodomy. These activities include, but are not limited to the following: bestiality, erotic or sexual stimulation with objects or mechanical devices, acts of human anilingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, sodomy, or any excretory functions as part of or in connection with any of the activities set forth above with any person on the premises. This definition shall include apparent sexual stimulation of another person’s genitals whether clothed or unclothed.

AK. PROHIBITED USES: The following uses are prohibited in the city of Edgewood and county-wide under Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. No Zoning Permit shall be issued for the following prohibited businesses:

1. Sexually oriented motion picture arcade or booth;
2. Sexually oriented encounter center;
3. Sexually oriented motel;
4. Sexually oriented massage parlor or any business offering massages that is operated by a person who is not licensed as a massage therapist in
accordance with the provisions of Kentucky Rev. Statues §309.350 et seq.;
5. Sexually oriented modeling studio;
6. Sexually oriented nude modeling studio; and
7. Sexually oriented escort bureau.

AL. OTHER USES PROHIBITED: Because there are no suitable sites for such sexually oriented businesses or, in accordance with the recommendations of the consultants to Kenton County, the following additional uses are prohibited:

1. Sexually oriented media store;
2. Sex shop;
3. Service oriented escort bureau;
4. Sexually oriented motion picture theatre; and
5. Sexually oriented cabaret or theatre.

AM. STANDARDS FOR A MEDIA STORE WITH SOME SEXUALLY ORIENTED MEDIA: A retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area shall not be classified as a sexually oriented business but shall be subject to the following standards:

1. Separate room. The sexually explicit media shall be kept in a separate room from the rest of the inventory of the store and shall not visible outside the room;
2. Age limit. Sexually explicit media shall be available only to persons 18 years or older;
3. Access. Access to the room shall be through a solid door, accessed by an electronic control device monitored by the clerk or manager on duty through direct visual control;
4. Visibility. Customers and activities in the room shall be visible at all times to the clerk or manager on duty through a video system located at the clerk’s or manager’s counter; and
5. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.

AN. SEVERABILITY: It is hereby declared to be the intention of the city of Edgewood that the sections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any phrase clause, sentence, paragraph or section of this Chapter shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Chapter, since the same would have been enacted by the
city of Edgewood without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION 9.34 FLOOD PROTECTION DEVELOPMENT CONTROLS

A. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1. STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Kentucky has in Kentucky Revised Statutes 151.230 delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the legislative body of the City of Edgewood, Kentucky, hereby adopts the following floodplain management ordinance, as follows:

2. FINDINGS OF FACT

a. The flood hazard areas of the City of Edgewood 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.

b. 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.

3. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private loss due to flooding by provisions designed to:

a. 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;

b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;

d. Control filling, grading, dredging, and other development which may increase erosion or flood damage, and

e. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

4. OBJECTIVES

The objectives of this ordinance are to:

a. Protect human life and health;
b. Minimize expenditure of public money for costly flood control projects;
c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
d. Minimize prolonged business interruptions;
e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;
f. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood blighted areas caused by flooding;
g. Ensure that potential homebuyers are on notice that property is in a Special Flood Hazard Area; and,
h. Ensure that those who occupy a Special Flood Hazard Area assume responsibility for their actions.

B. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. A Zone - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are not determined.

2. Accessory structure (Appurtenant structure) - A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures
should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

3. Accessory use - A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

4. Addition (to an existing structure) - Any walled and roofed expansion to the perimeter or height of a structure.

5. AE zones - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

6. AH zone - An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base flood elevations are determined.

7. AO zone - An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are determined.

8. Appeal - A request for a review of the Floodplain Administrator’s interpretation of any provision of this ordinance or from the floodplain administrator's ruling on a request for a variance.

9. AR/A1 – A30, AR/AE, AR/AH, AR/O, and AR/A zones - Special Flood Hazard Areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete these areas will still experience residual flooding from other flooding sources.

10. A99 zone - That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a Federal flood protection system under construction. No base flood elevations are determined.

11. 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.
12. 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.

13. 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.

14. Basement - any area of a structure having its floor sub-grade (below ground level) on all sides.

15. Building - See definition for structure.

16. Community - A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

17. 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.

18. 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. This includes areas downstream from dams.

19. 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.
20. D zone - An area in which the flood hazard is undetermined.

21. 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 storage of equipment or materials.

22. Elevated structure – For insurance proposes, a non-basement structure built to have the lowest floor elevated above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

23. 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.

24. 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.

25. Enclosure - That portion of a structure below the lowest floor used solely for parking of vehicles, limited storage, or access to the structure.

26. Encroachment - The physical advance or infringement of uses, plant growth, fill, excavation, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

27. 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.

28. 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 a community.

29. 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).

30. 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 risk of flooding.

31. Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:
   a. The overflow of inland or tidal waters.
   b. The unusual and rapid accumulation or runoff of surface waters from any source.
   c. Mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
   d. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

32. Flood Boundary and Floodway Map (FBFM) - A map on which the Federal Emergency Management Agency (FEMA) has delineated the areas of flood hazards and the regulatory floodway.

33. 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).

34. Flood Insurance Rate Map (FIRM) - A map on which the Federal Emergency Management Agency (FEMA) has delineated special flood hazard areas and risk premium zones.

35. Flood Insurance Study - The report provided by the Federal Emergency Management Agency (FEMA) 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.

36. Floodplain or flood-prone area - Any land area susceptible to being inundated by flood waters from any source.

37. Floodplain Administrator - The individual appointed by the community to administer and enforce the floodplain management ordinances.

38. 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.

39. 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.

40. 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.

41. Floodproofing Certificate - A certification by a registered professional engineer or architect, the FEMA 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.

42. 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”.

43. Floodway fringe - That area of the floodplain on either side of the regulatory floodway.
44. 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.

45. Fraud and victimization - As related in Article 6, Appeals and Variance Procedures, of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for fifty to one hundred years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

46. 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, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

47. Governing body - The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

48. 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).

49. Highest adjacent grade - The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

50. 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:
   (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.

51. Increased Cost of Compliance (ICC) – Increased cost of compliance coverage means under the standard flood insurance policy the cost to repair a substantially flood damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are floodproofing (nonresidential), relocation, elevation, demolition, or any combination thereof.

52. 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.

53. Letter of Map Change (LOMC) – 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 inadvertently 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 – Based on 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.

54. 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.

55. 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.

56. 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.

57. Lowest adjacent grade – The lowest elevation of the sidewalk, patio, attached garage, deck support, basement entryway or grade immediately next to the structure and after the completion of construction.

58. 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.

59. 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).

60. Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
61. Map - The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

62. Map Panel Number - The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA, the letter “B” is the first revision.)

63. Market value - The property value (as agreed between a willing buyer and seller), excluding the value of the land as established by what the local real estate market will bear. Market value of the structure can be established by independent certified appraisal; replacement cost depreciated by age of structure (Actual Cash Value) or adjusted assessed values.

64. 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 the community’s FIRM. For purposes of this ordinance, the term is synonymous with either National Geodetic Vertical Datum (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988.

65. 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.

66. 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.

67. Mudslide (i.e. mudflow) area management - The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.
68. Mudslide (i.e. mudflow) prone area - An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

69. 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.

70. 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.)

71. New Construction - Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

72. 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 floodplain management regulations adopted by a community.

73. Non-Residential – Structures that are not designed for human habitation, including but is not limited to: small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than 6 months duration.

74. 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 panel legend for correct datum.)

75. 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.

76. 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
inundation by 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.

77. 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.

78. Pre-FIRM Construction - New construction or substantial improvements
for which start of construction occurred on or before December 31, 1974,
or before the effective date of the initial FIRM of the community, whichever
is later.

79. Post-FIRM Construction – New construction or substantial improvements
for which start of construction occurred after December 31, 1974, or on or
after the effective date of the initial FIRM of the community, whichever is
later.

80. Probation – A FEMA imposed change in community's status resulting from
violations and deficiencies in the administration and enforcement of the
local floodplain management regulations.

81. Program Deficiency - A defect in a community's floodplain management
regulations or administrative procedures that impairs effective
implementation of those floodplain management standards.

82. 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.

83. 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.

84. 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 flood elevations determined in the FIS.

85. 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.

86. 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.

87. Repair - The reconstruction or renewal of any part of an existing structure.

88. Repetitive Loss - Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

89. Repetitive Loss Property - Any insurable building for which two or more claims of more than $1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

90. Riverine - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

91. 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.

92. Severe Repetitive Loss Structure - Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

   a. Four or more separate claim payments of more than $5,000 each (including building and contents payments); or

   b. Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

   In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

93. Sheet flow area - see "Area of shallow flooding".

94. 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.

95. 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.
96. **Structure** - A walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

97. **Subdivision** - Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two (2) or more lots or parcels.

98. **Subrogation** – A legal action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

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

100. **Substantial Improvement** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a 1-year period in which the cumulative percentage of improvements equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

   a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or
   
   b. Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

101. **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.

102. **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.
103. Utilities – Include, but not limited to, electrical, heating, ventilation, plumbing, and air conditioning equipment that service the structure and the site.

104. Variance - Relief from some or all of the requirements of this ordinance.

105. 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.

106. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

107. 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 riverine areas.

108. 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.

109. X (shaded) and B zones - Areas of the 0.2% annual chance (500-year) flood that are outside of the SFHA, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than 1 square mile, and areas protected by levees from the base flood.

110. X (unshaded) and C zones - Areas determined to be outside the 500-year floodplain.

111. 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.

C. GENERAL PROVISIONS

1. LANDS TO WHICH THIS ORDINANCE APPLIES

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 of the City of Edgewood from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the legislative body of the City of Edgewood which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare of the citizens of the City of Edgewood.

2. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Kenton County, dated May 16, 2013, 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 by the City of Edgewood, and for those land areas acquired by the City of Edgewood 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. The FIS and/or FIRM are permanent records of the City of Edgewood and are on file and available for review by the public during regular business hours at PDS offices at 2332 Royal Drive, Fort Mitchell, Kentucky, 41091.

3. ESTABLISHMENT OF DEVELOPMENT PERMIT

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). See Section 9.34.D.2 for instructions and explanation.

Application for a Development Permit shall be made on forms furnished by the Floodplain Administrator.

4. COMPLIANCE

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.
5. ABROGATION AND GREATER RESTRICTIONS

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.

6. INTERPRETATION

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.

7. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This 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 damage. This ordinance shall not create liability on the part of the Local Floodplain Administrator of the City of Edgewood, any officer or employee, thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

8. ENFORCEMENT, VIOLATION NOTICE AND PENALTIES

a. Civil Offense: If, at any time, development occurs which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications, such development shall constitute a civil offense.

b. Notice of Violation: If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications thereof, a duly
authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this ordinance and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this ordinance or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed. See below.

c. Notice of Citation: If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this ordinance or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven (7) days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

d. Penalties: Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a Class A misdemeanor offense. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00 and/or imprisoned for not more than 12 months, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained
shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

D. ADMINISTRATION

1. DESIGNATION OF LOCAL ADMINISTRATOR

The legislative body of the City of Edgewood hereby appoints the Zoning Administrator to administer, implement, and enforce the provisions of this ordinance by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

2. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before any construction or other development begins within any special flood hazard area established in Section 9.34.C.2. Application for a Development Permit shall be made on forms furnished by Floodplain Administrator 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. Endorsement of floodplain administrator is required before a state floodplain construction permit can be processed. Specifically, the following information is required.

a. Application Stage

(1) Proposed elevation in relation to Mean Sea Level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade; or
(2) Proposed elevation in relation to Mean Sea Level to which any non-residential structure will be flood-proofed;
(3) All appropriate certifications from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 9.34.E.2.b and Section 9.34.E.4.b;
(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

b. Construction Stage

Upon placement of the lowest floor, and before construction continues, or flood proofing by whatever construction means, it
shall be the duty of the permit holder to submit to the Floodplain Administrator and to the State a certification of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to Mean Sea Level. In AE, A1-30, AH, and A zones where the Community has adopted a regulatory Base Flood Elevation, said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

When flood proofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder’s risk. The Floodplain Administrator shall review the lowest floor and flood proofing elevation survey data submitted. 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 required hereby, shall be cause to issue a stop-work order for the project.

3. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this ordinance. The Floodplain Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

a. Permit Review: Review all development permits to ensure that:

(1) Permit requirements of this ordinance have been satisfied;
(2) All other required state and federal permits have been obtained: review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.;
(3) Flood damages will be reduced in the best possible manner;
(4) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of
this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

b. Review and Use of Any Other Base Flood Data. When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer the provisions of Article 5. Any such information shall be submitted to the legislative body for adoption.

c. Notification of Other Agencies:

(1) Notify adjacent communities, the Kentucky Division of Water, and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse, and

(2) Submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and

(3) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

d. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:

(1) Certification required by Section 9.34.E.2.a (lowest floor elevations) as shown on an accurately completed and certified Elevation Certificate. Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new and substantially improved structures, in accordance with Section 9.34.D.2.b;

(2) Certification required by Section 9.34.E.2.b (elevation or floodproofing of nonresidential structures) as shown on an accurately completed and certified FEMA floodproofing certificate. Verify and record the actual elevation (in relation to Mean Sea Level) to which the new and substantially improved structures have been flood-proofed, in accordance with Section 9.34.D.2.a;

(3) Certification required by Section 9.34.E.2.c (elevated structures),

(4) Certification of elevation required by Section 9.34.E.5.a (subdivision standards),
(5) Certification required by Section 9.34.E.2.e (floodway encroachments).

(6) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

(7) Review certified plans and specifications for compliance; and

(8) Remedial Action. Take action to remedy violations of this ordinance as specified in Section 9.34.C.8.

e. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

(1) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 9.34.F.3.a;

(2) When base flood elevation data and floodway data have not been provided in accordance with Section 9.34.C.2, then the Floodplain Administrator shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Section 9.34.E;

(3) When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with Section 9.34.E.2.b a floodproofing certificate;

(4) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

f. Right of Entry

(1) Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the floodplain administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the floodplain administrator may enter such building, structure or
premises at all reasonable times to inspect the same or perform any duty imposed upon the floodplain administrator by this ordinance.

(2) If such structure or premises are occupied, the floodplain administrator shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.

(3) If entry is refused, the floodplain administrator shall have recourse to every remedy provided by law to secure entry.

(4) When the floodplain administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the floodplain administrator for the purpose of inspection and examination pursuant to this ordinance.

g. Stop Work Orders

(1) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person performing the work, and shall state the conditions under which work may be resumed.

h. Revocation of Permits

(1) The floodplain administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(2) The floodplain administrator may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

i. Liability
(1) Any officer, employee, or member of the floodplain administrator’s staff, charged with the enforcement of this ordinance, acting for the applicable governing authority in the discharge of his/her duties, shall not thereby render personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties. Any suit brought against any officer, employee, or member because of such act performed by him/her in the enforcement of any provision of this ordinance shall be defended by the department of law until the final termination of the proceedings.

j. Expiration of Floodplain Construction Permit

(1) A floodplain development permit, and all provisions contained therein, shall expire if the “start of construction” has not occurred within one hundred and eighty (180) calendar days from the date of its issuance.

E. PROVISIONS FOR FLOOD HAZARD REDUCTION

1. GENERAL CONSTRUCTION STANDARDS

In all Special Flood Hazard Areas the following provisions are required:

a. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

c. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

e. 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

f. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

g. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

h. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

i. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

j. Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance;

k. Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

2. SPECIFIC STANDARDS

In all special flood hazard areas where base flood elevation data have been provided, as set forth in Section 9.34.C.2, the following provisions are required:

a. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured home) shall have the lowest floor, including basement, mechanical equipment, and ductwork elevated no lower than 2 feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate
automatic equalization of hydrostatic flood forces on walls shall be provided in accordance with standards of Section 9.34.E.2.c.

(1) In an AO zone, the lowest floor shall be elevated above the highest adjacent grade to a height equal to or higher than the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

(2) In an A zone, where no technical data has been produced by the Federal Emergency Management Agency, the Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include, but are not limited to, detailed hydrologic and hydraulic analyses, use of existing data available from other sources, approximate methods, use of historical data, best supportable and reasonable judgement in the event no data can be produced. The lowest floor shall be elevated no lower than 2 feet above such base flood elevation. Title 401 KAR (Kentucky Administrative Regulations) Chapter 4, Regulation 060, Section 5(5)a, states as a part of the technical requirements for a State Floodplain Permit: The applicant shall provide cross sections for determining floodway boundaries (and thereby Base Flood Elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than + five-tenths (0.5) foot. Cross sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. If necessary to ensure that significant flood damage will not occur, the cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

(3) In all other Zones, elevated 2 feet above the base flood elevation.

Upon the completion of the structure, the elevation of the lowest floor (including basement) shall be certified by a registered professional engineer or surveyor, and verified by the community building inspection department to be properly
elevated. Such certification and verification shall be provided to the Floodplain Administrator.

b. Non-residential Construction. New construction and substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes used for non-residential purposes) shall be elevated to conform with Section 9.34.E.2.a or together with attendant utility and sanitary facilities:

(1) Be floodproofed to an elevation 2 feet above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy and debris;

(3) A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification along with the design and operational maintenance plans shall be provided to the Floodplain Administrator.

(4) Manufactured homes shall meet the standards in Section 9.34.E.2.d.

(5) All new construction and substantial improvement with fully enclosed areas below the lowest floor (including basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be constructed of flood resistant materials to an elevation 2 feet above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Openings for meeting this requirement must meet or exceed the standards of Section 9.34.E.2.c.

c. Elevated Structures. New construction and substantial improvements of elevated structures on columns, posts, or pilings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Openings for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
(i) Provide a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and

(3) The interior portion of such enclosed areas shall not be finished or partitioned into separate rooms.

d. Standards for Manufactured Homes and Recreational Vehicles.

(1) All new and substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community’s Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:

i) On individual lots or parcels,

ii) In expansions to existing manufactured home parks or subdivisions,

iii) In new manufactured home parks or subdivisions or

iv) In substantially improved manufactured home parks or subdivisions,

v) Outside of a manufactured home park or subdivision, and

vi) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood,

All such manufactured homes must be:

(i) Elevated on a permanent foundation, and

(ii) Have its lowest floor elevated no lower than 2 feet above the level of the base flood elevation, and

(iii) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
(2) Except manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
   (i) The manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either the:
       o The lowest floor of the manufactured home is elevated no lower than 2 feet above the base flood elevation, or
       o 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 the highest adjacent grade.

(3) All recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community’s Flood Insurance Rate Map (FIRM) must either:
   (i) Be on the site for fewer than 180 consecutive days,
   (ii) Be fully licensed and ready for highway use, or
   (iii) Meet the permit requirements for new construction of this ordinance, including anchoring and elevation requirements for “manufactured homes”.

A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Kentucky motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

e. Floodways. Located within areas of special flood hazard established in Section 9.34.C.2, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base
flood elevation levels during occurrence of base flood discharge;

(2) If Section 9.34.E.2.e is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of Section 9.34.E.

3. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS

Located within the special flood hazard areas established in Section 9.34.C.2, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

a. 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.

b. New construction and substantial improvements of structures shall be elevated or flood proofed to elevations established in accordance with Section 9.34.C.2.

4. STANDARDS FOR SHALLOW FLOODING ZONES

Located within the special flood hazard areas established in Section 9.34.E.C.2, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet (1 – 3’), where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

a. All new construction and substantial improvements of residential structures shall:

(1) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be
b. All new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.

(2) Together with attendant utility and sanitary facilities be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in Section 9.34.E.2.b.

5. STANDARDS FOR SUBDIVISION PROPOSALS

a. All 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;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and,

d. In areas where base flood elevation and floodway data is not available, 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.

e. 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.
6. STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER ‘A’

For all accessory structures in special flood hazard areas designated ‘A’ the following provisions shall apply:

a. Must be non-habitable;
b. Must be anchored to resist floatation and lateral movement;
c. Must be provided with flood openings in accordance with the standards of Section 9.34.E.2.c;
d. Must be built of flood resistant materials to 2 feet above the base flood elevation;
e. Must elevate utilities 2 feet above the base flood elevation;
f. Can only be used for storage or parking; and
g. Must not be modified for a different use after permitting.

7. CRITICAL FACILITIES

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

F. APPEALS AND VARIANCE PROCEDURES

1. Nature Of Variances

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.
It is the duty of the legislative body to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

2. Designation of Variance and Appeal Board

   a. The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of these regulations.

3. Duties of Board of Adjustment

   a. The Board of Adjustment shall hear and decide requests for variances from the requirements of this ordinance and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this ordinance.

   b. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Circuit Court, as provided in Kentucky Revised Statutes.

4. Variance Procedures

   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 the:

   a. Danger that materials may be swept onto other lands to the injury of others;
   b. Danger to life and property due to flooding or erosion damage;
   c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
   d. Importance to the community of the services provided by the existing or proposed facility;
   e. Necessity that the facility be located on a waterfront, in the case of functionally dependent use;
   f. Availability of alternative locations, which are not subject to flooding or erosion damage;
g. Compatibility of the proposed use with existing and anticipated development;
h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
i. Safety of access to the property in times of flood for ordinary and emergency vehicles;
j. Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges and culverts.

5. Conditions for Variances

Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

a. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
b. Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the legislative body need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the legislative body believes will both provide relief and preserve the integrity of the local ordinance.
c. Variances shall only be issued upon:
   (i) A showing of good and sufficient cause;
   (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
   (iii) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in the definition section under "Public safety and nuisance"), cause fraud or victimization of the public (as defined in the definition section) or conflict with existing local laws or ordinances.
d. 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 structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor being situated below the base flood elevation.

e. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

f. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Article 6 (4) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

6. Variance Notification

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage;

b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Kenton County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

c. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance or denial, and report such variances issued in the community’s biennial report submission to the Federal Emergency Management Agency.

7. Historic Structures

Variances may be issued for the repair or rehabilitation of “historic structures” (see definition) upon determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
G. SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

If any clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

This ordinance was adopted at a public meeting of the legislative body of the City of Edgewood on March 4, 2013.

SECTION 9.35 DEVELOPMENT REGULATIONS FOR CONSERVATION SUBDIVISIONS

A. PURPOSE

1. To enhance subdivision value and reduce development costs through conservation and cluster designs.

2. To promote and preserve interconnected green space as a nonstructural stormwater runoff and watershed protection measure, and a means to promote convenient walking and/or biking paths to reduce reliance on automobiles.

3. To preserve interconnected and contiguous green space as habitat and water quality protection measures.

4. To promote environmentally-sensitive and efficient uses of land by clustering houses on less environmentally-sensitive soils, reducing the need for infrastructure such as paved surfaces and utility easements, and reducing erosion and sedimentation by minimizing land disturbance and removal of vegetation.

5. To preserve unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, slopes, woodlands, and wildlife habitats.

6. To ensure interaction within the community by orienting houses closer to the street and providing public gathering spaces, parks, and community facilities.
7. To ensure interconnected street designs that reduce traffic speeds and reliance on more highly-classified streets.

8. To promote community character and diversity through a mixture of housing types and lot sizes.

B. HOUSING DENSITY DETERMINATION

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

C. APPLICATION AND PROCESSING

Pre-application meeting - Prior to filing for development plan review, the developer, petitioner, applicant, or property owner must attend a scheduled pre-application meeting with staff to discuss the yield plan and other requirements of the development review process. The following information will be identified for traffic studies at the pre-application meeting: study area, site trip generation, site trip distribution, build-out study year, future highway projects within the study area, and other concurrent development occurring within the study area.

No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application meeting as a representation or implication that the proposal will be ultimately approved or rejected in any form. This meeting is intended to review the development plan and identify any issues in applying the conservation subdivision regulations.

Stage II Development Plan – A Stage II Development Plan shall be prepared in accordance with the requirements of Section 9.20, B., and submitted to the planning commission’s duly-authorized representative, for its review and approval. The planning commission, or its duly-authorized representative, shall take final action to approve, approve with conditions, or disapprove the Stage II Development Plan. This action letter shall be forwarded to the legislative body’s administrative official, or his/her duly authorized representative.

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 9.20, B., for Stage II plans, and other applicable elements and regulations. Upon approval of the Stage II Development Plan by
the planning commission, or its duly authorized representative, a copy of the plan shall be forwarded to the legislative body’s zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other requirements of this ordinance.

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

E. REQUIRED COMMON OPEN SPACE AREA: at least 30 percent of the total area of a conservation subdivision shall be retained as common open space. Riparian and viewshed protection areas may be counted towards the common open space requirement. Required perimeter setbacks around the development, streets, parking areas, driveways, and/or development lots shall be counted towards satisfying common open space requirements.

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

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

An easement document pertaining to the use of the passive open space area shall be included on the plat and in each owner’s deed.

F. ACCESSORY USES: accessory uses shall be as specified within the existing zone.

G. CONDITIONAL USES: conditional uses, including customary accessory structures and uses shall be as specified within the existing zone and subject to the approval of the Board of Adjustment as set forth in Sections 9.14 and 18.7 of this ordinance.

H. AREA REQUIREMENTS: conservation subdivisions shall not be permitted on less than five acres of land. An area of less than five acres may be developed as a conservation subdivision, however, provided it is adjacent to an area approved for or developed as a conservation subdivision.

I. HEIGHT, YARD AND SETBACK REGULATIONS:
1. Minimum Building Site Width: 100 feet
3. Maximum building height shall be as specified in the existing zone.

All other requirements shall be as approved in the plan.

J. TRAFFIC STUDY:

1. PURPOSE: It is the intent of this section to set forth regulations regarding the completion of traffic studies within the limits of a conservation subdivision. A traffic study shall be completed for any conservation subdivision. The purpose of these regulations is to:
   
a. Ensure that the existing transportation infrastructure is adequate for the proposed development.
b. Mitigate any negative traffic impacts to the surrounding transportation network caused by the development.
c. Ensure safe and adequate access points to the development.
d. Provide a consistent set of requirements and thresholds which can be applied to all development within conservation subdivisions.

2. GOALS: The goals of the traffic study shall be:
   
a. Return all intersections within the study area to the Level of Service existing prior to the development’s inception.
b. Provide for improvements to the study area such as turn lanes, traffic signal modifications, and sight distance clearing in order to maintain the existing Level of Service where necessary.

3. THRESHOLDS: Only one of the following study types will be required based on the following conditions:
   
a. Traffic Assessment Report: A Traffic Assessment Report will be required for any development generating less that 60 vehicle trips per hour (vph) during the peak hour of the roadway network.
b. Traffic Impact Analysis Report: A Traffic Impact Analysis Report will be required for any development generating 60 or more vehicle trips per hour during the peak hour of the roadway network.

All trip generation data shall be based on the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers. All trip generation data shall be based on the final density of the development, inclusive of all granted density bonuses and any anticipated public use of any open space.
4. **RESPONSIBILITY:** The applicable traffic study is the responsibility of the applicant of the subject property. The report shall be completed under the direct supervision of a licensed professional Engineer licensed within the Commonwealth of Kentucky. Each report shall contain the professional engineer's stamp, along with their signature and date.

5. **REQUIREMENTS:** This section outlines the study requirements for each type of traffic study. The type of study required is based on the threshold requirements set forth in this ordinance.

   a. **Traffic Assessment Report Requirements:** The contents of a traffic assessment report shall be presented in the form of a letter. The letter shall be a brief and concise presentation of the following information: introduction, existing traffic conditions, build-out traffic conditions (without site traffic), trip generation data, and build-out traffic conditions (with site traffic). An appendix to the report shall be provided that includes all site maps, figures and computer analyses.

   b. **Traffic Impact Analysis Report Requirements:** The contents of a traffic impact analysis report shall be presented in report form including the following sections:

      (1) **Executive Summary:** summarizes study findings
      (2) **Introduction:** provides all background information pertinent to study.
      (3) **Existing Traffic Conditions:** provides all information and figures relevant to existing traffic condition analysis.
      (4) **Build-out Traffic Conditions (without site traffic):** provides all information and figures relevant to build-out traffic conditions, not including proposed development traffic.
      (5) **Trip Generation:** provides all information relevant to the trip generation data used in the analyses.
      (6) **Build-out Traffic Conditions (with site traffic):** provides all information and figures relevant to build-out traffic conditions, including proposed development traffic.
      (7) **Signal Warrants Analysis** (applicable only if a traffic signal is proposed as part of the development): provides all information relevant to the signal warrant analysis process as outlined in the latest edition of the *Manual of Uniform Traffic Control Devices*.
      (8) **Appendix:** include all computer analyses conducted as part of the report.
K. NATURAL RESOURCE PROTECTION: Hillside, viewshed and riparian protection shall be planned and applied in accordance with Section 9.35 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 plan.

M. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.

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

1. Extent to which the proposed development complies with the various elements of the Comprehensive Plan and where applicable any plan officially adopted by the legislative body.

2. Extent to which the proposed development plan is consistent with the purpose of these conservation subdivision regulations.

3. Extent to which the proposed site is adequate considering such factors as its configuration and the extent to which it is formed by boundaries based on topography, natural features, streets, and relationship to adjacent uses.

4. Extent to which the proposed development is coordinated with existing and/or proposed contiguous development in terms of intensity, coordination of vehicular and pedestrian circulation, scale, open space and setbacks, screening or utilizing natural features, and impact on adjacent land uses.

5. Extent to which non-traditional street designs (i.e. roundabouts, alleys, etc.) are used to provide for the efficient and safe movement of traffic.

6. Extent to which necessary public utilities and facilities are available to serve the development. Where deficiencies exist, the extent to which improvements shall be considered.

O. AMENDMENTS: Amendments to plans shall be made in accordance with the procedure required by Subsection C.

P. UTILITIES: All utilities in a conservation subdivision shall be located underground.
SECTION 9.36 NATURAL RESOURCE PROTECTION REGULATIONS

A. PURPOSE: Natural resource protection areas include hillside, riparian areas and viewsheds. The purposes of these regulations are to:

1. Establish development standards to protect functions and values of environmentally-sensitive features.

2. Protect the general public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, soil subsidence or steep slope failures.

3. Protect unique, fragile and valuable elements of the environment by maintaining and promoting native biodiversity.

4. Prevent cumulative adverse environmental impacts on water quality, ground water, wetlands and aquatic areas.

B. APPLICABILITY

These regulations shall apply only to the development of conservation subdivisions.

C. CONFLICT WITH OTHER REGULATIONS

If the provisions of these regulations conflict with other requirements of the Edgewood Zoning Ordinance, the more restrictive provision will apply.

D. HILLSIDE PROTECTION

1. Hillside protection is intended to ensure that when development is proposed on slopes of 20 percent or greater and/or underlying Kope formations, it is designed in a manner harmonious with adjacent lands so as to minimize problems of connectivity, drainage, erosion, earth movement, and other natural hazards.

2. Purpose

   a. To permit a reasonable amount of development on hillsides while conserving and promoting the health, safety and general welfare by minimizing pollution from run-off and sedimentation.

   b. To encourage best management practices of design, landscape architecture, architecture and planning to preserve, protect, enhance the existing and future appearance and resources of hillside areas.
c. To preserve and enhance the natural beauty of the landscape by encouraging maximum retention of the natural topographic features such as natural drainage swales, springs, streams, tree stands and other vegetative cover, and scenic vistas.

3. Areas of land on which development may be restricted due to hillside slopes shall be limited according to the following requirements:

a. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures of any nature within these areas may occur until plans and specifications have been submitted in development plan form and approval has been granted per Section 9.7 of this ordinance.

b. Areas with slopes of 20 percent or greater shall meet the following requirements:

(1) The following information shall be shown on the Stage II Development Plan:
- Existing topography and vegetation;
- Proposed physical changes necessary for construction including grading (cutting and filling);
- Areas to be cleared of vegetation;
- Any pertinent actions which will change the natural physical features of the site or general area.

(2) A geo-technical report containing the following information shall be submitted for review with the Stage II Development Plan:
- 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, licensed civil engineer or 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.

4. The development plan and other information required by this Section shall be reviewed by the planning commission, or its duly authorized representative, to determine the impact of the proposed development on drainage, soil erosion and/or hillside slippage.
The planning commission, or its duly authorized representative, may authorize use of the site in accordance with the submitted plans. Prior to the issuance of a Certificate of Occupancy for the site, the planning commission, or its duly authorized representative, shall require written authorization from a qualified, licensed civil engineer that the proposed development was completed in compliance with the specifications and recommendations contained in the geo-technical report.

5. If, after review of the plans required by this section, the planning commission, or its duly authorized representative, determines that the proposed plans will not minimize hillside slippage and/or soil erosion, the Stage II Development Plan shall be denied.

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

a. PUBLIC POLICY:

   (1) Development in hillside areas should be designed to preserve the natural drainage and character of the land to the greatest extent possible. Deep and/or extensive excavations and fills which scar the landscape should be avoided.
   (2) Excessive cutting and filling should be avoided in the construction of hillside roadways.
   (3) Roadways constructed on hillsides should follow the contours of the land wherever possible or climb the slopes with a gentle grade.

b. CHARACTER OF DEVELOPMENT:

   (1) The use of large, flat grading planes should be minimized and techniques such as terracing and landscaping earth berms should be explored.
   (2) Yards and parking areas should be designed to follow natural contours, drainage patterns, and vegetation.
   (3) The natural slope line of the hill, as seen in profile, should be retained.
   (4) Existing native vegetation should be preserved, and when disturbed, should be supplemented with new native vegetation.
   (5) Trees should be planted in random clusters, not in rows, to compliment the natural pattern of tree distribution.
   (6) All cuts, fills, and other earth modifications should be replanted with appropriate native vegetation.
(7) The risk of off-site geologic property damage should be minimized by locating development away from areas vulnerable to sliding.
(8) Grading for buildings, driveways, outdoor use areas, utilities, etc., should be minimized to preserve a site’s natural topography.
(9) When grading operations are necessary, the smallest practical areas of land should be exposed at any one time and the length of exposure should be kept to the shortest practicable amount of time.

E. RIPARIAN PROTECTION

1. Purpose: It is the intent of this sub-section to establish riparian buffer areas adjacent to all perennial streams and rivers in Kenton County to: protect public and private water supplies; trap sediment and other pollutants in surface runoff; promote bank stabilization; protect riparian wetlands; minimize the impacts of flooding; prevent decreases in base flow; protect wildlife habitat; and maintain water quality.

2. DEFINITIONS: Notwithstanding other definitions within this ordinance, the following definitions shall apply only to this sub-section:

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

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

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

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

3. ESTABLISHMENT OF RIPARIAN BUFFER AREAS

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

The following shall apply to the riparian buffer:

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

b. Where the 100-year floodplain is wider than the riparian buffer on either or both sides of the stream, the riparian buffer shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain width shall be reflective of and interpreted from the Federal Insurance Administration’s Flood Insurance Study floodplain boundaries.

c. The following adjustment for steep slopes shall be integrated into the riparian buffer calculation for width determination to account for the influence of gradient on the stream:

<table>
<thead>
<tr>
<th>Average percent slope within the riparian buffer</th>
<th>Additional buffer requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>= &gt;15% and &lt; 25%</td>
<td>Add 25 feet</td>
</tr>
<tr>
<td>&gt; 25%</td>
<td>Add 50 feet</td>
</tr>
</tbody>
</table>

d. The applicant shall be responsible for delineating the riparian buffer and identifying this setback on all subdivision plats, development plans, and/or zoning permit applications. No approvals or permits shall be granted prior to the determination of the riparian buffer in conformance with these regulations.

e. Prior to any land disturbance activity, the riparian buffer shall be clearly delineated with construction fencing or other suitable material by the applicant on site, and such delineation shall be maintained throughout soil-disturbing activities. The delineated area shall be maintained in an undisturbed state unless otherwise permitted by these regulations. All fencing shall be removed when a development project is completed.

4. PERMITTED USES: All land within the riparian buffer shall be subject to the following standards and regulations. Except as otherwise provided in these regulations, the riparian buffer shall remain in a natural condition, or, if in a disturbed condition, including agricultural activities, at the time of the adoption of this ordinance, may be restored to a natural condition.
Article IX  General Requirements 9-116

a. Existing land uses, except:

(1) when the existing land use, or any building or structure involved in that use is enlarged, increased or extended to occupy a greater area of land; or

(2) when the existing land use, or any building or structure involved in that use is moved (in whole or in part) to another portion of the property; or

(3) when the existing land use ceases for a period of more than one year; or

(4) when the existing land use involves agricultural production and management, in which case it shall be consistent with all state and federal laws, all regulations within the Kentucky Agriculture Water Quality Act and best management practices established by the Kentucky Division of Conservation.

b. Open space uses that are primarily passive in character shall be permitted to extend into the riparian buffer provided the vegetation and remaining area of buffer is maintained. Such uses include wildlife sanctuaries, nature preserves, forest preserves, fishing areas, and game farms.

c. Multiple use recreation trails provided they are located at least 20 feet from the stream and constructed of pervious materials.

d. Fences for which a permit has been issued by the Zoning administrator provided they are not located within the floodway boundary.

e. Timber cutting when accomplished under the advice and guidance of an appropriate government agency and necessary to preserve the forest from pest infestation, disease infestation or fire threat. Removal of individual trees that are in danger of falling and causing damage to structures or causing blockage to the stream flow.

f. Stream crossings when designed and constructed according to Kentucky Division Of Water standards. All roadway crossings shall mitigate and remediate any necessary disturbance to the riparian buffer.
g. Revegetation and/or reforestation of the riparian buffer. Information pertaining to species of shrubs and vines recommended for stabilizing flood prone areas along streams may be obtained at the Kenton County Conservation District.

h. Stream bank stabilization or erosion control when accomplished according to best management practices and permitted uses by local, state and federal government regulations that emphasize the use of native plant species where practical and available. Stream bank stabilization/erosion control practices shall only be undertaken with approval from Sanitation District No.1.

i. Structures which by their nature must be located within the riparian buffer. These include docks, boat launches, public water supply intake structures, facilities for water quality treatment and purification, utility transmission lines, and public wastewater treatment plant sewer lines and outfalls.

F. VIEWSHED PROTECTION

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

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

   If the applicant can demonstrate that the boundaries of the viewshed protection area are inappropriate due to topographic conditions, the applicant shall submit a proposed viewshed protection area and include the justification for the proposed change.

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

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

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

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

1. Location of trees to be preserved;
2. Contour lines; and
3. Limits of clearing, trenching, access routes for heavy equipment, etc. that may be dangerous to the tree(s).

b. A landscaped earth berm with a maximum slope of three to one, rising at least four feet above the existing grade shall be provided. The earth berm shall be landscaped with evergreen trees, deciduous understory trees, and evergreen shrubs. A difference in elevation between areas requiring screening does not constitute an earth mound.

c. A minimum setback of 150 feet shall be provided from the edge of the right of way to the closest structure. These areas may count towards any open space requirements.

d. Landscaping or reforestation techniques shall be used when none of the other listed viewshed protection options is feasible. A minimum planting strip of 75 feet shall be provided with 1 tree per 35 feet of linear boundary, or fraction thereof, from either List A (shade trees) or List B (flowering and non-flowering trees), plus a single row hedge from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs) from the Planting Manual and Landscape Regulations Guidelines.

Alternatively, a reforestation program may be established for a minimum area 75 feet in depth as measured perpendicular to the right-of-way. A detailed description with plans shall be submitted along with the Stage II Development Plan. The reforestation program shall be prepared by a licensed forester or a licensed landscape architect.
SECTION 9.37 SHORT-TERM RENTALS

A. Nobody shall cause, promote, aid, assist, encourage, allow or engage in any Short-Term Residential Rental anywhere in a residential zone unless:

1. The floor area of the Short-Term Rental is no more than 25% of the total square footage of finished living space in the residential unit in which the Short-Term Residential Rental is located; and

2. The residential unit in which the Short-Term Residential Rental is located is occupied by the owner thereof during the Short-Term Residential Rental; and

3. The owner of the residential unit in which the Short-Term Residential Rental is located has a current Edgewood Occupational License during the Short-Term Residential Rental.
ARTICLE X

ZONES

SECTION 10.0 CO (CONSERVATION) ZONE

A. PERMITTED USES

1. Agricultural uses;
2. Publicly owned and/or operated parks and/or recreation areas;
3. Private recreational uses, other than those publicly owned and/or operated such as golf courses, country clubs, and camping areas;

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

C. CONDITIONAL USES: The following uses and their 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. Riding academies and stables;
2. The following uses are permitted providing that the development of all facilities in or adjacent to navigable waters shall be approved by the Corps of Engineers, Department of the Army, and the Division of Water, Kentucky Department for Natural Resources and Environmental Protection. Such statements of approval or denial shall be submitted to the board of adjustment at the time of submittal for a conditional zoning certificate:

   a. Boat harbors and marinas;

      The following uses shall be permitted as accessory uses in connection with any boat harbor or marina provided they are primarily intended to serve only persons using the boat harbor or marina:

      (1) Boat fueling, service, and repairs;
      (2) Sale of boat supplies;
      (3) Grocery store;
      (4) Restaurant;
b. Boat landing, docking, and launching facilities;
c. Off-street parking facilities including facilities for temporary parking of boat trailers.

D. AREA AND HEIGHT REGULATIONS

1. Minimum lot area - One (1) acre
2. Minimum lot width - One hundred fifty (150) feet
3. Minimum front yard depth - Fifty (50) feet
4. Minimum side yard width - Twenty-five (25) feet
5. Minimum rear yard depth - Fifty (50) feet
6. Maximum building height - Twenty-five (25) feet

E. OTHER DEVELOPMENT CONTROLS

1. A site plan, as regulated by Section 9.19 of this ordinance shall be required for any permitted use or conditional use in this zone.
2. Any activity that may be located in the floodplain of any water course shall be in accordance with the requirements of Section 9.25
3. Dwellings, including cabins, rooming houses, and mobile homes are not permitted in this zone.
4. Temporary camping units, tents, and recreational vehicles, as defined in KRS 219.320 (8) shall be permitted; however, no such units shall be used for year-round habitation.
5. Off-street parking shall be provided for any use within this zone, according to the provisions of Article XI.
6. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
7. No motor vehicle which is inoperable, or mobile home or trailer shall be stored or used for storage in this zone.
8. No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.
SECTION 10.1 R-RE (RESIDENTIAL RURAL ESTATE) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Agricultural uses
3. Sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any street.
4. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises provided that the storage of manure shall not be permitted nearer than one hundred (100) feet from the front of a street, road, highway, or right-of-way line, or not nearer than fifty (50) feet from a side lot line.
5. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance.
6. Stables and riding academies, both public and private.

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article XIII.
3. Home occupations regulated in Section 9.11.
4. Signs, as regulated by Article XIV.

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial or collector street
3. Governmental offices
4. Nursery schools, provided they are located adjacent to an arterial
5. Police and fire stations, provided they are located adjacent to an arterial or collector street
6. Public and parochial schools, provided they are located adjacent to an arterial or collector street
7. 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. Swimming pools
d. Tennis courts/clubs
e. Fishing lakes and clubs
f. Gun clubs and ranges

9. Funeral homes, provided they are located adjacent to an arterial street

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES

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

E. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
SECTION 10.2 R-1B (RESIDENTIAL ONE-B) ZONE

A. PERMITTED USES

2. Farms, for crop production and raising of cattle and horses, including land used for horticultural purposes, provided said use occupies a minimum site of 10 contiguous acres, unserved by street, and further provided that land which is used for the raising of cattle and horses shall not exceed a ratio of one animal for each three (3) acres of land devoted to said use.
3. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance.

B. ACCESSORY USES

1. Customary accessory buildings and uses.
2. Fences and walls, as regulated by Article XII.
3. Signs, as regulated by Article XIV.
4. Home occupations, as regulated 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 buildings for the purpose of religious worship, providing they are located adjacent to an arterial or collector street
3. Governmental offices
4. Police and fire stations, provided they are located adjacent to an arterial or collector street
5. Institutions for higher education providing they are located adjacent to an arterial street.
6. Institutions for human medical care - hospitals, convalescent homes, nursing home, and homes for the aged, providing they are located adjacent to an arterial street and having a maximum capacity of five (5) beds.
7. Nursery schools, provided they are located adjacent to an arterial street
8. Public and parochial schools, provided they are located adjacent to an arterial or collector street
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 - 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 on each side of lot - Fifteen (15) feet  
   5. Minimum rear yard depth - Twenty-five (25) feet  
   6. Maximum building height - Thirty-five (35) feet  
   7. Maximum Density - Two (2) dwelling units per net acre  

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 rear yards - 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. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
SECTION 10.3 R-1C (RESIDENTIAL ONE-C) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Two-family and multi-family dwellings existing at the time of adoption of this ordinance (subject to Section 10.3, F)
3. Farms, for crop production and raising of cattle and horses, including land used for horticultural purposes, provided said use occupies a minimum site of 10 contiguous acres, unsevered by streets, and further provided that land which is used for the raising of cattle and horses shall not exceed a ratio of one animal for each three (3) acres of land devoted to said use. Land which is used for the raising of horses shall not exceed a ratio of one horse for each one acre of land devoted to said use, providing that such animals are maintained in such facilities contained in areas being utilized primarily for exercise purposes. Each horse must be stabled in a separate stall whose minimum dimensions shall be 10 feet by 10 feet.
4. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance.
5. Conservation subdivision, subject to the requirements of section 9.35 of this ordinance.

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.

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 buildings for the purpose of religious worship, providing they are located adjacent to an arterial or collector street
3. Governmental offices
4. Police and fire stations, provided they are located adjacent to an arterial or collector street
5. Institutions for higher education providing they are located adjacent to an arterial street.
6. Institutions for human medical care - hospitals, convalescent homes, nursing home, and homes for the aged, providing they are located...
adjacent to an arterial street and having a maximum capacity of five (5) beds.

7. Nursery schools, provided they are located adjacent to an arterial street
8. Public and parochial schools, provided they are located adjacent to an arterial or collector street
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 - Twelve thousand five hundred (12,500) square feet
2. Minimum lot width at building setback line - Eighty (80) feet
3. Minimum front yard depth - Thirty-five (35) feet
4. Minimum side yard width - Total both sides: Twenty (20) feet; Minimum one side: Seven (7) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet
7. Maximum density - 3.5 dwelling units per net acre

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 rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. SPACE AND HEIGHT REQUIREMENTS: For two-family and multi-family dwellings existing at the time of adoption of this ordinance.

1. Maximum Height - Thirty (30) feet
2. Minimum Lot Area - Seven thousand five hundred (7,500) square feet
3. Minimum Width - Sixty (60) feet
4. Minimum Yards -
a. Front Yards - Thirty (30) feet  
b. Side Yard - Five (5) feet one side; Fifteen (15) feet two sides;  
c. Rear Yard - Thirty (30) feet  

G. 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. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
SECTION 10.4 R-1D (RESIDENTIAL ONE-D) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Two-family dwellings existing at the time of adoption of this ordinance (subject to Section 10.4, F)
3. Farms, for crop production and raising of cattle and horses, including land used for horticultural purposes, provided said use occupies a minimum site of 10 contiguous acres, unsevered by streets, and further provided that land which is used for the raising of cattle and horses shall not exceed a ratio of one animal for each three (3) acres of land devoted to said use.
4. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance.

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 buildings for the purpose of religious worship, providing they are located adjacent to an arterial or collector street
3. Police and fire stations, provided they are located adjacent to an arterial or collector 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, convalescent homes, nursing home, and homes for the aged, providing they are located adjacent to an arterial street and having a maximum capacity of five (5) beds.
7. Nursery schools, provided they are located adjacent to an arterial street
8. Public and parochial schools, provided they are located adjacent to an arterial or collector street
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 - Nine thousand (9,000) square feet
2. Minimum lot width at building setback line - Seventy (70) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total both sides 18 feet; Minimum one side 6 feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet
7. Maximum density - 4.8 dwelling units per net acre

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 rear yards - Fifty (50) feet.
4. Maximum building height - Thirty-five (35) feet

F. SPACE AND HEIGHT REQUIREMENTS: For two-family dwellings existing at the time of adoption of this ordinance.

1. Maximum Height - Thirty (30) feet
2. Minimum Lot Area - Seven thousand five hundred (7,500) square feet
3. Minimum Width - Sixty (60) feet
4. Minimum Yards -
   a. Front Yards - Thirty (30) feet
   b. Side Yard - Five (5) feet one side; Fifteen (15) feet two sides;
   c. Rear Yard - Thirty (30) feet

G. 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. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
SECTION 10.5 R-1DD (RESIDENTIAL ONE-DD) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Two-family residential dwellings
3. Two-family dwellings existing at the time of adoption of this ordinance (subject to Section 10.5, F)
4. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance.

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
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 buildings for the purpose of religious worship, providing they are located adjacent to an arterial or collector street
3. Police and fire stations, provided they are located adjacent to an arterial or collector 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, convalescent homes, nursing home, and homes for the aged, providing they are located adjacent to an arterial street and having a maximum capacity of five (5) beds.
7. Nursery schools, provided they are located adjacent to an arterial street
8. Public and parochial schools, provided they are located adjacent to an arterial or collector street
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 -  
   Single-family: Nine thousand (9,000) square feet  
   Two-family: Thirteen thousand five hundred (13,500) square feet.

2. Minimum lot width at building setback line -  
   Single-family: Seventy (70) feet  
   Two-family: Eighty (80) feet

3. Minimum front yard depth - Thirty (30) feet

4. Minimum side yard width -  
   Single-family: Total both sides 20 feet; Minimum one side 5 feet  
   Two-family: Total both sides 24 feet; Minimum one side 10 feet

5. Minimum rear yard depth - Twenty-five (25) feet

6. Maximum building height - Thirty-five (35) feet

7. Maximum Density - 4.8 to 6.7 dwelling units per net acre

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 rear yards - Fifty (50) feet

4. Maximum building height - Thirty-five (35) feet

F. SPACE AND HEIGHT REQUIREMENTS: For two-family dwellings existing at the time of adoption of this ordinance.

1. Maximum Height - Thirty (30) feet
2. Minimum Lot Area - Seven thousand five hundred (7,500) square feet
3. Minimum Width - Sixty (60) feet
4. Minimum Yards -
   a. Front Yards - Thirty (30) feet
   b. Side Yard - Five (5) feet one side; Fifteen (15) feet two sides;
   c. Rear Yard - Thirty (30) feet

G. 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. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
SECTION 10.6 R-1E (RESIDENTIAL ONE-E) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Two-family dwellings existing at the time of adoption of this ordinance (subject to Section 10.5, F)
3. Farms, for crop production and raising of cattle and horses, including land used for horticultural purposes, provided said use occupies a minimum site of 10 contiguous acres, unsevered by streets, and further provided that land which is used for the raising of cattle and horses shall not exceed a ratio of one animal for each three (3) acres of land devoted to said use.
4. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance.

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

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 buildings for the purpose of religious worship, providing they are located adjacent to an arterial or collector street
3. Police and fire stations, provided they are located adjacent to an arterial or collector 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, convalescent homes, nursing home, and homes for the aged, providing they are located adjacent to an arterial street and having a maximum capacity of five (5) beds.
7. Nursery schools, provided they are located adjacent to an arterial street
8. Public and parochial schools, provided they are located adjacent to an arterial or collector street
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.

12. Day Care, In-home, subject to the following regulations:
   
   a. All operations are conducted in conjunction with a residential use occurring on the property by the property owner or an authorized tenant claiming residence at the property in which the operations will occur.
   b. In-home Day Care facilities shall be subject to the area and height regulations for permitted uses.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

1. Minimum lot area - Seven thousand five hundred (7,500) square feet
2. Minimum lot width at building setback line - Sixty (60) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total both sides 15 feet; Minimum one side 5 feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet
7. Maximum Density - 5.8 dwelling units per net acre

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 rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. SPACE AND HEIGHT REQUIREMENTS: For two-family dwellings existing at the time of adoption of this ordinance.

1. Maximum Height - Thirty (30) feet
2. Minimum Lot Area - Seven thousand five hundred (7,500) square feet
3. Minimum Width - Sixty (60) feet
4. Minimum Yards -
a. Front Yards - Thirty (30) feet  
b. Side Yard - Five (5) feet one side; Fifteen (15) feet two sides;  
c. Rear Yard - Thirty (30) feet  

G. 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. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
SECTION 10.7 R-1F (RESIDENTIAL ONE-F) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Two-family dwellings existing at the time of adoption of this ordinance (subject to Section 10.7, F)
3. Farms, for crop production and raising of cattle and horses, including land used for horticultural purposes, provided said use occupies a minimum site of 10 contiguous acres, unsevered by streets, and further provided that land which is used for the raising of cattle and horses shall not exceed a ratio of one animal for each three (3) acres of land devoted to said use.
4. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance.

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

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 buildings for the purpose of religious worship, providing they are located adjacent to an arterial or collector street
3. Police and fire stations, provided they are located adjacent to an arterial or collector 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, convalescent homes, nursing home, and homes for the aged, providing they are located adjacent to an arterial street and having a maximum capacity of five (5) beds.
7. Nursery schools, provided they are located adjacent to an arterial street
8. Public and parochial schools, provided they are located adjacent to an arterial or collector street
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 - Six thousand five hundred (6,500) 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 on each side of lot - Five (5) feet
   5. Minimum rear yard depth - Twenty-five (25) feet
   6. Maximum building height - Thirty-five (35) feet
   7. Maximum Density - 7.3 dwelling units per net acre

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 rear yards - Fifty (50) feet
   4. Maximum building height - Thirty-five (35) feet

F. SPACE AND HEIGHT REQUIREMENTS: For two-family dwellings existing at the time of adoption of this ordinance.
   1. Maximum Height - Thirty (30) feet
   2. Minimum Lot Area - Seven thousand five hundred (7,500) square feet
   3. Minimum Width - Sixty (60) feet
   4. Minimum Yards -
      a. Front Yards - Thirty (30) feet
      b. Side Yard - Five (5) feet one side; Fifteen (15) feet two sides;
      c. Rear Yard - Thirty (30) feet

G. 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. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
SECTION 10.8  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 location of 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, the existing landscape features and amenities, and to utilize such features in a harmonious fashion; provide for more usable and suitably located recreation facilities, 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 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 a Planned Unit Development Overlay Zone shall be processed as follows in two stages:

1. Stage I -- Development Plan and Zoning Map Amendment - Application for amendment to PUD Overlay Zone shall include a development plan in accordance with the requirements of Section 9.20, A., Stage I Plan Requirements.

   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 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 Plan and the bases for their recommendation.

   b. The legislative body shall, within forty-five (45) 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 Stage I approved plan.

The legislative body shall forward a copy of the approved plan to the planning commission for further processing in accordance with the requirement for Stage II plan and record plat.

Zoning Map Amendment - Upon approval of the PUD Overlay Zone, the official zoning map shall be amended by adding the prefix "PUD" to the existing residential zone (e.g., PUD-R-1B, PUD-R-1C, etc.) for the area as shown on the Stage I approved plan.

2. Stage II - Plan and Record Plat - A Stage II Plan and Record Plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of Section 9.20, B. and C., and submitted to the planning commission 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 9.20, B and C, 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 Plan with regard to its compliance with the required elements of Section 9.20, B., for Stage II plans, other applicable elements of this ordinance, and other applicable regulations, and its conformity with the Stage I approved plan. The planning commission, in approving the Stage II plan, may authorize minor adjustments from the Stage I approved plan providing that the adjustments do not: affect spatial relationship of structures, change land uses, an increase overall density, alter circulation patterns (vehicular and pedestrian) or decrease the amount of and/or usability of open space or recreational areas, or affect other applicable requirements of this ordinance.

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

b. Upon approval of the Stage II Plan, the planning commission shall review the submitted Record Plat with regard to its compliance with the required elements of Section 9.20, C., for record plats, the applicable requirements of the subdivision regulations, and its conformance with the Stage II approved plan.

Upon planning commission approval of the record plat, 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 (attached or detached) 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 existing 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.

These commercial uses shall be grouped in complexes clearly delineated on the Stage I Plan, and may include one or more of the following uses:

1. Delicatessen, grocery, meat, fruit, or vegetable market
2. Drug store
3. Bakery shop
4. Laundry/dry cleaning pick-up stations, or self-service facilities
5. Beauty or barber shops Clothing store
6. Shoe repair shops
7. Hardware stores
8. Business or professional office
9. Clothing store
10. Restaurants
11. Banks

Another use may be substituted on the approved plan for a use previously approved providing it is one of the above listed uses and providing said use will
not involve any building expansion beyond the approved plan and further providing that said use is approved by the zoning administrator.

F. 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 plan and shall be limited to one or more of the following uses:

1. Schools (nursery, elementary, and secondary)
2. Churches
3. Community centers, including day care facilities
4. Country clubs
5. Libraries
6. Fire or police stations
7. Open space-recreation areas

G. AREA REQUIREMENTS No PUD Overlay Zone shall be permitted on less than twenty (20) acres of land. However, development of a smaller tract adjacent to an existing PUD Overlay Zone 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.

H. HEIGHT, YARD, AND SETBACK REQUIREMENTS: Requirements shall be as approved in the plan.

I. 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.

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

K. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.

L. COMMON OPEN SPACE/RECREATION AREA: At least twenty percent (20%) of the total acreage of the proposed PUD shall be retained as common open space/recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the PUD. Common open space/recreation areas shall be that part of the total project exclusive of dwellings, streets, parking areas, single-family lots, commercial areas, and other non-open space and non-recreationally oriented facilities.
M. **AMENDMENTS:** Any amendments to plans, except for the minor adjustments which may be approved 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:** Any amendment to 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 Plan has not been approved by the planning commission within a period of twenty-four (24) consecutive months from the date of the Stage I approved plan and Overlay Zone amendment by the legislative body, provided 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 Stage I approved 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 Plan by the planning commission; 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 Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.
SECTION 10.9 HC (HIGHWAY COMMERCIAL) ZONE

A. 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-in windows
4. Boat and other marine equipment sales and service, new and used
5. Bowling alleys
6. Eating and drinking places
7. Hotels and motels
8. Mobile home and trailer sales, rental and service (new and used)
9. Off-street parking lots and garages
10. Police and fire stations
11. Skating rinks, golf driving ranges, miniature and par-3 golf courses

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
   d. Restaurants

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

1. Service stations (including auto repairing, providing all repair work except that of a minor nature -- e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc. -- is conducted wholly within a completely enclosed building and providing further that such service station is located on a major arterial).
D. AREA AND HEIGHT REGULATIONS: No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - Ten thousand (10,000) square feet
2. Minimum lot width at building setback line - Seventy (70) feet
3. Minimum front yard depth - Fifty (50) feet
4. Minimum side yard width 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 - Fifteen (15) feet
6. Maximum building height - Forty (40) feet
7. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot

E. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading and/or unloading shall be provided in accordance with 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, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
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.
SECTION 10.10 NC (NEIGHBORHOOD COMMERCIAL) ZONE

A. 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 with drive-in windows
5. Barber and beauty shops
6. Book, stationery, or gift shop
7. Camera and photographic supplies
8. Candy store, soda fountain, ice cream store, excluding drive-ins
9. Delicatessen
10. Drug store
11. Eating and drinking places excluding drive-ins
12. Florist shop
13. Food store and supermarkets
14. Furniture store
15. Garden supplies
16. Glass, china, or pottery store
17. Haberdashery
18. Hardware store
19. Hobby shop
20. Household and electrical appliance store, including incidental repair
21. Interior decorating studio
22. Jewelry store, including repair
23. Leather goods and luggage store
24. Library
25. Locksmith shop
26. Music, musical instruments, and records, including incidental repair
27. Offices
28. Opticians and optical goods
29. Package liquor and wine store
30. Paint and wallpaper store
31. Pet shop, excluding boarding and outside runs
32. Police and fire stations
33. Post office
34. Radio and television store (including repair)
35. Shoe store and shoe repair
36. Sporting goods
37. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
38. Tailor shop
39. Taverns, provided they are located at least three hundred seventy-five (375) feet from any church, school, nursery school, or dwelling unit
40. Toy store
41. Variety store, including notions and "five and ten" stores

B. ACCESSORY USES

1. Customary accessory uses
2. Fences and walls, as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV 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. Service stations (including auto repairing, providing all repair except that of a minor nature -- e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc. -- is conducted wholly within a completely enclosed building and providing further that such service station is located adjacent to an arterial street, as identified in the adopted comprehensive plan).

2. Nursery schools, subject to the following conditions:
   a. All areas used for parking, or for ingress to or egress from the nursery school shall be physically separated from adjacent areas in such a manner that vehicular access thereto from adjoining areas used for parking, or ingress or egress is prevented thereby;
   b. Outdoor play areas required by state statutes or regulation shall be located in the rear of the nursery school and exclusive of areas used for parking, ingress or egress;
   c. All ingress to and egress from the nursery school shall be restricted to collector or arterial streets; and
   d. Screening shall be provided to separate the outdoor play areas of nursery schools to prevent visual and physical contact therewith from permitted and conditional uses outside the area of the nursery school.

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

1. Minimum lot area - Ten thousand (10,000) square feet
2. Minimum lot width at building setback line - Seventy (70) feet
3. Minimum front yard depth - Fifty (50) feet
4. Minimum side yard width - No restrictions, except when adjacent to a street, road, highway, or other right-of-way, when the required width shall be the same as required for a minimum front yard depth in this zone. When buildings abut each other, firewall construction, as required by the building code, shall be required. In the event a side yard is provided, it shall never be less than fifteen (15) feet.

5. Minimum rear yard depth - Fifteen (15) feet

6. Maximum building height - Thirty-five (35) feet

7. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot.

E. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with 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, or into any residential zone.

4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.

5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.

6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas, and the outdoor play areas of nursery schools, and outdoor seating areas for taverns and restaurants, provided:

   a. No amplified sound is provided to or from those areas;
   
   b. No sound from those areas unreasonably interferes with the use and enjoyment of any property; and
   
   c. Those areas within eight hundred seventy-five (875) feet of any dwelling unit are surrounded by a solid fence or wall at least six (6) feet high.

7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.
SECTION 10.11  NSC (NEIGHBORHOOD SHOPPING CENTER) ZONE

A.  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 with drive-in windows
5. Barber and beauty shops
6. Book, stationery, or gift shop
7. Camera and photographic supplies
8. Candy store, soda fountain, ice cream store, excluding drive-ins
9. Delicatessen
10. Drug store
11. Dry cleaning and laundry pick-up station
12. Eating and drinking places, excluding drive-ins
13. Florist shop
14. Food store and supermarkets
15. Furniture store
16. Garden supplies
17. Glass, china, or pottery store
18. Haberdashery
19. Hardware store
20. Health spas
21. Hobby shop
22. Household and electrical appliance store, including incidental repair
23. Interior decorating studio
24. Jewelry store, including repair
25. Laundromats and self-service washing and drying
26. Leather goods and luggage store
27. Library
28. Locksmith shop
29. Music, musical instruments, and records, including incidental repair
30. Offices
31. Off-street parking lots and/or garages
32. Opticians and optical goods
33. Package liquor and wine store, excluding drive-ins
34. Paint and wallpaper store
35. Pet shop, excluding boarding and outside runs
36. Police and fire stations
37. Post office
38. Radio and television store, including repair
39. Shoe store and shoe repair
40. Sporting goods
41. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
42. Tailor shop
43. Tavern
44. Toy store
45. Variety store, including notions and "five and ten" stores

B. ACCESSORY USES

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

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

1. Service stations (including auto repairing, providing all repair except that of a minor nature -- e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc. -- is conducted wholly within a completely enclosed building and providing further that such service station is located adjacent to an arterial street, as identified in the adopted comprehensive plan).

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

1. Minimum building site area - Five (5) acres and shall abut a deeded right-of-way. In the case of this zone, more than one principal building, as defined herein, may be permitted to be constructed within the minimum building site area.
2. Minimum yard requirements - Fifty (50) feet for each front, side (on each side of the building), and rear yards
3. Maximum building height - Thirty (35) feet

E. 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, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.

5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.

6. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking and loading and/or unloading areas.

7. A site plan, as regulated by Section 9.19 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 good shopping center design (i.e., internal and external good pedestrian and vehicle access) and functional relationships of uses within the shopping center.
SECTION 10.12 PO (PROFESSIONAL OFFICE BUILDING) ZONE

A. PERMITTED USES

1. Banks and other financial institutions, including savings, loan, and finance companies with drive-in windows
2. Clinics - medical or dental
3. Offices
4. Off-street parking lots and/or garages
5. Police and fire stations
6. Post offices
7. Dental labs

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. Uses as listed below, included within and entered from within, any office building, as a convenience to the occupants thereof, their patients, clients, or customers, provided that the accessory uses shall not exceed ten (10) percent of the gross floor area of the permitted uses in the building and no exterior advertising displays for any of the accessory uses shall be visible from outside the building:
   a. Prescription pharmacies
   b. Barber shops
   c. Beauty shops
   d. Coffee shops or refreshment stands
   e. Medical or dental laboratories
   f. News and confectionery stands
   g. Eating and drinking places

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

1. Administrative and faculty offices, classrooms, and lecture halls associated with colleges and universities.

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

1. Minimum lot area - 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

E. 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 dedicated street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
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. 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 temporary mobile medical equipment that is properly licensed and permitted by the appropriate governmental health authorities to provide patient procedures, provided such equipment is not parked on the premises for more than forty-eight (48) consecutive hours.
SECTION 10.13  IP (INDUSTRIAL PARK) ZONE

A. PERMITTED USES: The following uses are permitted providing all permitted uses are in compliance with the performance standards set forth in Article XV of this ordinance:

1. 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. Electric appliances, television sets, phonographs, household appliances.
   e. Electrical machinery, equipment and supplies.
   f. Fountain and beverage dispensing equipment.
   g. Furniture.
   h. Instruments of professional, scientific, photographic, and optical use.
   i. Metal products and metal finishing, excluding the use of blast furnaces or drop forgers.
   j. Musical instruments, toys, novelties, jewelry, rubber or metal stamps.
   k. Office equipment.
   l. Pottery and figurines.
   m. 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.
   n. Signs
   o. Textile products including canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope and twine.

2. Bottling and canning works
3. Contractor's offices, including associated sales services
4. Crating services.
5. Fire stations.
6. Industrial engineering consultant offices.
7. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private.
9. Plumbing contractors, plumbers, and sales of plumbing equipment
10. Printing, engraving and related reproduction processes
11. Publishing and distribution of books, newspapers, and other printed material.
12. Railroad facilities, exclusive of marshaling yard, maintenance and fueling facilities
13. School for industrial or business training; or school for recreational pursuits with accompanying retail sales area not to exceed twenty (20) percent of the building’s gross square footage
14. Studios for professional work or teaching any from of fine art, photography, music, drama, or dance
15. Warehousing or wholesaling

B. ACCESSORY USES:

1. Customary accessory structures and uses, including operations required to maintain or support any use permitted 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 - only business and identification signs pertaining to the identification, use, or occupation of the building, structure, or premises, as regulated by Article XV of this ordinance, will be allowed in this zone. Advertising signs, as defined herein, are not permitted in this zone.

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

1. Self-storage units and warehousing businesses which are completely enclosed within a building. No outside storage or storage containers are permitted for these uses.

D. AREA AND HEIGHT REGULATIONS:
1. Minimum Tract for Development - Twenty-five (25) acres, except where area restrictions are less, as identified in the adopted comprehensive plan; however, development of a smaller tract adjacent to an existing approved site may be permitted providing the proposed development conforms to and extends the original development as if the new site has been a part of the originally approved site plan layout.

2. Minimum Lot Area Within Minimum Tract - One (1) acre.

3. Minimum Lot Width at Building Setback Line - One hundred fifty (150) feet.

4. Minimum Front Yard Depth - Fifty (50) feet.

5. Minimum Side Yard Width - Twenty-five (25) feet

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 - Thirty-five (35) feet.

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 and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.

5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
SECTION 10.14 INSTITUTIONAL - ONE (INST-1) ZONE

A. PURPOSE: The purposes of the Institutional - One (INST-1) Zone are to: provide for public, semi-public, medical, educational, and related type uses; promote flexibility in design and permit planned diversification in the relationships between the location and types of uses and structures; promote the advantages of large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, existing landscape features and amenities, and to utilize such features in an harmonious fashion; provide for more usable and suitably located recreation, public, and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

B. APPLICATION AND PROCESSING: Applications for development within an Institutional - One (INST-1) Zone shall be processed as follows:

1. Applications for a map amendment to zone an area INST-1 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 Section 9.20, A., of this ordinance, for the entire area under single ownership.

2. When a site is proposed to be developed within an area which is currently zoned INST-1, a Stage I Development Plan for the entire area under single ownership, as regulated by Section 9.20, A., of this ordinance, shall be submitted for review by the planning commission. Development shall include: grading of any land; construction of any streets or other improvements; and the demolition, erection, physical expansion, or change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.

   a. The planning commission shall hold a public hearing on the proposed Stage I Development Plan in accordance with the requirements of KRS Chapter 424, including written notification to adjacent property owners, and review said Stage I Development Plan with regard to its compliance with the stated purpose of the Institutional - One (INST-1) Zone, the required elements of the Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Upon holding such hearing, the planning commission shall make one of the following recommendations to the city’s chief administrative official, or his duly authorized representative: approval, approval with conditions, or disapproval.
commission shall submit, along with their recommendations, a copy of the Stage I Development Plan and the bases for their recommendation.

b. The city's chief administrative official, or his duly authorized representative, shall, within ninety (90) days after the planning commission makes its recommendation, approve, approve with conditions, or disapprove the proposed Stage I Development Plan. Action to approve the Stage I Development Plan may incorporate any conditions imposed by the planning commission. However, should the action impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection B., 2., a., of this section.

If the city's chief administrative official, or his duly authorized representative, takes no action within the ninety (90) day period, the submitted development plan shall be deemed to be disapproved.

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

3. Stage II - A Stage II Development Plan, for the area proposed to be developed, shall be developed in conformance with: the approved Stage I Development Plan; with the applicable requirements of this section of the ordinance and other applicable sections of this ordinance; and in accordance with the requirements of Section 9.20, B. and C. of this ordinance, and submitted to the planning commission, or its duly authorized representative, for its review. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, B. and C. of this ordinance shall be substituted therefore. Those requirements not specifically waived by the planning commission, in writing, 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 9.20, B. of this ordinance, its conformity with the approved Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance.
Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this ordinance. The determination of whether an adjustment is major or minor shall be made by the city's chief administrative official, or his duly authorized representative.

Following review of the submitted Stage II Development Plan, the planning commission, or its duly authorized representative, shall make one of the following recommendations to the city's chief administrative official, or his duly authorized representative: approval, approval with conditions, or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Stage II Development Plan and the bases for their recommendation.

b. The city's chief administrative official, or his duly authorized representative, shall, within ninety (90) days after the planning commission, or its duly authorized representative, makes its recommendation, approve, approve with conditions, or disapprove the proposed Stage II Development Plan. Action to approve the Stage II Development Plan may incorporate any conditions imposed by the planning commission. However, should the action impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection B., 3., a., of this section.

If the city's chief administrative official, or his duly authorized representative, takes no action within the ninety (90) day period, the submitted development plan shall be deemed to be disapproved.

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

C. PERMITTED USES:

1. Churches and other buildings for the purpose of religious worship.
2. Colleges and universities, including those structures used by the college or university for directly related purposes, including recreation and the housing of students, guests, and employees of the college or university. This includes administrative buildings, classrooms, lecture halls, laboratories, libraries, athletic facilities, dormitories, faculty and staff housing, student and faculty centers, and maintenance buildings.

3. Day care centers.

4. Educational and medical research facilities.

5. Fraternity and sorority houses, when associated with a permitted use located in this zone.


7. Health care laundry.

8. Institutions for human medical care - clinics, congregate housing, and hospitals.


10. Medical and professional offices.

11. Museums and art galleries.

12. Public, private, and parochial schools with attendant recreational uses.

13. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, and swimming pools.

14. Recreational uses other than publicly owned and/or operated, as follows: golf courses, swimming pools, tennis courts.

15. Police and fire stations.

16. Social service agencies.

17. Vocational, trade schools, or other specialized educational facilities.

D. ACCESSORY USES:

1. Customary accessory buildings and uses.

2. Uses as listed below, provided in conjunction with a permitted use, primarily as a convenience to its occupants, its customers, patients, and employees, and located within the same building as the permitted use:

   a. Book store
   b. Florist
   c. Gift shop
   d. Medical and educational supply store
   e. Pharmacy
   f. Restaurant or cafeteria

E. AREA REGULATIONS

1. No Institutional - One (INST-1) Zone shall be permitted on less than ten (10) acres of land. However, an area of less than ten (10) acres may be
zoned INST-1, provided it is adjacent to an area currently zoned INST-1, with an existing approved Stage I Development Plan.

2. The minimum area for submission of a Stage I Development Plan, within an area currently zoned INST-1, shall be not less than one (1) acre.

F. HEIGHT, YARD, AND SETBACK REQUIREMENTS: Except as specified herein, requirements shall be as approved in the Stage I Development Plan.

1. Where any yard of any use permitted in this zone abuts a single-family residential zone, a minimum yard requirement of ninety (90) feet shall be provided, fifty (50) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance. This 50 foot area shall remain open and not permit off-street parking and loading and/or unloading. In the event that such screening area contains an earthen berm or mound at least six (6) feet in height, the fifty (50) foot screening area shall be reduced to thirty (30) feet.

2. Where any yard of any use permitted in this zone abuts a residential zone, other than a single-family residential zone, a minimum yard requirement of ninety (90) feet shall be provided, fifteen (15) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance. This fifteen (15) foot area shall remain open and not permit off-street parking and loading and/or unloading.

3. Where any lot abuts a county road, the height of any structure on that lot that is built within three hundred (300) feet of the county road is limited to thirty-five (35) feet.

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

H. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs, shall be as approved in the Stage I Development Plan.

I. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.

J. SCREENING: Shall be as approved in the Stage I Development Plan.

K. OTHER DEVELOPMENT CONTROLS:
1. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. Such areas shall be screened from view.

2. No lighting shall be permitted which would glare from this zone onto any street or into any adjacent property.

3. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.

4. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of outdoor exercise and recreation facilities, off-street parking, and loading and/or unloading areas.

5. The property owner shall be required to maintain all landscaping, screening, mounding, and open spaces. Additionally, for a period of one year from the date of installation, the applicant shall be required to replace any plant material which dies.

L. CRITERIA: Evaluation of the proposed Institutional - One (INST-1) Zone and/or development plan shall be based upon the following criteria:

1. Design
   
   a. Agreement with the various elements of the Area Wide Comprehensive Plan, and where applicable, any other adopted plan.

   b. Extent to which the proposed development plan is consistent with the purpose of the Institutional - One (INST-1) Zone.

   c. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).

   d. Nature and extent of the proposed uses in relation to the unique characteristics of the site.

   e. Extent to which the design of the proposed development responds to the natural and man - made features of the site.

   f. Building locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and off - street parking areas.

   g. Extent to which the scale of each building relates to the natural environment.
h. The primary activity area of a building should be oriented toward a natural site amenity.

i. The location of buildings should be designed to provide for an orderly rhythm by avoiding long, unbroken building facades.

j. Heights of structures should be compatible with the height of existing structures adjacent to the site.

k. The heights of structures should be higher on the interior of the zoning district and lower on the perimeter of the zoning district, creating a terraced effect.

l. The heights of structures should take into account the final elevation of the site and be designed so as not to become strong visual elements from areas outside the general vicinity of the zoning district.

2. Circulation

a. Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.

b. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.

c. The circulation system should follow the natural terrain of the site.

d. The circulation system should provide for the continuation of existing streets and provide for the connection of proposed streets to adjoining properties.

e. Extent to which the complete separation of pedestrian and vehicular circulation systems is achieved.

f. Pedestrian street crossings should provide for safe crossings where there is good sight distance along the street or at a grade separated crossing.

3. Open Space

a. A minimum of twenty (20) percent of the total acreage of each site for a permitted use shall be set aside for open space, exclusive of streets, parking areas, and buildings.

b. Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.

c. Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.
d. Landscaping should be an integral part in the design of off-street parking areas to soften the impact of hard surfaced areas on adjacent areas.

e. Open spaces should not be isolated from one another by unrelated physical obstructions, but rather, should be linked together by open space corridors having a reasonable width.

f. Open spaces and landscaping along the perimeter of the site shall be compatible with adjoining uses and zones.

4. Utilities

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

5. Signage

a. Signage should be designed to protect and enhance the visual amenities of the site.

b. A sign package should be developed for the entire development that forms an integral part of the total design of the site.

c. All signs should be of a complimentary scale and proportion in design and in visual relationship to the site and buildings.

d. Extent to which signs define and enhance the architectural elements of a building or site.

e. Extent to which signage is consolidated and coordinated with the overall site design.

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

U. EXPIRATION: Development plans within the Institutional One (INST-1) Zone shall be subject to the time constraints noted below. Upon expiration of said time constraints, and any extensions thereto, the applicant shall be required to resubmit the development plan for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100. Following submittal by the applicant, a public hearing shall be initiated if either of the following conditions apply:
a. Stage II Development Plan has not been approved by the city's chief administrative official, or his duly authorized representative, within a period of five years from the date of the approved Stage I Development Plan; provided that an extension may be permitted upon approval of the city's chief administrative official, or his duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the approved Stage I Development Plan obsolete.

b. Substantial construction has not been initiated within a period of two years from the date of approval of the Stage II Development Plan by the city's chief administrative official, or his duly authorized representative, provided that an extension may be permitted upon approval of the city's chief administrative official, or his duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. Substantial construction shall be deemed to mean placing of footers and/or foundation.
SECTION 10.15  SC (SHOPPING CENTER) ZONE

A. PERMITTED USES

1. Advertising agencies
2. Antique shops
3. Apparel shops
4. Art supplies
5. Bakery and bakery goods store, provided the products are sold exclusively on the premises
6. Banks and other financial institutions, including savings, loan, and finance companies with drive-in windows
7. Barber and beauty shops
8. Books, stationery, or gift shops
9. Business or professional colleges
10. Camera and photographic supplies
11. Candy store, soda fountain, ice cream stores, excluding drive-ins
12. Carpet and rug stores
13. Clinics - medical or dental
14. Delicatessen
15. Department stores
16. Drug stores
17. Dry cleaning and laundry pick-up station
18. Eating and drinking places, excluding drive-ins
19. Employment Agencies
20. Florist shops
21. Food stores and supermarkets
22. Furniture store
23. Garden supplies
24. Glass, china, or pottery store
25. Haberdashery
26. Hardware stores
27. Health clinics and health spas
28. Hobby shops
29. Household and electrical appliance store, including incidental repair
30. Interior decorating studio
31. Jewelry store, including repair
32. Laboratories - medical and dental
33. Laundromats - self-service washing and drying
34. Leather goods and luggage stores
35. Library
36. Locksmith shop
37. Music, musical instruments, and records, including incidental repair
38. Office appliances and supplies stores
39. Offices
40. Opticians and optical goods  
41. Package liquor and wine store, excluding drive-ins  
42. Paint and wallpaper stores  
43. Pet shop, excluding boarding and outside runs  
44. Police and fire stations  
45. Post offices  
46. Radio and television stores, including repair  
47. Shoe stores - sales repair  
48. Sporting goods stores  
49. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance  
50. Tailor shops  
51. Taverns  
52. Toy stores  
53. Travel bureaus  
54. Variety stores, including notions and "five and ten" stores  

B. ACCESSORY USES  
1. Customary accessory uses  
2. Fences and walls, as regulated by Article XIII of this ordinance  
3. Signs, as regulated by Article XIV of this ordinance  

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

1. Service stations (including auto repairing, providing all repair except that of a minor nature -- e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc. -- is conducted wholly within a completely enclosed building and providing further that such service station is located adjacent to an arterial street, as identified in the adopted comprehensive plan).  

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

1. Minimum building site area - Five (5) acres. (In the case of this zone, more than one principal building, as defined herein, may be permitted to be constructed within the minimum building site area.)  
2. Minimum yard requirements - Fifty (50) feet for each front, side (on each side of the building), and rear yards  
3. Maximum building height - Forty (40) feet.  

E. 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, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by this zone.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking and loading and/or unloading areas.
7. A site plan, as regulated by Section 9.19 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 good shopping center design (i.e., internal and external good pedestrian and vehicle access) and functional relationships of uses within the shopping center.
SECTION 10.16 INSTITUTIONAL - TWO (INST-2) ZONE

A. PURPOSE: The purposes of the Institutional - Two (INST-2) Zone are to: provide for a zoning district which would allow public, semi-public, medical, research, educational, office, and related type uses which could supplement or serve adjacent areas and not have an adverse impact on adjacent areas; and provide for a zoning district which could act as a transition between more intense/less intense land uses; but always with the intention of furthering the public health, safety, and general welfare.

B. APPLICATION AND PROCESSING: Applications for development within an Institutional - Two (INST-2) Zone shall be processed as follows:

1. Applications for a map amendment to zone an area INST-2 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 Section 9.20, A., of this ordinance, for the entire area under single ownership.

2. When a site is proposed to be developed within an area which is currently zoned INST-2, a Stage I Development Plan for the entire area under single ownership, as regulated by Section 9.20, A., of this ordinance, shall be submitted for review by the planning commission. Development shall include: grading of any land; construction of any streets or other improvements; and the demolition, erection, physical expansion, or change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.

   a. The planning commission shall hold a public hearing on the proposed Stage I Development Plan in accordance with the requirements of KRS Chapter 424, including written notification to adjacent property owners, and review said Stage I Development Plan with regard to its compliance with the stated purpose of the Institutional - Two (INST-2) Zone, the required elements of the Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Upon holding such hearing, the planning commission shall make one of the following recommendations to the city's chief administrative official, or his duly authorized representative: 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 city's chief administrative official, or his duly authorized representative, shall, within ninety (90) days after the planning commission makes its recommendation, approve, approve with conditions, or disapprove the proposed Stage I Development Plan. Action to approve the Stage I Development Plan may incorporate any conditions imposed by the planning commission. However, should the action impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection B., 2., a., of this section.

If the city's chief administrative official, or his duly authorized representative, takes no action within the ninety (90) day period, the submitted development plan shall be deemed to be disapproved.

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

3. Stage II - A Stage II Development Plan, for the area proposed to be developed, shall be developed in conformance with: the approved Stage I Development Plan; with the applicable requirements of this section of the ordinance and other applicable sections of this ordinance; and in accordance with the requirements of Section 9.20, B. and C. of this ordinance, and submitted to the planning commission, or its duly authorized representative, for its review. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, B. and C. of this ordinance shall be substituted therefore. Those requirements not specifically waived by the planning commission, in writing, 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 9.20, B. of this ordinance, its conformity with the approved Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, significantly alter circulation patterns (vehicular and
pedestrian), decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this ordinance. The determination of whether an adjustment is major or minor shall be made by the city's chief administrative official, or his duly authorized representative.

Following review of the submitted Stage II Development Plan, the planning commission, or its duly authorized representative, shall make one of the following recommendations to the city's chief administrative official, or his duly authorized representative: approval, approval with conditions, or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Stage II Development Plan and the bases for their recommendation.

b. The city's chief administrative official, or his duly authorized representative, shall, within ninety (90) days after the planning commission, or its duly authorized representative, makes its recommendation, approve, approve with conditions, or disapprove the proposed Stage II Development Plan. Action to approve the Stage II Development Plan may incorporate any conditions imposed by the planning commission. However, should the action impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection B., 3., a., of this section.

If the city's chief administrative official, or his duly authorized representative, takes no action within the ninety (90) day period, the submitted development plan shall be deemed to be disapproved.

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

C. PERMITTED USES:

1. Branch banks and branch savings and loan offices which do not exceed one story in height.
2. Child day care centers.
3. Churches and other buildings for the purpose of religious worship.
4. Educational and medical research facilities.
5. Facilities for human medical care, including, without limitation, clinics, congregate housing, imaging centers, laboratories, health care laundries, and similar ancillary health care services.


7. Libraries.

8. Medical and professional offices.


11. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, and swimming pools.

12. Recreational uses other than publicly owned and/or operated, as follows: golf courses, swimming pools, tennis courts.

13. Police and fire stations.


15. Vocational, trade schools, or other specialized educational facilities.

D. 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. Uses as listed below, provided in conjunction with a permitted use, primarily as a convenience to its occupants, its customers, patients, and employees, and located within the same building as the permitted use:

   a. Book store
   b. Florist
   c. Gift shop
   d. Medical and educational supply store
   e. Pharmacy
   f. Restaurant or cafeteria

E. AREA REGULATIONS:

1. No Institutional - Two (INST-2) Zone shall be permitted on less than five (5) acres of land. However, an area of less than five (5) acres may be zoned INST-2, provided it is adjacent to an area currently zoned INST-2, with an existing approved Stage I Development Plan.

2. The minimum area for submission of a Stage I Development Plan, within an area currently zoned INST-2, shall be not less than one (1) acre.

F. HEIGHT, YARD, AND SETBACK REQUIREMENTS: Except as specified herein, requirements shall be as approved in the Stage I Development Plan.
1. Minimum Lot Area - One (1) acre.

2. Minimum Lot Width at Building Setback Line - One hundred fifty (150) feet.

3. Minimum Front, Side, and Rear Yard Setbacks - Twenty - Five (25) feet, except as provided in the following:
   
a. Where any front, side, or rear yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of ninety (90) feet shall be provided, fifty (50) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance. This 50 foot area shall remain open and not permit off - street parking and loading and/or unloading. In the event that such screening area contains an earthen berm or mound at least six (6) feet in height, the fifty (50) foot screening area shall be reduced to thirty (30) feet.

b. Where any front, side, or rear yard of any use permitted in this zone is adjacent to an arterial or collector street, as identified in the adopted comprehensive plan, a minimum yard requirement of sixty (60) feet shall be provided.

4. Maximum Building Height - Thirty - five (35) feet. Using the elevation at ninety (90) feet from the centerline of Dudley Road as a Base, one (1) additional foot may be added to the height of the building for each one (1) foot drop in elevation from the Base elevation to a maximum building height of fifty - five (55) feet.

5. In the case of this zone, more than one principal building, as herein defined, may be constructed on one lot.

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

H. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.

I. OPEN SPACE: At least twenty (20) percent of the total acreage identified on a Stage I Development Plan shall be retained as open space. Open space shall be that part of the total acreage exclusive of buildings, streets, parking areas, and access drives.

J. SCREENING: Shall be as approved in the Stage I Development Plan.
K. OTHER DEVELOPMENT CONTROLS:

1. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. Such areas shall be screened from view.

2. No lighting shall be permitted which would glare from this zone onto any street or into any adjacent property.

3. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.

4. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of outdoor exercise and recreation facilities, off-street parking, and loading and/or unloading areas.

5. Circulation systems (vehicular and pedestrian) shall be coordinated with those of adjacent areas.

6. Mechanical equipment, whether ground or roof mounted, shall be screened from view.

7. Flat roof construction shall not be permitted and mechanical equipment shall not be located or mounted on the roof.

8. Where any yard of any use in this zone abuts a residential zone, a minimum six foot high earthen berm shall be constructed as a buffer.

9. The property owner shall be required to maintain all landscaping, screening, mounding, and open spaces. Additionally, for a period of one year from the date of installation, the applicant shall be required to replace any plant material which dies.

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

M. EXPIRATION: Development plans within the Institutional Two (INST-2) Zone shall be subject to the time constraints noted below. Upon expiration of said time constraints, and any extensions thereto, the applicant shall be required to resubmit the development plan for a public hearing by the planning commission,
in accordance with the requirements of KRS Chapter 100. Following submittal by the applicant, a public hearing shall be initiated if either of the following conditions apply:

a. Stage II Development Plan has not been approved by the city's chief administrative official, or his duly authorized representative, within a period of five years from the date of the approved Stage I Development Plan; provided that an extension may be permitted upon approval of the city's chief administrative official, or his duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the approved Stage I Development Plan obsolete.

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

N. CRITERIA: Evaluation of the proposed Institutional - Two (INST-2) Zone and/or development plan shall be based upon the following criteria:

1. Design
   a. Agreement with the various elements of the Area - Wide Comprehensive Plan, and where applicable, any other adopted plan.
   b. Extent to which the proposed development plan is consistent with the purpose of the Institutional - Two (INST-2) Zone.
   c. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).
   d. Nature and extent of the proposed uses in relation to the unique characteristics of the site.
   e. Extent to which the design of the proposed development responds to the natural and man - made features of the site.
f. Building locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and off-street parking areas.

g. Extent to which the scale of each building relates to the natural environment.

h. The primary activity area of a building should be oriented toward a natural site amenity.

i. The location of buildings should be designed to provide for an orderly rhythm by avoiding long, unbroken building facades.

j. Heights of structures should be compatible with the height of existing structures adjacent to the site.

k. The heights of structures should be higher on the interior of the zoning district and lower on the perimeter of the zoning district, creating a terraced effect.

l. The heights of structures should take into account the final elevation of the site and be designed so as not to become strong visual elements from areas outside the general vicinity of the zoning district.

2. Circulation

a. Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.

b. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.

c. The circulation system should follow the natural terrain of the site.

d. The circulation system should provide for the continuation of existing streets and provide for the connection of proposed streets to adjoining properties.

e. Extent to which the complete separation of pedestrian and vehicular circulation systems is achieved.

f. Pedestrian street crossings should provide for safe crossings where there is good sight distance along the street or at a grade separated crossing.

3. Open Space

a. 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.
SECTION 10.17 COMMUNITY COMMERCIAL (CC) ZONE

A. PURPOSE: The purposes of the Community Commercial (CC) Zone are to: provide for a zoning district which would allow businesses which provide convenient goods and services to a daytime work population as well as the residences of adjacent neighborhoods within a planned and architecturally unified development; provide for a zoning district which allows development at a small scale with a town-like setting; and provide for a zoning district which could supplement or serve adjacent areas and not have 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 Community Commercial (CC) Zone shall be processed as follows:

1. Applications for a map amendment to zone an area CC 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 Section 9.20, A., of this ordinance, for the entire area under single ownership.

2. When a site is proposed to be developed within an area which is currently zoned CC, a Stage I Development Plan for the entire area under single ownership, as regulated by Section 9.20, A., of this ordinance, shall be submitted for review by the planning commission. Development shall include: grading of any land; construction of any streets or other improvements; and the demolition, erection, physical expansion, or change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.

   a. The planning commission shall hold a public hearing on the proposed Stage I Development Plan in accordance with the requirements of KRS Chapter 424, and review said Stage I Development Plan with regard to its compliance with the stated purpose of the Community Commercial (CC) Zone, the required elements of the Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Upon holding such hearing, the planning commission shall make one of the following recommendations to the city's chief administrative official, or his duly authorized representative: 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 city's chief administrative official, or his duly authorized representative, shall, within ninety (90) days after the planning commission makes its recommendation, process the proposed Stage I Development Plan. Action to approve the Stage I Development Plan may incorporate any conditions imposed by the planning commission. However, should the action impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection B., 1., a., of this section.

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

3. Stage II - A Stage II Development Plan, for the area proposed to be developed, shall be developed in conformance with the approved Stage I Development Plan and in accordance with the requirements of Section 9.20, B. and C. of this ordinance, and submitted to the planning commission, or its duly authorized representative, for its review. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, 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 9.20, B. of this ordinance, its conformity with the approved Stage I Development Plan, applicable requirements of this section of the ordinance, and other applicable requirements of this ordinance. Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this ordinance.

Following review of the submitted Stage II Development Plan, the planning commission, or its duly authorized representative, shall make one of the following recommendations to the city's chief administrative official, or his duly authorized representative:
approval, approval with conditions, or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Stage II Development Plan and the bases for their recommendation.

b. The city's chief administrative official, or his duly authorized representative, shall, within ninety (90) days after the planning commission, or its duly authorized representative, makes its recommendation, process the proposed Stage II Development Plan. Upon approval of the Stage II Development Plan, the zoning administrator shall grant permits only in accordance with the approved Stage II Development Plan, and other regulations as may be required by this ordinance.

C. PERMITTED USES:

1. Apparel shops.
2. Art Supplies.
4. Banks and other financial institutions.
5. Barber and beauty shops.
7. Butcher shops.
8. Camera and photographic supplies.
9. Candy, pastry, and ice cream shops, excluding drive thurs.
10. Convenience stores with gasoline pumps, provided that there shall be not more than four gasoline pumps. In addition, this use may also have not more than one kerosene pump.
11. Delicatessens.
12. Drug stores.
13. Dry cleaning and laundry pick-up stations.
14. Florist shops.
15. Glass, crystal, or china stores.
16. Hobby shops.
17. Interior decorating studios.
18. Jewelry stores, retail sales only.
19. Locksmith shops.
22. Opticians and optical goods.
23. Paint and wallpaper store.
24. Restaurants, sit-down only
25. Small printing/photocopy establishments.
26. Studios for professional work or teaching any form of fine art, photography, music, drama, or dance.
27. Tailor shop.
28. Travel bureaus.
29. Video tape sales and rental.

D. 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.

E. AREA REGULATIONS:

1. No Community Commercial (CC) Zone shall be permitted on less than five (5) acres of land. However, an area of less than five (5) acres may be zoned CC, provided it is adjacent to an area currently zoned CC, with an existing approved Stage I Development Plan.

2. The minimum area for submission of a Stage I Development Plan, within an area currently zoned CC, shall be not less than one - half (1/2) acre.

F. HEIGHT, YARD, AND SETBACK REQUIREMENTS: Except as specified herein, requirements shall be as approved in the Stage I Development Plan.

1. Minimum Lot Area - One - half (1/2) acre.

2. Minimum Lot Width at Building Setback Line - One hundred (100) feet.

3. Minimum Front, Side, and Rear Yard Setbacks - Twenty - Five (25) feet, except as provided in the following:
   a. Where any front, side, or rear yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of ninety (90) feet shall be provided, fifty (50) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance. This area shall remain open and not permit off - street parking and loading and/or unloading. In the event that such screening area contains an earthen berm or mound at least six (6) feet in height, the fifty (50) foot screening area shall be reduced to thirty (30) feet.

4. Maximum Building Height - Thirty - five (35) feet. Using the elevation at ninety (90) feet from the centerline of Dudley Road as a Base, one (1) additional foot may be added to the height of the building for each one (1) foot drop in elevation from the Base elevation to a maximum building height of fifty - five (55) feet.
5. In the case of this zone, more than one principal building, as herein defined, may be constructed on one lot.

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

H. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.

I. OPEN SPACE: At least twenty-five (25) percent of the total acreage identified on a Stage I Development Plan shall be retained as open space. Open space shall be that part of the total acreage exclusive of buildings, streets, parking areas, and access drives.

J. SCREENING: Shall be as approved in the Stage I Development Plan.

K. OTHER DEVELOPMENT CONTROLS:
   1. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. Such area shall be screened from view.
   2. No lighting shall be permitted which would glare from this zone onto any street or into any adjacent property.
   3. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
   4. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of the following:
      a. off-street parking and loading and/or unloading areas.
      b. outdoor play areas of a child day care center.
      c. outdoor seating area for restaurants, provided that the outdoor seating capacity does not exceed 25 percent of the indoor seating capacity.
   5. Circulation systems (vehicular and pedestrian) shall be coordinated with those of adjacent areas.
6. Mechanical equipment, whether ground or roof mounted, shall be screened from view.

7. Flat roof construction shall not be permitted and mechanical equipment shall not be located or mounted on the roof.

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

M. EXPIRATION: Development plans within the Community Commercial (CC) 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 whether said Community Commercial (CC) Zone should revert to its original zoning designation. A public hearing may be initiated if the following condition applies:

1. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Development Plan, provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. Substantial construction shall be deemed to mean the placing of footers and/or foundation.

N. CRITERIA: Evaluation of the proposed Community Commercial (CC) Zone and/or development plan shall be based upon the following criteria:

1. Design
   a. Agreement with the various elements of the Area - Wide Comprehensive Plan, and where applicable, any other adopted plan.
   b. Extent to which the proposed development plan is consistent with the purpose of the Community Commercial (CC) Zone.
   c. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).
d. Nature and extent of the proposed uses in relation to the unique characteristics of the site.

e. Extent to which the design of the proposed development responds to the natural and man-made features of the site.

f. Building locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and off-street parking areas.

g. Extent to which the scale of each building relates to the natural environment.

h. The primary activity area of a building should be oriented toward a natural site amenity.

i. The location of buildings should be designed to provide for an orderly rhythm by avoiding long, unbroken building facades.

j. Heights of structures should be compatible with the height of existing structures adjacent to the site.

k. The heights of structures should be higher on the interior of the zoning district and lower on the perimeter of the zoning district, creating a terraced effect.

l. The heights of structures should take into account the final elevation of the site and be designed so as not to become strong visual elements from areas outside the general vicinity of the zoning district.

2. Circulation

a. Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.

b. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.

c. The circulation system should follow the natural terrain of the site.

d. The circulation system should provide for the continuation of existing streets and provide for the connection of proposed streets to adjoining properties.

e. Extent to which the complete separation of pedestrian and vehicular circulation systems is achieved.

f. Pedestrian street crossings should provide for safe crossings where there is good sight distance along the street or at a grade separated crossing.

3. Open Space
a. 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.
ARTICLE XI
OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS

In all zones, off-street parking facilities for the storage or parking of motor vehicles for use of 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 parking spaces required, if such spaces result in fractional parts thereof, the number of said spaces required 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 parking space is inadequate to serve such increase in intensity of use.

C. LOCATION OF OFF-STREET PARKING FACILITIES

1. Except as provided for in all zones, off-street parking facilities shall be located as follows:

   a. Single-Family Residential Zones - (A-1, A-2, R-RE, R-1A, R-1B, R-1C, R-1D, R-1DD, R-1E, R-1EE, R-1F, R-1G): 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, 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.
b. Special Development Zones - (PUD, MHP) Off-street parking shall be located as designated on the approved plan.

c. Commercial and Industrial Zones -

(1) Except as herein provided, off-street parking may be permitted in minimum required front, side, and rear yards of these zones, provided that all off-street parking facilities shall be set back a minimum of fifteen (15) feet from any street right-of-way lines.

(2) IP Zone: Off-street parking may be permitted in the side and rear yards, provided that all off-street parking facilities shall be set back a minimum of ten (10) feet from the rear lot line, and shall not be permitted in the minimum required side yards. Off-street parking may be permitted in minimum front yards, provided that all minimum front and side yard requirements are maintained.

d. Institutional and Community Commercial Zones - (INST-1, INST-2, CC): Off-street parking is not permitted within any required minimum front yard, unless approved according to an approved development plan. Off-street parking may be permitted in front, side and rear yards of permitted uses within these zones, provided that off-street parking facilities are set back a minimum of ten (10) feet from the property line.

2. All off-street parking facilities shall be located on the same lot as the building served, except for the following:

a. Permitted uses locating within industrial zones may supply off-street parking within three hundred (300) feet from such lot served, upon approval of the zoning administrator, provided that such off-street parking facilities are unable to be provided on the same lot, or contiguous to the same lot, as the building being served. In addition, said off-street parking shall be located in the same zone as the use being served.

b. Existing single or two-family dwellings, which are permitted uses herein and occupy a lot of such size that off-street parking could not be provided on the same lot as the use being served, said off-street parking may be permitted to locate within a distance not to exceed 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 "conditional uses" may be permitted to locate on a lot other than the building or use being served is located, when approved by the Board of Adjustment, provided that said parking is located within reasonable walking distance of the use or building being served and available at all times without restrictions for said purposes.

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.

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 excluding residential uses, 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 shown. The number of parking spaces required 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>
<thead>
<tr>
<th>LAND USE TYPE</th>
<th>Time Of Operation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekday</td>
</tr>
<tr>
<td></td>
<td>Daytime (6 am - 6 pm)</td>
</tr>
<tr>
<td>Office/Industrial</td>
<td>100%</td>
</tr>
<tr>
<td>Retail/Personal Service</td>
<td>60%</td>
</tr>
<tr>
<td>Hotel/Motel</td>
<td>75%</td>
</tr>
<tr>
<td>Restaurant</td>
<td>50%</td>
</tr>
<tr>
<td>Indoor Theater/Commercial</td>
<td>40%</td>
</tr>
<tr>
<td>Recreational Establishment</td>
<td></td>
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</tbody>
</table>
1. The following requirements shall apply to any shared parking facility for mixed use development.

   a. The shared parking facility must be located within five hundred (500) feet walking distance of the entrance to 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 parking lot or 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 lot 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 parking lot facilities, including parking garages, shall be submitted to the zoning administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the city. Such plans shall show the number of spaces and arrangements of parking aisles, location of access points onto adjacent streets, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location of shelters for parking attendant, locations of signs, typical cross-sections of pavement, including base and sub-base, proposed grade of parking lot, storm drainage facilities, location and type of lighting facilities, and such other information or plans as the circumstances may warrant. Where such parking plans include provisions for access points to adjacent streets, then said plans shall also be prepared in accordance with the requirements of Section 11.2.

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) parking space shall be a minimum of nine (9) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles. Such parking space shall have a vertical clearance of at least seven (7) feet.

B. WIDTH OF ACCESS DRIVES: All off-street parking areas shall be laid out with the following minimum aisle or access drive widths:

1. Ninety (90) degrees (perpendicular) parking -- Twenty-four (24) feet (either one or two way circulation)
2. Sixty (60) degree (angle) parking -- Eighteen (18) feet (one way circulation only)
3. Forty-five (45) degree (angle) parking -- Thirteen (13) feet (one way circulation only)
4. Thirty (30) degree (angle) parking -- Eleven (11) feet (one way circulation only)
5. Zero degree (parallel) parking -- Twelve (12) feet (one way circulation)

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.

C. ACCESS TO OFF-STREET PARKING SPACES: Each required parking space shall be connected with a deeded public right-of-way by means of aisles or
access drives as required by Section 11.1, B. The parking area shall be so designed to ensure that all maneuvering into and out of each parking space shall take place entirely within property lines of lots, garages, and/or storage areas.

D. **OFF-STREET PARKING AREAS IN COMMERCIAL OR INDUSTRIAL ZONES:** All such parking areas shall have a protective wall and/or bumper blocks around the perimeter of said parking area and shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic. All parking shall be effectively screened on each side adjoining or fronting on any property situated in a zone permitting single-family residential development, by a solid wall, fence, or densely planted compact hedge, as regulated by Section 9.17 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

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 AREA:** All new off-street parking areas shall be paved with asphalt concrete or Portland Cement concrete and shall be designed and constructed in accordance with Appendix A.

**SECTION 11.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS:** The amount of off-street parking space required 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 conditional use is located in the same building, a multi use conditional use exists and, unless otherwise determined by the board of adjustment under Section 11.0, C., 2., c., or Section 11.0, E., each individual use shall be in accordance with the off-street parking requirements of this section of the ordinance.

<table>
<thead>
<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Airport, railroad passenger stations</td>
<td>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.</td>
</tr>
<tr>
<td>B. Automobile laundries</td>
<td>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 laundry.</td>
</tr>
</tbody>
</table>
### TYPES OF USES

<p>| C. Automobile 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 | 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. |
| H. Convalescent homes, nursing homes, rest homes, homes for the aged, and orphanages | 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. |
| 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. |</p>
<table>
<thead>
<tr>
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</tr>
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<tbody>
<tr>
<td>J. Dormitories, Fraternities, Sorority Houses, and other group housing</td>
<td>One (1) parking space per each two (2) residents, plus one (1) parking space per owner or operator, plus one (1) parking space per employee, or one (1) parking space for each two (2) seats for membership meetings, whichever is greater, based on design capacity.</td>
</tr>
<tr>
<td>K. Dwellings:</td>
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<tr>
<td>Dwellings: One-Family</td>
<td>Two (2) parking spaces.</td>
</tr>
<tr>
<td>Dwellings: Two-Family</td>
<td>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.</td>
</tr>
<tr>
<td>L. Dwellings:</td>
<td></td>
</tr>
<tr>
<td>Dwellings: Multi-Family</td>
<td>Two (2) parking spaces for every dwelling unit</td>
</tr>
<tr>
<td>M. Establishments for sale and consumption on the premises of alcoholic beverages, food, refreshments, or for take home food service</td>
<td>One (1) parking space for each two (2) employees on shift of largest employment plus one parking space for each:</td>
</tr>
<tr>
<td></td>
<td>A. Thirty (30) square feet of gross floor area in a drive-in restaurant;</td>
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<td>B. One hundred forty (140) square feet of gross floor area in a carry-out restaurant:</td>
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<tr>
<td></td>
<td>C. Sixty-five (65) square feet of gross floor area or two (2) seating accommodations, based on maximum capacity, whichever is greater, in a combination restaurant:</td>
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<tr>
<td></td>
<td>D. Three (3) seating accommodations, based on maximum seating capacity, in a sit-down restaurant.</td>
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<tr>
<td>N. Fire stations</td>
<td>One (1) parking space for each person on duty on largest shift.</td>
</tr>
<tr>
<td>O. Hospitals</td>
<td>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.</td>
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</table>
## TYPES OF USES

### REQUIRED NUMBER OF SPACES

<table>
<thead>
<tr>
<th>Types of Uses</th>
<th>Required Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>P. Laundromats</strong></td>
<td>One (1) parking space for each two (2) washing machines, plus one (1) parking space for each employee.</td>
</tr>
<tr>
<td><strong>Q. Libraries, museums, and art galleries</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>R. Medical offices and/or clinics</strong></td>
<td>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 in the building, plus one (1) parking space for each two (2) employees, whichever is greater.</td>
</tr>
<tr>
<td><strong>S. Mortuaries or funeral homes</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>T. Offices for professional, business, and financial, real estate, and business purposes, other than medical offices and/or clinics</strong></td>
<td>One (1) parking space for each two hundred (200) square feet of gross floor area.</td>
</tr>
<tr>
<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>U. Post offices</td>
<td>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 on shift of largest employment, plus one (1) parking space for each vehicle operating from the premises.</td>
</tr>
<tr>
<td>V. Private clubs, boarding houses, and lodge halls</td>
<td>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 two (2) employees.</td>
</tr>
<tr>
<td>W. Retail and personal service</td>
<td>5.5 spaces per 1,000 square feet of gross stores area.</td>
</tr>
<tr>
<td>X. Schools - elementary, junior high, and equivalent, private or parochial schools</td>
<td>One (1) parking space per teacher and administrator or one (1) 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.</td>
</tr>
<tr>
<td>Y. Schools - senior high, trade and vocational, colleges and universities, and equivalent, private or parochial</td>
<td>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.</td>
</tr>
<tr>
<td>Z. Shopping centers</td>
<td>5.5 parking space per 1,000 square feet of gross leasable area.</td>
</tr>
<tr>
<td>AA. Stadium and sports arenas</td>
<td>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.</td>
</tr>
</tbody>
</table>
### Types of Uses

#### BB. Theaters, auditoriums, churches, and places of assembly with fixed seats

- **Required Number of Spaces**: One (1) parking space for each four (4) seats, based on maximum seating capacity, plus one (1) additional parking space for each two (2) employees on shift of largest employment.

#### CC. Theaters, auditoriums, churches, and places of assembly without fixed seats

- **Required Number of Spaces**: One (1) parking space per four (4) people in designed capacity of 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.

#### DD. Tourist homes, cabins, motels or hotels, excluding areas used for meeting rooms and places of assembly

- **Required Number of Spaces**: 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.

#### EE. Industrial establishments, including manufacturing, research, and testing laboratories

- **Required Number of Spaces**: 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.

#### FF. Wholesale establishments, warehouses, and storage buildings

- **Required Number of Spaces**: One (1) parking space for each employee, plus one (1) parking space for each company vehicle operating from the premises.
<table>
<thead>
<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
</tr>
</thead>
</table>
| GG. 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

In order to promote greater safety of passage between highway and land, improve the convenience and ease of movement of travelers on the highway, permit reasonable speeds and economy of travel, and increase and protect the capacity of the highway, the location and design of access points shall be in accordance with the following access control requirements. These requirements shall apply to all arterial and collector type streets, as identified in the adopted comprehensive plan.

A. PROVISION OF RESERVED TURNING LANES: At those access points where vehicles turning to and from the arterial and collector streets will affect the roadway capacity, reserved turn lanes shall be constructed by the developer.

B. PROVISION OF FRONTAGE ROAD: Where possible, provision for the construction of a frontage road shall be made. However, access to the arterial or collector streets via an intersecting street or a common driveway shall be investigated if such a design is not reasonable.

C. COORDINATION OF ACCESS POINTS: Major Access points on opposite sides of the arterial and collector streets shall be located opposite each other, otherwise turning movement restrictions may be imposed by the planning commission or 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.

D. SPACING RESTRICTIONS FOR SIGNALIZED ACCESS POINTS: 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.
E. SIGHT DISTANCE: The location of access points shall comply with safe sight distance requirements, as provided in Table 1. 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 zoning administrator, whichever is applicable, due to certain exceptional conditions.

F. LOCATION OF UNSIGNALIZED ACCESS POINTS

1. Arterial Streets
   a. Unsignalized access points shall be spaced a minimum distance of six hundred (600) feet apart. Turning restrictions and/or reserved lanes may be required.
   b. One (1) access point per existing tract will be permitted. However, if the spacing requirements for a direct access point onto an arterial street (as provided in F., 1., a., above) cannot be met, then an access point may be located on a frontage road, or 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 should be controlled as follows:
      (1) Access points onto local streets intersecting 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 no less than 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. Where the frontage of a tract is greater than five hundred (500) feet an additional access point may be permitted. However, the type of access will depend on the spacing requirements in F., 1., a.
      (1) If the frontage of the tract is large enough, then at least one (1) of the access points may have direct access onto the arterial street, provided the spacing between the adjacent access points meet the requirements of Section F., 1., a.,
and all other requirements of this section of the ordinance. In the case where the frontage allows only one (1) point of direct access, due to spacing restrictions as provided herein, the second access point will be via a frontage road, or an intersecting local street, or share a common driveway that meets the spacing restrictions, as provided along the arterial street.

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 provided. However, all such access points shall be considered a temporary right-of-way 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, or 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 duly noted on the plot 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 existing tract will be allowed. However, if the frontage is at least two hundred (200) feet, an additional access point may be permitted. Furthermore, the minimum spacing between adjacent access points on this type of facility shall be one hundred (100) 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 three hundred (300) feet 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 three hundred (300) feet. However, certain turning movements will be prohibited. If a barrier median does not exist, then the minimum
Spacing of access points shall be six hundred (600) feet. In addition, some turning movements may be prohibited.

c. One (1) access point per existing tract will be allowed; however, if the spacing requirements for a direct access point, as provided in F., 2., a., cannot be met, then an access point may be located on a frontage road, or 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 provided. However, all such access points shall be considered a temporary right-of-way 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, or 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 duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

G. WIDTH OF ACCESS POINTS

1. 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 as 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.

H. EXCEPTIONS TO ACCESS POINT REQUIREMENTS: Where situations develop that may require special treatment, the requirements as provided in Section 11.3, A. - G., may be varied by the city legislative body or zoning administrator upon presentation of evidence establishing that the special treatment will have no adverse effects on the roadway safety and capacity that justifies the variance.
I. 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, may have to be increased in order to adequately solve the traffic movement.

J. APPROVAL OF ACCESS POINTS REQUIRED: Plans, at a scale not less than 1" = 100 fee, 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 for approval or rejection. Such plans shall show the location of all access points, and access points 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, and 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 parking and off-street loading and/or unloading plans, in accordance with Sections 11.0 and 12.0 of this ordinance.

K. APPROVAL OF ACCESS POINTS ALONG STATE MAINTAINED ROUTES BY KENTUCKY DEPARTMENT OF TRANSPORTATION: A copy of the Plans for all access points to be constructed along a state maintained route shall also be submitted to the Kentucky Department of Transportation for review and approval during the same time as plans are submitted to the zoning administrator, as provided for in Section 11.2. 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 1A

SIGHT DISTANCE FOR VEHICLES EXITING FROM ACCESS POINTS ONTO ADJACENT ROADS

see Figure 1A

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>20 MPH</th>
<th>30 MPH</th>
<th>40 MPH</th>
<th>50 MPH</th>
<th>60 MPH</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 lane</td>
<td>4 or 6 lane</td>
<td>2 lane</td>
<td>4 or 6 lane</td>
<td>2 lane</td>
</tr>
<tr>
<td>Passenger Car</td>
<td>DL</td>
<td>DR</td>
<td>DL</td>
<td>DR</td>
<td>DL</td>
</tr>
<tr>
<td></td>
<td>150</td>
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<td>130</td>
<td>130</td>
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<tr>
<td></td>
<td>850</td>
<td>850</td>
<td>850</td>
<td>850</td>
<td>1600</td>
</tr>
</tbody>
</table>

D=Distance along major road from access point to allow vehicle to enter safely.

Figures given are measured from a vehicle ten (10) feet back of the pavement edge.

Figures given are in feet.

Values are for urban conditions. On rural streets, distances are to be increased by ten (10) percent to allow for greater reaction time.

The sight distances apply when street grades are zero (0) percent to three (3) percent, either up or down. When an upgrade is steeper than three (3) percent, adjustments are to be made to compensate for the longer time required to reach the speed of highway traffic. The time is less than shown when the highway is descending. Adjustment factors apply to grades only in that portion of the road between the access points and the downstream point at which a vehicle emerging from the access points has been able to accelerate to within ten (10) miles per hour of the route speed.

When the street, in the section to be used for acceleration after leaving the access point, ascends at three (3) percent to four (4) percent, then sight distances in the direction of approaching ascending traffic are to be increased by a factor of 1.4. When the access point ascends at five (5) percent to six (6) percent, sight distances should be increased by a factor of 1.7.

When the street, in the section to be used for acceleration after leaving the access point, descends at three (3) percent to four (4) percent, then sight distances in the direction of approaching descending traffic are to be reduced by a factor of 0.6. If the road descends at five (5) percent to six (6) percent, sight distances should be reduced by a factor of 0.5.

When the criteria for sight distances to the right cannot be met, the need can be eliminated by prohibiting left turns by exiting vehicles.
### Table 1A

**Sight Distance for Vehicles Exiting from Access Points onto Adjacent Roads**

See Figure 1A

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>20 MPH</th>
<th>30 MPH</th>
<th>40 MPH</th>
<th>50 MPH</th>
<th>60 MPH</th>
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<tr>
<td></td>
<td>2 lane</td>
<td>4 or 6 lane</td>
<td>2 lane</td>
<td>4 or 6 lane</td>
<td>2 lane</td>
</tr>
<tr>
<td>Passenger Car</td>
<td>150</td>
<td>130</td>
<td>130</td>
<td>300</td>
<td>260</td>
</tr>
<tr>
<td>Tractor Truck</td>
<td>300</td>
<td>200</td>
<td>200</td>
<td>500</td>
<td>400</td>
</tr>
</tbody>
</table>

D = Distance along major road from access point to allow vehicle to enter safely.

Figures given are measured from a vehicle ten (10) feet back of the pavement edge.

Figures given are in feet.

Values are for urban conditions. On rural streets, distances are to be increased by ten (10) percent to allow for greater reaction time.

The sight distances apply when street grades are zero (0) percent to three (3) percent, either up or down. When an upgrade is steeper than three (3) percent, adjustments are to be made to compensate for the longer time required to reach the speed of highway traffic. The time is less than shown when the highway is descending. Adjustment factors apply to grades only in that portion of the road between the access point and the downstream point at which a vehicle emerging from the access point has been able to accelerate to within ten (10) miles per hour of the route speed.

When the street, in the section to be used for acceleration after leaving the access point, ascends at three (3) percent to four (4) percent, then sight distances in the direction of approaching ascending traffic are to be increased by a factor of 1.4. When the access point ascends at five (5) percent to six (6) percent, sight distances should be increased by a factor of 1.7.

When the street, in the section to be used for acceleration after leaving the access point, descends at three (3) percent to four (4) percent, then sight distances in the direction of approaching descending traffic are to be reduced by a factor of 0.6. If the road descends at five (5) percent to six (6) percent, sight distances should be reduced by a factor of 0.5.

When the criteria for sight distances to the right cannot be met, the need can be eliminated by prohibiting left turns by exiting vehicles.
FIGURE 1A

SIGHT DISTANCE FOR VEHICLES EXITING FROM ACCESS POINTS
refer to Table 1A

FIGURE 1B

LEFT TURN SIGHT DISTANCE FOR VEHICLES ENTERING ACCESS POINTS
refer to Table 1B
ARTICLE XII

OFF-STREET LOADING AND/OR UNLOADING REGULATIONS

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.

SECTION 12.0 GENERAL REQUIREMENTS

A. 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) 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 the consideration the following:

   a. estimated and projected arrival and departure rates for scheduled and unscheduled (random) 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 loading and/or unloading spaces are needed to accommodate the facilities than could be reasonably provided, the zoning administrator shall require that additional parking areas, properly designed to handle the parking of necessary 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 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 necessary additional loading and/or unloading spaces, or require that adequate parking areas be provided for the storage of trucks waiting to be loaded and/or unloaded

B. ADDITIONAL LOADING AND/OR UNLOADING SPACES TO BE PROVIDED: Whenever the intensity of any use of a building, or premises is increased through addition of gross floor area, change of use, or increased activity, additional loading and/or unloading spaces shall be provided in accordance with the requirements of Section 12.0, A., above, if it is determined by the zoning administrator that the existing spaces are not adequate to serve such increase in intensity.

C. LOCATION OF OFF-STREET LOADING AND/OR UNLOADING AREA: All 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 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. Loading and/or unloading areas may be located in the side and minimum required rear yards, provided that all 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.
D. 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 loading and/or unloading space.

E. OFF-STREET LOADING AND/OR UNLOADING SPACE TO BE USED FOR LOADING AND/OR UNLOADING ONLY: Any 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.

F. 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.

G. 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.

H. LOADING AND/OR UNLOADING PLAN APPROVAL REQUIRED: Plans for all 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 loading and/or unloading spaces, including necessary maneuvering of trucks, and dock and apron approach, and 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.

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 fourteen (14) feet in width and at least sixty (60) feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least fifteen (15) feet, provided, however, that when it is demonstrated that a particular loading and/or unloading space will
be used by shorter trucks, as provided for in Section 12.0, A., 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-two (22) feet for two-way circulation, with intersection radii not to be less than fifty (50) feet.

Off-street loading and/or unloading space shall be so designed and constructed so that all maneuvering for loading and/or unloading can take place entirely within the property lines of the premises being served. Such off-street loading and/or unloading space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk or street.

C. OTHER DESIGN FEATURES: Docks are to be designed to facilitate efficient loading and/or unloading. Platform heights should 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 should 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.) should 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 the standards adopted by the legislative body. (See Appendix A)

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 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 9.17 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.
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 (80) percent open)
3. Woven wire (eighty (80) percent open); and chain link
4. Wood or other materials (more than fifty (50) percent open)
5. Solid fences, wood or other materials (less than fifty (50) percent open)
6. Hedges
7. Barbed wire or sharp pointed fences
8. Earthen or concrete walls intended to contain or redirect flooding waters

SECTION 13.2 CONSERVATION & AGRICULTURAL ZONES

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

1. Except as provided for in Section 13.0, class 2 or 3 fences may be erected in front yards up to a maximum height of ninety-six (96) inches.

2. Side and rear yard, class 1, 2, 3, 4, 5, 6, or 7 fences and/or walls may be erected up to a maximum height of ninety-six (96) inches

3. Class 8 walls shall be permitted but shall conform to requirements of the Corps of Engineers and/or county engineer, whichever is applicable.

SECTION 13.3 RESIDENTIAL ZONES
A. Fences and/or walls within all residential (R) zones, including their applicable overlay zone, shall conform to the following requirements:

1. The requirements for the Residential (R) Zones for residential uses only, are as set forth and depicted on Figure 1 of this ordinance, except as herein provided.

2. The location, height, and type of all fences and/or walls within any area zoned with a PUD or MHP Overlay shall be as approved by the planning commission.

3. A class 5 fence may be utilized to screen patios which do not exceed 800 square feet. Such fences shall not be located within 20 feet of a property line. All new fences that are installed pursuant to the authority of the last sentence must be of the shadow box style, unless the fence that is requested is a continuation or replacement of an existing legal fence; and, in that event, the Class 5 fence that is permitted must be of the same type and material, style and construction that was used in the existing fence that is being continued.

4. All municipal property is exempted from the class 5 restrictions.

5. For all non-residential uses conditionally permitted in any residential zone herein, the requirements are as follows:

   a. Fences of class 2 or 3 only shall be permitted in front yard, including the front yard of corner lots as governed by Section 13.0. Said fences may be erected up to a maximum height of seventy-two (72) inches.

   b. Class 2, 3, 4, 5, 6 fences and/or walls may be erected in rear yard, up to a maximum height of seventy-two (72) inches, provided, however, for the following exceptions:

      (1) General purpose recreational areas may be enclosed with fences and/or walls of Class 1, 2, 3, 4, 5, 6, or 7, up to a maximum height of ninety-six (96) inches.

      (2) Class 3 fences (or a combination of 3 and 7) may be erected to enclose tennis courts or as backstops for baseball and/or softball fields, up to a maximum height of one hundred forty-four (144) inches.
(3) In the case of corner lots, as governed by Section 13.0, fences of class 2 or 3 only may be erected, as regulated by the applicable provisions of this section.

6. On lots having an area of at least ten (10) acres and that have a width of at least three hundred fifty (350) feet at the building setback line, an ornamental structure (inclusive of ornamental, wooden, and masonry structures, planters, hedges, etc.) where used and developed as an integral part of landscaping of the lot, may be permitted according to the following (refer to Figure 1A):

a. The average height of any ornamental structure shall not exceed sixty (60) inches although the actual height may vary along any continuous section. Columns within the ornamental sixty (60) inch limitation may be seventy-two (72) inches in height but are limited to thirty-six (36) inches in width. In addition, one section of the structure, not to exceed twenty-five (25) feet in length, may be permitted up to a maximum height of one hundred eight (108) inches.

b. In addition, to facilitate drainage from the structure, the structure may utilize an earthen berm as a base for the structure. Such berm shall not exceed twenty-four (24) inches in height which height shall not be counted against the maximum height of the structure.

c. The ornamental structure must be set back a minimum of ten (10) feet from the street right-of-way line.

7. The length of any ornamental structure shall be as follows:

a. 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.

b. Along or approximately parallel to the side property line (between the front property line and the front setback line of the residence): Not greater than one-half (1/2) the total distance between the front property line and the building setback line, on each side of the lot.

c. Along or approximately parallel to all other property lines not described in 7., a. or 7., b. above: No restrictions as to length.
SECTION 13.4 COMMERCIAL, INSTITUTIONAL, AND INDUSTRIAL ZONES: Fences and/or walls within all commercial and industrial zones, including those permitted with all conditionally permitted uses in this zone shall conform to the following requirements:

A. Except as provided for in Section 13.0, fences of class 1, 2, 3, 4, 5, or 6 may be erected in side and rear yards of commercial zones, up to a maximum height of seventy-two (72) inches. In the case of corner lots, as governed by Section 13.0, fences of class 2 or 3 only, may be erected up to a maximum height of seventy-two (72) inches. In minimum front yards, fences of classes 1, 2, 3, 4, 5, or 6 may be erected up to a maximum height of 48 inches (except as noted in Section 13.0).

B. Except as noted in Section 13.0, fences of classes 1, 2, 3, 4, 5, or 6 may be erected up to a maximum height of eighty-four (84) inches in all industrial zones in side and rear yards and not more than forty-eight (48) inches in height in the minimum front yard depth. Except for the I-P Zone, classes 2 or 3 fences may be erected up to a maximum height of seventy-two (72) inches in the minimum front yard depth in all industrial zones.

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 ANY BARBED WIRE OR SHARP POINTED FENCES: In all zones, barbed wire or sharp pointed fences, where permitted, must start a minimum of sixty (60) inches above ground level, except that said fences may be located in areas used for agricultural purposes without any restrictions to height.

SECTION 13.7 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 13.8 ELECTRIFIED FENCES: No fence carrying an electrical charge shall be permitted in zone, except when such fence is used in conjunction with an agricultural use and provided the fence is not located along the perimeter with adjacent property or street.
SECTION 13.9 PERMIT REQUIRED FOR ERECTION OF FENCES: No fence 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 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 13.10 STRUCTURAL ELEMENTS OF FENCES: Fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side which faces the property owned by the person building the fence.

SECTION 13.11 DILAPIDATED FENCES: If 30% or more of a fence is gone or in disrepair, the entire fence must be removed or repaired.
ARTICLE XIV

SIGN REGULATIONS

SECTION 14.1 SHORT TITLE: This Article shall be known as the Sign Article of the City of Edgewood.

SECTION 14.2 PURPOSE AND INTERESTS SERVED

A. The purpose of this Article is to establish a comprehensive scheme for the regulation of signs within the jurisdiction of the City of Edgewood. These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts.

As a basis for adopting these regulations, the City of Edgewood finds:

1. Signs are an essential form of communication in the built environment, providing way-finding guides to residents, visitors, public safety officials, customers and potential customers of local businesses, delivery people and others.

2. Signs also provide communication on public issues, as the U.S. Supreme Court found in City of LaDue v. Gilleo: Signs that react to a local happening or express a view on a controversial issue both reflect and animate change in the life of a community. Often placed on lawns or in windows, residential signs play an important part in political campaigns, during which they are displayed to signal the resident's support for particular candidates, parties, or causes. They may not afford the same opportunities for conveying complex ideas as do other media, but residential signs have long been an important and distinct medium of expression.

3. Retailers and other businesses depend on signs to help people find their businesses, and, in a large and expensive media market like that of Cincinnati (a market which includes Edgewood), many small businesses depend on signs as one of the most affordable forms of advertising.

4. Although signs thus serve many important purposes in society in general and in Edgewood in particular, there are other considerations that the City of Edgewood weighs heavily.
5. Signs may distract drivers and lead to deaths and injuries to pedestrians and cyclists as well as to drivers and passengers and to property damage. Moving, flashing and rapidly changing signs are particularly distracting to drivers. A proliferation of signs on a particular site can have the same effect as moving signs, as drivers try to sort through the visual cacophony to find the information that they want or need.

6. The Edgewood City Council, with the advice of the Kenton County Planning Commission and its professional staff, and with input from residents through the Direction 2030: Your Voice. Your Choice. planning process, has placed an increasing emphasis on preserving the sense of place and the design of the built environment; limiting the size, height and number of signs is an important tool in preserving a sense of place, a tool that accompanies the County’s standards for landscaping.

7. Direction 2030: Your Voice. Your Choice. recommends that policies, regulations and incentives be developed and implemented that preserve and improve the existing community fabric.

8. Balancing these competing considerations is particularly difficult in residential areas, where people value both their pleasing and visually appealing environments and their ability to communicate their opinions regarding candidates and public issues through yard signs.

9. In updating its ordinance in 2016 after the Supreme Court’s landmark decision in Reed v. Town of Gilbert, the Edgewood City Council, working with PDS staff and an outside consultant, has made a major effort to limit content as a factor in its sign regulations. After due consideration, however, it has concluded that one way to leave room for extensive free expression through signs in residential areas while limiting total sign clutter is to maintain significant limits on commercial signs in residential areas. Recognizing the importance of “for sale” and “for lease” signs in maintaining the occupancy of healthy neighborhoods (see the U.S. Supreme Court decision in Linmark Associates, Inc. v. Willingboro), those signs must remain. There is a similar utility in providing for yard sale signs, which allow people to dispose of unwanted items without sending them to a landfill.

10. Although as the Court found in Reed v. Gilbert, time limits on signs can be arbitrary, as the Court recognized in 2009 in Pleasant Grove v. City of Sumnum, a significant distinction between speakers expressing an opinion and signs is that “Speakers, however long-winded, will eventually come to the end of their remarks.” Members of the Edgewood City Council have long noted that signs for political campaigns as well as those advertising pancake breakfasts and spaghetti dinners for civic organizations are often abandoned after the events, contributing to clutter long after they have served their purpose. Although such signs were once typically paper or cardboard that would eventually decay, many today are plastic and will remain until removed. Thus, despite the expressed
concern of the Supreme Court with time limits, the Edgewood City Council finds that it has a substantial governmental interest in clarifying the status of signs for past events that thus no longer serve a purpose so that there is a legal basis for the City of Edgewood to remove them or force their removal.

11. The City of Edgewood has long allowed unlimited numbers of small signs bearing non-commercial messages to allow merchants and others to designate handicapped parking places, provide directions to ATMs and restrooms, warn of guard dogs and other hazards and provide a variety of other place-based information. With the prohibition of commercial messages on such signs, it has been the observation of the Edgewood City Council members and their professional staff members that property owners are judicious and appropriate in posting such signs. The City of Edgewood thus finds that it has a substantial interest in allowing merchants and property owners freely to post necessary informational signs but without allowing an endless proliferation of commercial messages.

12. Although in findings above the City of Edgewood has recognized the multiple values of signs in the built environment, Edgewood officials after consultation with the Planning Commission and representatives of cities and towns in the County concluded several years ago that there is no place for signs of overwhelming size and no relation to context in an urban and urbanizing environment like Edgewood. Although previous versions of these regulations followed the pattern of state and federal laws by defining such billboard as “off-site” signs, this ordinance addresses the same issue by establishing a form of circuit breaker size limit, prohibiting very large signs on small lots, on vacant lots, or on lots with only small buildings.

13. These are complex public policy issues, and the Edgewood City Council, with the help of its professional planners, attorneys and outside consultant, has attempted to balance the competing considerations in a way that it believes best protects the public health, safety and welfare of the citizens of Edgewood, including its many valued businesses and the thousands of visitors who arrive or pass through the City of Edgewood each month.

SECTION 14.3 TEMPORARY SIGNS

A. One temporary sign will be permitted on each lot in a non-residential zone, subject to the following standards and conditions:

1. It shall not exceed twelve (12) square feet in area;
Article XIV   Sign Regulations

2. It shall be attached at all four corners or otherwise firmly affixed to a wall of the principal building or it may be freestanding;
3. If it is freestanding, it shall be supported by one or more posts or similar devices in the ground and shall not exceed six (6) feet in height;
4. In no case shall such a sign be affixed to a tree or other natural feature, a fence, a utility pole, or a fixture or structure on the property other than the principal building;
5. If freestanding, it shall be set back a minimum of ten (10) feet from any property line;
6. It shall not be separately illuminated;
7. If the message relates to an event, such sign shall be removed within seven (7) days following the conclusion of the event;
8. Such a sign may bear any noncommercial message or a commercial message.

SECTION 14.4 SCOPE, AUTHORITY AND APPLICABILITY

A. SCOPE: This Article is adopted pursuant to KRS 100.

B. AUTHORITY: This Article regulates signs, as defined herein, when mounted, located, or displayed on property located within the incorporated limits of the City of Edgewood, on land that is either private land or public land over which the City of Edgewood has land use regulatory authority.

C. APPLICABILITY, GENERAL: This Article shall apply to all signs erected, placed, painted, installed or otherwise made visible on private or public property in the City of Edgewood, except as otherwise provided herein. All signs displayed in the City of Edgewood shall comply with all requirements of this Article and all other applicable law. Permits shall be required for all signs in the City of Edgewood, except as specified herein. No sign, outdoor advertising, structure, billboard or display shall be erected, installed, located or maintained in any zoning district of the City of Edgewood, except in conformity with these regulations. New signs, additional signs, relocations or structural alterations of existing signs also require sign permits.

D. COMPLIANCE REQUIRED: It shall be unlawful and a violation of this Article for any person to fasten, place, paint, or attach in any way: any sign, handbill, poster, advertisement, or notice of any kind, or cause the same to be done in or upon any curb-stone, lamp post, utility pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest room, bus stop kiosk or shed, station building, tree, or in or upon any portion of any public sidewalk, street, or sign, except as specifically allowed within this Article.
E. EXEMPTIONS: The following signs or sign elements are exempt from the provisions of this Article but are subject to any other applicable laws and regulations:

1. Any sign installed in a building or enclosed space and not legible from the public right-of-way or from private or public property other than the property on which it is located;
2. Any sign with a sign area of less than four square feet in area and less than four feet in height (if freestanding), that is not separately illuminated and that is not legible from the public right-of-way or from private or public property other than the property on which it is located;
3. Signs on mass transit vehicles operating in or passing through the City of Edgewood; and
4. Signs on vehicles and watercraft which are regularly used in the operation of a business; signs on vehicles which are parked for long periods of time, which are not operational and/or which are not regularly used in the operation of a business at the same location where the vehicle is most frequently parked shall be considered detached signs and subject to regulation under this Article. For purposes of this subsection, a “long period of time” shall be a continuous period of 30 days or separate periods that total 40 days or more out of any 60-day period.

F. SIGNS SUBJECT TO OTHER STANDARDS: Signs listed in this Section shall be exempt from the permit requirements of this Article; but, shall, to the maximum extent allowed by law, be subject to the other standards of this Article. Where a sign is erected pursuant to a statute or a court order, the sign may exceed the size standards of this Article or otherwise deviate from the standards set forth in this Article to the extent that the statute or court order expressly required the larger size or other deviation. In all other respects, such signs shall conform to the standards of this Article. This subsection shall apply to the following types of signs:

1. Signs conforming to the Manual of Uniform Traffic Control Devices and bearing no commercial message;
2. Signs by employees or officials of the City of Edgewood, Kenton County, a state or federal agency in the course of their governmental duties;
3. Signs required by a state or federal statute;
4. Signs required by an order of a court of competent jurisdiction;
5. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the use and/or provide contact information regarding the facility; and
6. Signs installed by a transit company with a franchise or other right to operate in the City of Edgewood, where such signs are installed along its routes and relate to schedules or other information about the transit route.
G. SIGNS ALLOWED WITHOUT A PERMIT: The following signs or sign-like devices are allowed in all zoning districts without a sign permit and are not to be included in determination of the allowable numbers, type and area of a sign that requires a sign permit. If a sign otherwise falling under this Section is electrified, it will require an electrical permit. Signs subject to this Section shall conform to the requirements specified:

1. Address Numbers used for the purpose of identifying the address of any building shall not be counted toward allowed sign area;
2. Detached signs smaller than four square feet in area and less than four feet in height, of which not more than 25 percent may be used for a commercial message;
3. Detached signs smaller than seven square feet, allowed in residential, conservation, and agricultural zoning districts;
4. Temporary signs not greater than twelve (12) square feet, allowed in non-residential zones;
5. Wall signs containing no commercial message and not larger than four square feet in area;
6. Cultural decorations or displays of noncommercial nature, mounted on private residential property, which pertain to cultural observances;
7. Cornerstones, foundation stones and memorial signs or tablets, when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material, provided that no such sign shall exceed six square feet in area nor shall any such sign be separately illuminated;
8. Symbols that do not bear or include any commercial message and that are integrated into the architecture of a building;
9. Gravestones when erected in a lawful cemetery or graveyard; and
10. Graphic images which are visible only from aircraft flying above.

H. OTHER ACTIONS ALLOWED WITHOUT A PERMIT: The following signs and actions related to signs shall be exempt from the permit requirements of this Article but shall be subject to all other standards of this Article.
1. Changing of the advertising copy or message on an existing painted or printed sign, marquee, changeable copy sign or a similar compliant sign, whether electrical, illuminated, electronic message center or non-illuminated painted message, provided that the copy on an electronic message board shall not change more frequently than allowed under Section 14.5, D.;

2. Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural alterations;

3. Installation of permanent signs smaller than four square feet where such signs are allowed by this Article, contain no commercial message and involve no electrical installation; and

4. Installation of temporary signs not larger than four square feet, where such signs are allowed by this Article and conform with this Article in all respects.

I. PRODUCT DISPLAYS, SALES DEVICES, MENU BOARDS

1. Nothing in this Article shall prohibit or limit the outdoor display of products where allowed under the zoning ordinance, although a particular product may be a thing which would be prohibited by this Article if used as a sign and although one or more such products may have on them permanent labels that might otherwise fall under this Article. This Article shall, however, apply to any sign, banner, pennant, or other attention-attracting device affixed to a product displayed outdoors. For example, the label “Chevrolet” on an automobile or “John Deere” on a tractor shall not be considered a sign for purposes of this Article, but a separate sign attached to such a product shall be considered a sign and subject to regulation.

2. Signs on gasoline pumps, vending machines, news racks and similar machines and devices used for the sale or dispensing of products shall be allowed without a sign permit if they do not flash and if they are either not legible from any public right-of-way, public property or private property other than the site on which the sign is located; or they consist entirely of letters, numerals or symbols that are less than four inches in height. All other signs on vending machines, gas pumps, news racks and similar machines and devices shall be considered “signs” and shall be subject to all of the regulations of this Article.

3. In districts where drive-through and drive-up facilities are allowed, menu boards or other instructional or informational devices related to the drive-through or drive-up facilities shall be allowed without a sign permit, provided that such device is less than 12 square feet in size, and that the only words, numerals, symbols or pictures on such device that are legible from any location other than the site on which it is located shall include no commercial message but shall simply identify the device as a “menu,” “directory,” “instructions,” “information” or something similar or a logo that is no larger than one foot in any dimension. In such districts, directional
information and logos installed on drive-through canopies are also permitted and are not considered signs.

SECTION 14.5 PROHIBITED SIGN TYPES

A. Unless specifically authorized by another section of this Article, or by other law, the following sign types are prohibited at all times and in all zones.

1. New billboards;
2. Any freestanding sign of which the area exceeds ten percent of the area of the site or parcel on which it is located; or two percent of the lawful, as-built floor area of the principal building on the site; note that this is intended as a circuit-breaker and that all signs are subject to other size and dimensional requirements in this ordinance;
3. Portable signs, including folding portable signs and flashing portable signs;
4. Pennants, banners, streamers, balloons, and similar devices;
5. Animated, projecting, revolving, and moving signs, including those which create the appearance of animation, projection, revolving or other movement, or utilize flashing or intermittent lights, or lights of changing degrees of intensity; automatic changeable copy signs that conform with section 14.6, D. are not subject to this limitation;
6. Signs which are not traffic, control or safety signals, but by their shape, color, or manner of mounting or display, appear to be traffic, control or safety signals, and thus create confusion for drivers and pedestrians, as well as signs which create or constitute traffic hazards;
7. Signs on vacant lots in non-residential zones larger than 12 square feet in area;
8. Signs for which a separate structure is mounted on a roof or parapet; this provision does not prevent signs which are integral to the building; and
9. Signs using sounds, music, sound effects, noises, or other sound or noise-making or transmitting device or instruments.

SECTION 14.6 INSTALLATION, DESIGN AND CONSTRUCTION STANDARDS

A. LOCATION

1. No sign shall be located closer than five feet to any property line.
2. No sign shall be located so that it obstructs access to or from a doorway, fire escape or required escape window.
3. No sign shall be located so that it blocks the free air flow through windows in residential units.

4. No sign located within a clear sight triangle shall obstruct the vision of motorists or pedestrians between a height of 30 inches and 108 inches off the ground.

5. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

6. No sign shall be located within eight vertical feet or four horizontal feet of overhead electrical or other wires.

B. NO PROJECTIONS OVER STREETS OR ALLEYS: Projecting signs are allowed in some zoning districts. No sign shall project over a public right-of-way unless the sign owner has obtained an encroachment permit for such sign. No sign shall project over any portion of a right-of-way used as a street, alley or other way for vehicular travel; encroachment permits are limited to allowing projecting signs to extend over sidewalks.

C. SIGN MAINTENANCE

1. The property owner shall be liable to maintain such sign, including its illumination sources, in neat and orderly condition and good working order at all times and to prevent the development of any deterioration in the safety of such sign. The property owner may assign such responsibility to a tenant or other party, but the property owner shall remain accountable for the maintenance.

2. Nothing in this Article shall prohibit the routine maintenance of any nonconforming sign or the changing of the copy or content of any nonconforming sign, except where such maintenance or change in copy would increase the degree of its nonconformity.

D. FLASHING SIGNS, MOVING SIGNS, AND CHANGEABLE COPY SIGNS

1. General Rule: Signs that move, flash or simulate movement are prohibited except as allowed under this section. A changeable copy sign is considered a different classification of sign under this Article; conversion of an existing sign to a changeable copy sign or to add changeable copy elements to it is allowed only if the modified sign will conform with all standards in this Section and with all other applicable standards related to the location, height, size and other characteristics of the sign.

2. Rules for Changeable Copy Signs Allowed under this Article: Automatic changeable copy signs shall be allowed only in those districts in which “changeable copy sign, automatic” is listed as a permitted sign type and shall be subject to the following additional restrictions:
a. Such technology shall be programmed so that the message or image on the sign changes no more often than every eight seconds.
b. There shall be no effects of movement, flashing, scintillation, or similar effects in the individual images.
c. Changes of image shall be substantially instantaneous as seen by the human eye and shall not use fading, rolling, window shading, dissolving or similar effects as part of the change.
d. Video technology in signs shall use automatic level controls to reduce light levels at night and under cloudy or other darkened conditions, in accordance with the following standards.

1. All electronic or digital display unit message boards shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the electronic board based on ambient light conditions.

2. Maximum brightness levels for electronic or digital display boards shall not exceed 5,000 nits when measured from the billboard’s face at its maximum brightness, during daylight hours and 500 nits when measured from the board face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset.

e. Any sign using electronic or electro-mechanical technology for changeable copy message boards, which malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing therein motion, movement, flashing or any other similar effects, shall be repaired or disconnected within 48 hours by the owner or operator of such billboard.

f. The area of a sign consisting of electronic or electro-mechanical message board elements shall not constitute more than 200 square feet of a sign.

g. The following limitations shall apply to the location of signs using electronic or electro-mechanical technology for a message board:

1. A sign on which the electronic or electro-mechanical message board includes 100 or more square feet of sign area shall not be erected within 500 feet of property falling in one of the City of Edgewood or other jurisdiction’s residential zoning districts, although this restriction shall not apply to mixed use districts and commercial districts allowing residential uses.

2. A sign on which the electronic or electro-mechanical message board includes 20 or more square feet of sign area
but less than 100 square feet of sign area shall not be erected within 200 feet of property falling in one of the City of Edgewood or other jurisdiction’s residential zoning districts, although this restriction shall not apply to mixed use districts and commercial districts allowing residential use.

(3) A sign on which the electronic or electro-mechanical message board includes less than 20 square feet of sign area shall not be erected within 100 feet of property zoned and used exclusively for single family uses; it is the express intent of this provision to allow the use of such technology on signs for institutional uses located in residential districts, provided that the required separation is maintained between the sign and any property zoned and exclusively used for a single-family use.

SECTION 14.7 SIGNS ALLOWED IN CONSERVATION, AGRICULTURAL AND RURAL DISTRICTS (CO and R-RE Zones)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be illuminated.

2. For permitted uses other than single-family residences, one wall sign per use, not more than two (2) square feet in area is allowed, provided that such sign contains no commercial message and is not illuminated.

B. DETACHED SIGNS

1. Each lot shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the sale of agricultural products, the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

2. Signs related to the sale of personal property (not including agricultural products) shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may
contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:
   
   a. Installation of a permanent neighborhood identification sign;
   b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
   c. A period of two (2) years from the date of installation.

D. PERMANENT ENTRANCE SIGNS

1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include a masonry wall, landscaping or other similar materials or features. Such signs shall only be located at the principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional
use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
<th>Maximum size</th>
<th>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maximum number</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td></td>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td></td>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
<tr>
<td></td>
<td>Maximum Letter Size</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

F. OTHER SIGNS

1. Signs allowed under Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

SECTION 14.8 SIGNS ALLOWED IN SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICTS (R-1B, R-1C, R-1D, R-1DD, R-1E, and R-1F Zones)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be separately illuminated.

2. For permitted uses other than single-family residences, one wall sign per use not more than two (2) square feet in area is allowed, provided that such sign contains no commercial message and is not illuminated.
B DETACHED SIGNS

1. Each lot in a residential district shall be allowed an unlimited number of detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The permanent sign shall not contain a commercial message, and no more than two (2) signs on a lot in a residential district at any one time, including all wall signs, detached signs, temporary signs, and others, may contain commercial messages. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

2. Signs related to the sale of personal property shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:

   a. Installation of a permanent neighborhood identification sign;
   b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
   c. A period of two (2) years from the date of installation.
D. PERMANENT ENTRANCE SIGNS

1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include a masonry wall, landscaping or other similar materials or features. Such signs shall only be located at the principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include automatic changeable copy and manual changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

3. Any school or house of worship may have one detached sign, not to exceed twenty-five (25) square feet in area, and may include automatic changeable copy and changeable copy signs. A sign on which the electronic electro-mechanical message board includes twenty-five (25) square feet or less of sign area shall not be erected within 50 feet of property zoned and used exclusively for single family uses. Article XIV, Section 14.8, paragraph F(1) of this Ordinance shall not apply to signs permitted under this paragraph.

4. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.
### F. OTHER SIGNS

1. Signs allowed under Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

### SECTION 14.9 SIGNS ALLOWED IN INSTITUTIONAL DISTRICTS (INST-1 and INST-2 Zones)

#### A. WINDOW AND WALL SIGNS

1. Window and permanent wall signs are allowed for uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of a building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum size</strong></td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td><strong>Maximum number</strong></td>
<td>Area limit only</td>
<td>Area limit only</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Permitted illumination</strong></td>
<td>No separate illumination</td>
<td>Illumination from a concealed source only</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Changeable copy</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
</tbody>
</table>

#### B. DETACHED SIGNS

1. Pole or principal ground signs are allowed subject to the following limitations.
### Article XIV  Sign Regulations

#### Principal

<table>
<thead>
<tr>
<th>Maximum number</th>
<th>As approved on the Stage II/Master Signage Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>60 square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>12 feet</td>
</tr>
<tr>
<td>Minimum setback</td>
<td>Five (5) feet from any property line; 50 feet from the nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, exposed or concealed source</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 25% of the sign face allowed</td>
</tr>
</tbody>
</table>

#### Other

<table>
<thead>
<tr>
<th>Maximum number</th>
<th>As approved on the Stage II/Master Signage Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>50 square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>6 feet</td>
</tr>
<tr>
<td>Minimum setback</td>
<td>Five (5) feet from any property line; 15 feet from the nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

**C. BANNERS**

1. Any institutional use on a site larger than five acres may erect banners on the site, subject to the following conditions:

   a. Such banners shall be anchored to a pole or building at the top and bottom, so that the end of the banner does not flap in the wind, like a flag or pennant;

   b. Such banners may be attached to poles serving another purpose, such as supporting parking lot or street lights, or to separate poles used only for the banners;

   c. If the banners are attached to separate poles, those poles shall not exceed 24 feet in height, and no two such poles shall be closer to one another than 75 feet, measured in a straight line;

   d. Such banners shall not exceed 16 square feet in area on one side;

   e. Each such banner may contain a message on each side. Messages on such banners may include messages related to the activities or services of the institution or other non-commercial messages. No such banner shall in any case include any commercial message unrelated to the institutional use;

   f. Such banners shall not be separately illuminated; and

   g. Such banners may be visible from the public right-of-way but shall not be legible from any location except the site used by the institution.
D. OTHER SIGNS

1. Signs allowed under Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

SECTION 14.10 SIGNS ALLOWED IN OFFICE DISTRICTS (PO Zone)

A. WINDOW AND WALL SIGNS

1. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Area limit only</td>
<td>One per building street frontage</td>
<td>N/A</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>No separate illumination</td>
<td>Indirect white light</td>
<td>N/A</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
</tbody>
</table>

For any building containing three or more offices or other tenants sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance. Such sign shall bear no commercial message related to activities, goods or services not offered on the premises. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message related to commercial activities not conducted on the premises.

B. DETACHED SIGNS

1. Permanent detached signs are allowed in these zoning districts subject to the following limitations.
### Article XIV  Sign Regulations

<table>
<thead>
<tr>
<th>Principal</th>
<th>Directory</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage per site</td>
<td>One per vehicle entrance</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>8 feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest property line</td>
<td>5 feet from front property line; 10 feet from any other property line</td>
<td>15 feet; 25 feet</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, direct or concealed source</td>
<td>Concealed source only; Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 25 percent of sign face</td>
<td>Not allowed; Only manual changeable copy is allowed; may cover entire sign face</td>
</tr>
</tbody>
</table>

#### C. DIRECTORY (WALL) SIGNS

1. One directory sign on a wall, not exceeding six square feet in area, is allowed per public entrance for a nonresidential building. Such sign shall not be legible from the public right-of-way and shall be illuminated by direct white light only.

#### D. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.
3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th>Wall</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum size</strong></td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</td>
</tr>
<tr>
<td><strong>Maximum number</strong></td>
<td>One per building street frontage</td>
</tr>
<tr>
<td><strong>Permitted illumination</strong></td>
<td>Concealed source only</td>
</tr>
<tr>
<td><strong>Changeable copy</strong></td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>Maximum Letter Size</strong></td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

E. OTHER SIGNS

1. Signs allowed under Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

SECTION 14.11 SIGNS ALLOWED IN GENERAL BUSINESS AND COMMERCIAL DISTRICTS

A. WINDOW AND WALL SIGNS

1. NC, NSC, and CC Zoning Districts

   a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum size</strong></td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td><strong>Maximum number</strong></td>
<td>Area limit only</td>
<td>One per building street frontage</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Permitted illumination</strong></td>
<td>No separate illumination</td>
<td>Illumination from a concealed source only</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### Article XIV   Sign Regulations 14-21

<table>
<thead>
<tr>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

2. **HC Zoning Districts**

   a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
</tr>
<tr>
<td></td>
<td>See total</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Area limit only</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, concealed or direct source</td>
<td>External or internal, concealed or direct source</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Automatic allowed; may cover up to 25 percent of area of sign face</td>
</tr>
</tbody>
</table>

3. **SC Zoning District**

   a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
</tr>
<tr>
<td></td>
<td>See total</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Area limit only</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>No separate illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Automatic allowed; may cover up to 25 percent of area of sign face</td>
</tr>
</tbody>
</table>
B. POLE OR GROUND SIGNS

1. NC, NSC, and CC Zoning Districts

   a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
<td>One per vehicle entrance in NSC district; not allowed in NC district</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>20 feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest right-of-way</td>
<td>5 feet</td>
<td>25 feet</td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>Five feet from any other property line; 50 feet from nearest single-family residential district</td>
<td>Five feet from any other property line; 15 feet from nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

2. HC Zoning Districts

   a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
<td>One per vehicle entrance</td>
</tr>
<tr>
<td>Maximum size</td>
<td>60 square feet</td>
<td>Four square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>20 feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest right-of-way</td>
<td>5 feet</td>
<td>5 feet</td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>Five feet from any other property line; 50 feet from nearest single-family residential district</td>
<td>Five feet from any other property line; 15 feet from nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, exposed or concealed source</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 25 percent of sign face allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>
3. **SC Zoning District**

   a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum number</strong></td>
<td>One per street frontage</td>
<td>One per vehicle entrance</td>
</tr>
<tr>
<td><strong>Maximum size</strong></td>
<td>Two square feet per 1000 square feet of gross leasable area, not to exceed 300 square feet per sign</td>
<td>Eight square feet</td>
</tr>
<tr>
<td><strong>Maximum height</strong></td>
<td>30 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td><strong>Minimum setback from nearest right-of-way</strong></td>
<td>15 feet</td>
<td>5 feet</td>
</tr>
<tr>
<td><strong>Minimum setback, other</strong></td>
<td>20 feet from any other property line; 50 feet from nearest single-family residential district</td>
<td>Five feet from any other property line; 15 feet from nearest single-family residential district</td>
</tr>
<tr>
<td><strong>Permitted illumination</strong></td>
<td>External or internal, exposed or concealed source</td>
<td>Concealed source only</td>
</tr>
<tr>
<td><strong>Changeable copy</strong></td>
<td>Automatic allowed; may cover up to 25 percent of sign face allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

C. **DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY**

1. **HC Zoning Districts**

   a. To improve wayfinding on multi-user sites, the following detached signs are allowed in addition to those allowed under subsection B of this Section. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each ten separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

2. **SC Zoning District**

   a. One detached sign not legible from the right-of-way, not exceeding
twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each ten separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

D. WALL SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. For any building containing three or more uses of any type sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance providing access to such uses. Such sign shall bear no commercial message related to activities, goods or services not offered on the premises. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message not related to commercial activities on the premises.

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.
### F. OTHER SIGNS

1. Signs allowed under Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

### SECTION 14.12 SIGNS ALLOWED IN INDUSTRIAL DISTRICTS (IP Zone)

#### A. WALL SIGNS

1. Permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
<th>Maximum size</th>
<th>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maximum number</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td></td>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td></td>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
<tr>
<td></td>
<td>Maximum Letter Size</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

#### B. POLE OR PRINCIPAL GROUND SIGNS

1. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>Not allowed</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Not allowed</td>
<td>One per street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Not allowed</td>
<td>Illumination from a concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>
C. DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. To improve wayfinding on multi-user sites, the following detached signs are allowed in addition to those allowed under subsection B of this Section. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each four separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

D. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include
changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</td>
</tr>
<tr>
<td>Maximum number</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Maximum Letter Size</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

E. OTHER SIGNS

1. Signs allowed under Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

SECTION 14.13 MASTER SIGNAGE PLANS

A. PURPOSE AND INTENT

1. It is the purpose of the City of Edgewood to require owners, lessees and managers of sites containing multiple signs requiring permits to plan and design signs that are compatible with the buildings on the site, thus enhancing the appearance of the site and of the streetscape that includes it. This Section spells out specific criteria for review for compliance with the section, but the City of Edgewood recognizes that the consideration of issues of design necessarily requires some exercise of judgment, within the specific criteria set out in this Section. Although the City of Edgewood has provided a remedy of appeal for an applicant aggrieved by an action on a proposed master signage plan, it is the intent of the City of Edgewood that the primary remedy for such an applicant is the erection and installation of all of the signs allowed by right, under other sections of this Article. It is thus the intent of the City of Edgewood, that, to the extent that it can guide the scope of review of a court considering an appeal, a
court considering an appeal under this Section reverses or remands the decision of the Zoning Administrator only if it finds that such action is arbitrary and capricious.

B. APPLICABILITY

1. The owner of any site that includes more than one tenant or occupant shall apply for approval of a Master Signage Plan before applying for a sign permit for any detached sign.

C. PROCEDURE

1. The submittal of a Master Signage Plan shall be considered a Stage II Development Plan.
2. The owner(s) shall apply to the planning commission’s duly authorized representative.
3. Where an application for approval of a Master Signage Plan is submitted simultaneously or as part of another Stage II Development Plan, the two shall be processed together. Where an application includes properties not under common ownership, all property owners shall sign the application or shall submit documents granting the applicant the authority to process such an application.
4. The planning commission’s duly authorized representative shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of this Section, for Master Signage Plans, other applicable elements of this Article, and other applicable regulations, and its conformity with any approved Stage I Development Plan for the property. In approving the Master Signage Plan, the planning commission’s duly authorized representative may authorize minor adjustments from the Stage I Development Plan.
5. If a Master Signage Plan application is denied, the applicant may submit a new application with a revised plan at any time.
6. Any person aggrieved by the action of the planning commission’s duly authorized representative on a Master Signage Plan may appeal the decision by filing an application with the Planning Commission.

D. APPLICATION CONTENTS

1. The application for approval of a Master Signage Plan shall contain at least the following information. Where the application is submitted simultaneously with an application for a Stage II Development Plan approval, the Master Signage Plan may refer to portions of the Stage II Development Plan application or approved Stage I Development Plan for related requirements:
Article XIV   Sign Regulations

E. AMENDMENTS

1. A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms to all requirements of this Section in effect at the time of submittal.

F. PROVISIONS FOR NONCONFORMING SIGNS

1. A Master Signage Plan for a property already containing signs on the date of submission of the application shall include a schedule for bringing all signs on the development site into conformance with the Master Signage Plan by a specified date. The conformance schedule included in such Master Signage Plan shall be considered a condition of approval of the Master Signage Plan.

G. CRITERIA FOR APPROVAL

1. A Master Signage Plan shall be approved if and only if the planning commission’s duly authorized representative finds that the proposed plan meets all of the standards set out in this Article. If the planning commission’s duly authorized representative finds that the proposed plan substantially meets such standards, it may approve the proposed plan.
subject to conditions that will cause it to meet these standards. Otherwise, the planning commission’s duly authorized representative shall deny the application for plan approval:

a. Each proposed sign conforms with all applicable standards of this Article;
b. The total amount of signage proposed for any building, wall, site, or portion of a site, conforms with all applicable standards of this Article;
c. The proposed plan contains all of the information required by subsection D of this Section
d. The proposed allocation of allowed signage among eligible tenants, which shall be proportional to one of or a combination of the following criteria:

   (1) The number of public entrances to space leased to or controlled by each tenant or occupant;
   (2) The linear feet of frontage of the space leased to or controlled by each tenant or occupant along the wall(s) containing public entrances; and/or
   (3) The façade area of the building elevation(s) containing the public entrances to the spaces leased to or controlled by each tenant or occupant.

e. All proposed signs shall be part of a common design scheme, meeting at least the following criteria:

   (1) The materials and design of all wall signs shall follow one design scheme;
   (2) The materials and design of freestanding signs shall follow one design scheme, which may or may not be the same as the design scheme for wall signs;
   (3) Each design scheme shall require consistency among signs for at least three of the following criteria: lighting design; color schemes; materials; shape; proportion; and/or type faces;
   (4) If the design schemes for the wall signs and freestanding signs are different, they shall have in common at least two of the following criteria: lighting design; color schemes; materials; proportion; and
   (5) The design scheme for freestanding signs shall use building materials, colors and, where applicable, architectural design features consistent with the materials, colors and architectural design features of the principal building on the site.
H. EFFECT

1. After approval of a Master Signage Plan, no permit shall be issued for a sign on the site(s) subject to the Master Signage Plan except in accordance with such plan, and no sign shall be erected, placed, painted, or maintained, except in accordance with such plan, and such plan may be enforced in the same way as any provision of this Article. In case of any conflict between a provision of a Master Signage Plan and one or more provisions of this Article, this Article shall prevail.

I. SPECIAL SEVERABILITY PROVISIONS

1. The severability provisions of Section 14.17. A., 11., are limited by this subsection. If any procedural aspect of this Section is found by a court of competent jurisdiction to be unconstitutional, it is the intent of the City of Edgewood that this entire Section, but only this Section, should be stricken as unconstitutional, but that any plans previously approved under it should remain in effect, allowing the signs shown on such plans as lawful nonconforming signs, regardless of whether such signs have been erected on the date of such decision. If any substantive part of the standards and criteria for approval of this Section is found by a court of competent jurisdiction to be unconstitutional it is the intent of the City of Edgewood that such part be stricken and that the rest of this Section remain in full force and effect, in accordance with the principles set out in more detail in Section 14.17, A., 11.

SECTION 14.14 PERMIT REQUIREMENTS AND PROCEDURES

A. Unless a particular sign is exempt from the permit requirement under an explicit provision of this Article or other applicable law, then a permit for such sign is required.

1. WHEN REQUIRED

a. Replacements

(1) If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location, subject to all requirements enumerated herein.

b. Maintenance
Article XIV  Sign Regulations  14-32

(1) If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.

c. Relocation of Signs

(1) If any sign is removed from one location and erected at a new location, a new permit shall be obtained.

d. Alteration

(1) Alteration or enlargement of any sign shall require a permit the same as for a new sign. Any change in technology for a sign shall be considered an alteration; this shall expressly apply but not be limited to the conversion of a sign to changeable copy technology of any type.

2. APPLICATION

a. No permit shall be granted until and after an application has been filed with the designated administrative official, showing the plans and specifications, including application fees, dimensions, materials, and details of construction of the proposed structure and meeting all provisions of this Article.

3. APPLICATION FORM

a. The Zoning Administrator shall prepare and provide a form to be used as an application for a sign permit. The same form may constitute a permit, when duly approved. Multiple signs may be listed on a single permit only when they are all on the same lot or parcel, or are part of a single, comprehensive development.

4. INFORMATION ON APPLICATION

a. The sign application form shall include the following information:

(1) Name and contact information for the applicant, and if separate, the name, address and consent of the property owner;
(2) Street address and Property Identification Number (PIDN) of the site;
(3) Accurate site plan to scale describing the design, dimensions, proposed placement, structural and electrical characteristics and appearance of the sign(s), including the
Article XIV   Sign Regulations 14-33

location of existing buildings, signs and other structures on the same site as the proposed sign(s);

(4) If the plans and drawings require an engineer's or architect's seal, signature or certificate, such shall show current Kentucky registration or licensure;

(5) Any signs or other structures to be removed or relocated;

(6) Dimensions and heights of all existing and proposed sign(s);

(7) Information regarding electrification, trenching, demolition, plumbing, temporary street closure, or encroachment into the public right of way;

(8) Any known uncorrected violations of zoning laws on the site;

(9) Name, address and any licensing/bonding information for any sign contractors;

(10) Technical drawings, specifications, structural safety calculations for the sign structure;

(11) If the sign is subject to any of the safety codes (building, electrical, etc.), then all information required to determine compliance with such codes or to satisfy the requirements of such codes;

(12) The length of each occupant's/tenant's lineal wall frontage;

(13) Workers' compensation and liability documents and occupational licenses for all contractor's.

5. INITIAL REVIEW

a. Unless a given sign is exempt from the permit requirement, all sign permit applications shall be reviewed by the Zoning Administrator, and approved or denied on the basis of whether the proposed sign satisfies all requirements of this Article, and all other applicable laws, rules and regulations. If it does, then the permit shall be issued. If it does not, then the denial notice shall specify the point(s) of noncompliance. Decisions on sign permit applications shall be made in writing by the Zoning Administrator, and are subject to the appeal procedures provided herein. When applicable, permits under building and electrical codes then in effect are also required; sign permits may be approved subject to compliance with building and electrical code requirements.

6. COMPLETENESS

a. Initial review of an application will be for the purpose of determining if the application is complete. If the application is found incomplete, written notice of the finding of incompleteness will be given to the applicant within fifteen working days of submission, detailing the points of incompleteness. Notice is deemed effective when mailed
or personally delivered. After notice of incompleteness, the applicant shall have thirty calendar days in which to resubmit the application, with all noted items of incompleteness cured. If the application is resubmitted within that time, no additional fee shall be required, and the application, if complete, shall then be processed in accordance with this Section. If no notice of incompleteness is timely provided, the application shall be deemed complete as of the last day on which the notice of incompleteness could have been given.

7. TIME FOR DECISION

a. The Zoning Administrator shall render a decision on each complete sign permit application within five working days of when the application was complete.

8. NONCOMPLIANCE WITH PERMIT

a. All signs shall conform to the requirements of the permit, and all other applicable laws. Any sign not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed as a misrepresentation of facts on the application and a violation of this Article. Any noncomplying sign which is not removed or corrected within the required time shall be a deemed public nuisances and a violation of the zoning ordinance, and may be abated in the same manner as any public nuisance or zoning ordinance violation.

SECTION 14.15 APPEALS

A. Decisions on sign permit applications, as well as directives, orders, notices and all other sign-related decisions of the Zoning Administrator may be appealed to the Board of Adjustment.

1. INITIATION OF APPEAL

a. An appeal under this Article may be initiated by following the procedures set forth in KRS §100.261, within the time allowed by that section.

2. HEARING ON APPEAL

a. Within 60 working days of timely receipt of a notice of appeal, the Board of Adjustment shall hear the appeal in an open, public, duly
noticed hearing. The appellant and all other persons wishing to be heard shall be allowed to present evidence and argument. The Board will base its decision on the law and the evidence presented at the hearing. The Board will issue a written decision within 30 calendar days of the hearing, and the written decision shall state the decision and the facts and law supporting the decision.

3. WAIVER OF TIME

a. Any of the timeliness requirements of this Section may be waived by the appellant.

4. JUDICIAL REVIEW

a. The decision of the Board of Adjustment is final. Further review may be had in Kenton County Circuit Court, pursuant to the Kentucky law of civil procedure.

5. STATUS PENDING APPEAL

a. While any sign related matter is on appeal, the status quo of the subject sign(s) shall be maintained, except when, by virtue of physical condition, the sign poses an immediate threat to the public health, safety and welfare, in which case the threat may be abated in the same manner as any other immediate threat to the public health, safety and welfare.

SECTION 14.16 DEFINITIONS AND MEASUREMENTS

A. MEASUREMENTS

1. Area of Signs Other than Wall Signs

a. The gross surface area of a sign, except wall signs, is the entire area contained within a single continuous perimeter enclosing the extreme limits of such sign. For detached signs composed of more than one sign cabinet or module, the gross surface area shall include the sum of the area in each cabinet or module only. If a sign has more than one face, the gross surface area shall be equal to the maximum area of the sign face or faces visible from any ground position along any public right-of-way at any one time.
b. The perimeter of a sign will not include lighting fixtures, pole covers, landscaping, framing, decorative roofing, moldings or aprons or other architectural or decorative embellishments, provided they contain no written copy, logos or symbols.

2. Area of Wall Signs
a. The gross surface area of a wall sign is the entire area contained within a single continuous perimeter composed of any straight line geometric figure(s) which encloses the extreme limits of the advertising message(s). If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, color or embellishment, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter. The combined area of the individual figures shall be considered the total sign area.

3. Computation of Area of Multifaced Signs

a. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.
4. Measurement of Height of Sign

a. Sign height shall be measured from the elevation at the base of the sign to the highest point of the highest element of the sign, excluding any incidental structural element, such as an uplift cable for a projecting sign. Where the sign is located on a mound or berm, the average elevation of the land 20 feet to each side of the sign shall be used as a basis for measuring height.
SECTION 14.17 POLICIES AND RULES OF CONSTRUCTION

A. This Article shall be administered, enforced and construed in accordance with the following policies.

1. DISCRETIONARY REVIEW
   a. When one or more signs are part of a project or development, or a variance, conditional use permit, exception or special use permit is sought for sign(s), which requires discretionary review, then the sign shall be reviewed without regard to the graphic design or visual image on the display face of the sign, and discretion shall be restricted to structural, location and other non-communicative aspects of the sign. This provision does not override the billboard policy.

2. MESSAGE NEUTRALITY
   a. It is the City of Edgewood policy to regulate signs in a constitutional manner.

3. REGULATIONS ON OFF-SITE MESSAGES
   a. This Article distinguishes in some cases between commercial messages that relate to products or services not offered at the location of the sign (“off-site commercial messages”). The purpose of that distinction is to acknowledge the need of businesses for identification and notice of their businesses at a business location while limiting the proliferation of commercial messages generally. There is no intent to limit noncommercial messages in any way with this distinction.

4. BILLBOARD POLICY
   a. New billboards, as defined herein, are prohibited. The City of Edgewood completely prohibits the construction, erection or use of any billboards, other than those which legally exist within the regulatory zoning jurisdiction of the City of Edgewood, or for which a valid permit has been issued and has not expired, as of the date on which this provision is first adopted. No permit shall be issued for any billboard which violates this policy, and the City of Edgewood will take immediate enforcement or abatement action against any billboard constructed or maintained in violation of this policy. In adopting this provision, the City of Edgewood affirmatively declares that it would have adopted this billboard policy even if it
were the only provision in this Article. The City of Edgewood intends for this billboard policy to be severable and separately enforceable even if other provision(s) of this Article may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid or unenforceable.

5. MESSAGE SUBSTITUTION

a. Subject to the property owner’s consent, a noncommercial message of any type may be substituted in whole or in part for the message displayed on any sign for which the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. In addition, any on-site commercial message may be substituted, in whole or in part, for any other on-site commercial message, provided that the sign structure or mounting device is legal without consideration of message content. This provision does not create a right to increase the total amount of signage on a parcel, lot or land use; does not affect the requirement that a sign structure or mounting device be properly permitted; does not allow a change in the physical structure of a sign or its mounting device; and does not allow the substitution of an off-site commercial message in place of an on-site commercial message or a noncommercial message.

6. REGULATORY INTERPRETATIONS

a. All regulatory interpretations of this Article are to be exercised in light of the City of Edgewood message neutrality and message substitution policies. Where a particular type of sign is proposed in a permit application, and the type is neither expressly allowed nor prohibited by this Article, or whenever a sign does not qualify as a “structure” as defined in the building code then in effect, then the Zoning Administrator shall approve, conditionally approve or disapprove the application based on the most similar sign type that is expressly regulated by this Article, in light of the policies stated in this Section.

7. NONCOMMUNICATIVE ASPECTS

a. All rules and regulations concerning the non-communicative aspects of signs, such as location, size, height, illumination,
spacing, orientation, etc., stand enforceable independently of any permit or approval process.

8. MIXED USE ZONES AND OVERLAY ZONES

a. In any zone where both residential and non-residential uses are allowed, the sign-related rights and responsibilities applicable to any particular parcel or land use shall be determined as follows: (1) if specific sign regulations are provided in the zoning district, those regulations shall be applied; or (2) if no sign regulations are provided in the zoning district, residential uses shall be treated as if they were located in a zone where a use of that type would be allowed as a matter of right, and nonresidential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or similar discretionary process.

9. PROPERTY OWNER’S CONSENT

a. No sign may be displayed without the consent of the legal owner(s) of the property on which the sign is mounted or displayed. For purposes of this policy, “owner” means the holder of the legal title to the property and all parties and persons holding a present right to possession, control or use of the property. The signature of the property owner or authorized agent will be required on all applications for sign permits.

10. LEGAL NATURE OF SIGN RIGHTS

a. As to all signs attached to real property, the signage rights, duties and obligations arising from this Article attach to and travel with the land or other property on which a sign is mounted or displayed. This provision does not modify or affect the law of fixtures, sign-related provisions in private leases regarding signs (so long as they are not in conflict with this Article or other law), or the ownership of sign structures. This provision does not apply to hand held signs or other images which are aspects of personal appearance.

11. SEVERABILITY

a. Generally

(1) If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of
any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as limited by Section 14.17, A., 11., b.

b. Severability Where Less Speech Results

(1) Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section or elsewhere in this Article or this Code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article is declared unconstitutional, such declaration shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise additional standards.

c. Severability of Provisions Pertaining to Prohibited Signs

(1) Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section, or elsewhere in this Article or in this Code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or any other laws declared unconstitutional by valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under Section 14.4 of this Article. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or of any part of the Zoning Ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as expressly provided in Section 14.17, A., 11., b.

d. Severability of Prohibition on Off-premise Signs
(1) If any part section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article and/or another provisions of this Article or other provisions of Zoning Ordinance or this Code are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the limitations on off-premise signs as contained herein.
ARTICLE 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 or permissible principal or accessory use in all industrial zones (I-P, I-1, I-2, I-4 and I-5), shall comply with all of the performance standards herein set forth for the district involved. If any existing use, or 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, or 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 this ordinance, shall be in compliance within one (1) calendar year of the effective date of this ordinance, unless the owner or person responsible for the operation of the installation shall have submitted to the zoning administrator a program and schedule for achieving compliance. Such program and schedule to 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 person 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: Every use permitted in the IP industrial district shall be operated in its entirety within a completely enclosed building. In the I-1, I-2, I-4, and I-5 industrial districts, permitted uses shall be operated either within a completely enclosed building or within an area screened from view at the nearest district boundary, according to Section 9.17 and Article XIV of this ordinance.
B. LANDSCAPING: In all industrial districts, all required yards shall either be open landscaped and grassed areas or be left in a natural state, if acceptable to the planning commission. If said area is to be landscaped, it shall be landscaped attractively with lawn, trees, shrubs, etc., according to the initially submitted plans which were first approved of for the development of such tract as a permitted use.

In areas to be used for off-street parking, the parking arrangement and surfacing must likewise have been approved of for the development of such tract as a permitted use. Any landscaped areas shall be properly maintained thereafter in a sightly and well kept condition. Parking areas shall likewise be maintained in good 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 shall be employed that 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 used). 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. In the IP district, the sound pressure of noise radiated continuously from any activity shall not exceed the value given in Tables 1 and 2 of this section, in any octave band frequency at any point on or beyond any lot line. If the noise is not smooth and continuous, one or more of the corrections in Table 2 of this section shall be added or subtracted from each of the decibel levels given in Table 1 of this ordinance.

In the I-1 district, the sound pressure of noise radiated from any activity shall not exceed the values given in Table 3 of this section in any octave band frequency at any point on or beyond any lot line. If the IP or I-1 district adjoins a residential district, the maximum sound pressure level at any point on the district boundary shall be reduced by six (6) decibels from the maximum listed in Table 3.

In the I-2, I-4, and I-5 districts, the sound pressure of noise radiated from any activity shall not exceed the value given in Table 3 of this section in any octave band frequency at any point on or beyond the nearest district boundary. If said districts adjoin a residential district, the maximum sound pressure shall be reduced by six (6) decibels from the maximum listed in Table 3 of this section.
In all districts, 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 the I-P or I-1 districts, any activity producing humidity, in the form of steam or moist air, or producing heat or glare, shall be carried on in such a manner that the steam, humidity, heat, or glare is not perceptible at any lot line. In the I-2, I-4, and I-5 districts, any activity producing heat or glare shall be carried on in such a manner that the steam, humidity, heat, or glare is not perceptible at or beyond any residential or commercial district boundary. 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 and warning, or traffic signals shall direct light away from the adjoining zones.

G. VIBRATION: Vibrations shall be measured at the lot line in the I-P and I-1 districts and at the nearest district boundary in the I-2, I-4 and I-5 districts. No vibration is permitted which is discernible to the human sense of feeling for three (3) minutes or more duration in any one (1) 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 all industrial zones 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 all industrial zones, 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 all industrial zones, 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**: In the IP Zone, no material, products, or supplies shall be stored or permitted to remain on any part of the property outside the buildings constructed thereon. In the I-1, I-2, I-4, and I-5 Zones, storage of materials, supplies, and products on the property outside the building, constructed thereon is permitted to the side and rear of the property providing that the storage of materials, supplies, and products are within an area screened from view at the nearest district boundary, in accordance with Section 9.17 and Article XV.

L. **FIRE AND EXPLOSIVE HAZARDS**: In the I-2, I-4 and I-5 zones only, storage, utilization, or manufacture of solid materials which requires free burning and intense burning may be allowed if permitted in said zones, provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system. In the I-2, I-4 and I-5 zones only, the storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases, may be allowed if permitted in said zones, provided that storage, handling, and use shall be in accordance with Standards of American Insurance Association for Storage, Handling, and Use of Flammable Liquids, "American Insurance Association", Pamphlet No. 30, June 1959, or any subsequent revision or amendment thereto.

M. **WASTE**: Within the I-P zone, no waste material or refuse shall be dumped upon, or permitted to remain upon, any part of the part of the property outside of the buildings constructed thereon. All sewage and industrial waste shall be treated and disposed of in such a manner so as to comply with the standards of the appropriate authority. All plans for waste disposal facilities shall be required before the issuance of any building permit. In the I-1, I-2, I-4 and I-5 zones, all waste shall be disposed of in accordance with the Solid Waste Regulations of the Kentucky Department of Natural Resources and Environmental Protection.

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 AT SPECIFIED POINTS OF MEASUREMENT FOR NOISE RADIATED CONTINUOUSLY FROM A FACILITY

<table>
<thead>
<tr>
<th>OCTAVE BAND (CYCLES PER SECOND)</th>
<th>SOUND PRESSURE LEVEL (DECIBELS*)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 - 75</td>
<td>69</td>
</tr>
<tr>
<td>75 - 150</td>
<td>54</td>
</tr>
<tr>
<td>150 - 300</td>
<td>47</td>
</tr>
<tr>
<td>300 - 600</td>
<td>41</td>
</tr>
<tr>
<td>600 - 1,200</td>
<td>37</td>
</tr>
<tr>
<td>1,200 - 2,400</td>
<td>34</td>
</tr>
<tr>
<td>2,400 - 4,800</td>
<td>31</td>
</tr>
<tr>
<td>4,800 - 10,000</td>
<td>28</td>
</tr>
<tr>
<td>10,000 - 20,000</td>
<td>26**</td>
</tr>
<tr>
<td>20,000 - 30,000</td>
<td>25**</td>
</tr>
<tr>
<td>30,000 - 40,000</td>
<td>24**</td>
</tr>
<tr>
<td>40,000 - 50,000</td>
<td>23**</td>
</tr>
</tbody>
</table>

* According to the following formula, Sound Pressure Level in Decibels equals 10 Log where P2 equals 0.0002 dynes/cm² P1/P2.

** To avoid possible interference with animal experiments.
## TABLE 15-2

**CORRECTION IN MAXIMUM PERMITTED SOUND PRESSURE LEVEL IN DECIBELS TO BE APPLIED TO TABLE 15-3**

<table>
<thead>
<tr>
<th>TYPE OF OPERATION OF CHARACTER OF NOISE</th>
<th>CORRECTION IN DECIBELS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise source operates less than twenty (20) percent of any one hour period</td>
<td>plus 5*</td>
</tr>
<tr>
<td>Noise source operates less than five (5) percent of any one hour period</td>
<td>plus 10*</td>
</tr>
<tr>
<td>Noise source operates less than one (1) percent of any one hour period</td>
<td>plus 15*</td>
</tr>
<tr>
<td>Noise of impulse character (hammering, etc.)</td>
<td>minus 5</td>
</tr>
<tr>
<td>Noise of periodic character (hum, screech, etc.)</td>
<td>minus 5</td>
</tr>
</tbody>
</table>

* Apply one of these corrections only
TABLE 15-3

MAXIMUM PERMISSIBLE SOUND PRESSURE LEVEL IN DECIBELS

<table>
<thead>
<tr>
<th>OCTAVE BAND (CYCLES PER SECOND)</th>
<th>SOUND PRESSURE LEVEL (DECIBELS*)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 74</td>
<td>79</td>
</tr>
<tr>
<td>75 - 149</td>
<td>74</td>
</tr>
<tr>
<td>150 - 299</td>
<td>66</td>
</tr>
<tr>
<td>300 - 599</td>
<td>59</td>
</tr>
<tr>
<td>600 - 1,199</td>
<td>53</td>
</tr>
<tr>
<td>1,200 - 2,399</td>
<td>47</td>
</tr>
<tr>
<td>2,400 - 4,799</td>
<td>41</td>
</tr>
<tr>
<td>4,800 and over</td>
<td>39</td>
</tr>
</tbody>
</table>

* According to the following formula, Sound Pressure Level in Decibels equals $10 \log_{10} \frac{P2}{P1}$ where $P2$ equals 0.0002 dynes/cm$^2$ $P1/P2$.

** To avoid possible interference with animal experiments
ARTICLE XVI

ADMINISTRATION

SECTION 16.0 ENFORCING OFFICER: A zoning administrator (official or officials appointed by the legislative body for carrying out the provisions and enforcement of this ordinance) shall administer and enforce this ordinance. He may be provided with assistance of such other persons as the legislative body directs.

If the zoning administrator finds that any of the provisions of this ordinance are being violated, he shall take such action as is permitted by law.

In addition to the foregoing, the zoning administrator shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences, or additions, alterations, or structural changes thereto, discontinuance of any illegal work being done.

All questions of interpretation and enforcement shall be first presented to the zoning administrator, and that such questions shall be presented to the board of adjustment only on appeal from the decision of the zoning administrator, and that recourse from the decisions of the board of adjustment shall be to the courts, as provided by the Kentucky Revised Statutes.

It shall be illegal for any person or entity to interfere with the zoning administrator's performance of his duties, as defined 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 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 (in duplicate - See Appendix A).

2. The required fee for a zoning permit, as provided for in Section 19.0 of this
ordinance.

3. An approved Development Plan or site plan, if required by this ordinance, or

4. A plot plan, in duplicate, drawn at a scale of not less than one (1) inch to fifty (50) feet, showing the following information as required by this ordinance.

   a. The location of every existing and proposed building, 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 five (5) foot contour intervals.
   f. Total lot area, in square feet.
   g. Location and dimensions of all access points, driveways, off-street parking spaces.
   h. A drainage plan of the lot and its relationship to adjacent properties, including spot elevations of the proposed finished grade, and 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.
   i. All sidewalks, walkways, and open spaces.
   j. Location, type, and height of all walls, fences, and screen plantings.
   k. Location of all existing and proposed streets, including rights-of-way and pavement widths.
   l. All existing and proposed water, and sanitary, and storm sewer facilities to serve the lot, indicating all pipe sizes, types, and grades.

C. ISSUANCE OF ZONING PERMIT: The zoning administrator shall either approve or disapprove the application (when required by this ordinance -- e.g., Development Plan submitted required -- the planning commission, or its duly authorized representative, approval or disapproval shall also be required). 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 for his records.

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 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 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 Development Plan or Site Plan, if required by this ordinance: or
5. Plans in duplicate approved by the zoning administrator and including any additional 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 other 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 other copy, similarly marked, shall be retained by the building inspector. The building inspector shall also issue a building permit to the applicant at this time and shall retain a duplicate copy for his records.

D. **COMPLIANCE:** It shall be unlawful to issue a building permit, or occupancy permit, to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this ordinance.

E. **BUILDING PERMITS ISSUED PRIOR TO THE ADOPTION OF THIS ORDINANCE:** Building permits issued in conformance with the building code of the legislative body prior to the date of adoption of this ordinance, whether consistent or inconsistent with this ordinance, shall be valid for a period of one hundred eighty (180) consecutive calendar days from time of issuance of the 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 permit shall be void and a new 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:** If the work described in any building permit has not begun within ninety (90) consecutive calendar days from the date of issuance thereof, said permit shall expire and be canceled by the building inspector and no construction shall be permitted until a new building permit has been obtained, except, the applicant may have an option of one renewal according to the terms of the permit for an additional period of ninety (90) consecutive calendar days, provided said option is invoked, in writing, five (5) days prior to the expiration of the original permit to the building inspector.

For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation. If after the work described in the
building permit has been started, the building permit shall expire after a period of eighteen (18) months, providing that an extension may be permitted if sufficient evidence can be demonstrated why the work described in the building permit was not completed as herein specified.

G. CONSTRUCTION AND USE: To be as provided in applications, plans, 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 building 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 building 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 has checked and is satisfied that the building 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 building or land existing at the time of enactment of this ordinance, certifying, after inspection, the extent and kind of use made of the building 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 buildings 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 buildings shall be filed with the building inspector by the owner or lessee of the land or building 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 and lessee the entire burden of proof that such use of land or buildings 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 building 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 building 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. Such complaint, stating fully the causes and bases thereof, shall be filed with the zoning administrator. The zoning administrator shall record properly such complaint, immediately investigate, and take action thereon, as provided by this ordinance and the Kentucky Revised Statutes.

SECTION 16.9 PENALTIES: Any person or entity who violates any of the provisions of this ordinance shall upon conviction be fined not less than ten (10) dollars but no more than five hundred (500) dollars for each conviction. Each day of violation shall constitute a separate offense.

SECTION 16.10 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS: 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, nonavailability 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, he 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: 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 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.

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, he 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 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 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.
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 furnished by the zoning administrator (in duplicate). The fee required for applying for such amendment shall be as provided for by the planning commission.

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 any fiscal court or 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, 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: In addition to the public hearing notice required in Section 17.0, C., above, the following notices shall also be given when a proposal is submitted by a property owner to amend the official zoning map:
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 "ZONING 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, of the planning commission 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. 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 manner as to create a free standing zone of less than five (5) acres, except where specific area restrictions are stipulated in this ordinance, or as outlined in the adopted comprehensive plan by the planning commission. 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 jurisdiction of the legislative body but contiguous thereto and which land already bears the zoning classification sought for the area being changed). For the purpose of this section, 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., above. 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.

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 to any commercial (i.e., NC, SC, HC, etc.) multi-family residential zone (i.e., R-2, R-3, etc.), or institutional 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. Application for a zoning amendment shall be filed with the zoning administrator as required by Section 17.0, A., and shall include a
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Development Plan in accordance with the applicable requirements of Section 9.20, 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 section. 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) consecutive 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 as shown on the approved development plan.

d. The legislative body shall forward a copy of the approved 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 9.19 had been waived by the zoning administrator in the initial submission of the Development Plan, then such data shall be submitted for review in accordance with the requirement of Section 9.19 before a permit may be issued for construction.

The zoning administrator, in reviewing the Site Plan, may authorize minor adjustments from the approved 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 zoning administrator 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 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 Development Plan obsolete. The amount of construction that constitutes initiating substantial construction shall be as approved in the Development Plan.

SECTION 17.1 PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY STAFF REVIEW AND RECOMMENDATION REQUIRED PRIOR TO OR AT THE SCHEDULED PUBLIC HEARING: Planning and Development Services of Kenton County staff, pursuant to KRS 147.673, shall review and make recommendations upon all applications to the local planning commission and the applicant, along with supporting information and comprehensive plan documentation, prior to or at the scheduled public hearing.

SECTION 17.2 OVERRIDING PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY RECOMMENDATIONS -- REASONS, IN WRITING, REQUIRED: Pursuant to KRS 147.650, any legislative body that overrides Planning and Development Services of Kenton County's recommendations must notify Planning and Development Services of Kenton County, in writing, stating the action that was taken by said legislative body and specifying the reasons for such actions.

SECTION 17.3 ACTIONS OF LOCAL GOVERNMENTAL UNITS TO BE FURNISHED TO PLANNING AND DEVELOPMENT SERVICES OF KENTON
COUNTY: Pursuant to KRS 147.705, the legislative body shall, after final adoption of any zoning ordinance or resolution, including amendments thereto, furnish, or cause to be furnished, within sixty (60) days after adoption, a copy of same to Planning and Development Services of Kenton County.
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 either three (3), five (5), or seven (7) 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 the board of adjustment, subject to the approval of the legislative body.

D. The term of office for the board of adjustment 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 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 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 BOARDS; QUORUM; MINUTES; BYLAWS; 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.

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 state 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. A 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 OR BOARD OF ADJUSTMENT, OR LEGISLATIVE BODY: Any appeal from planning commission or 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 or 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 planning commission or 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. Final action shall not include the planning commission’s recommendations made to other governmental bodies.

B. 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 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 in Section 17.0, J. of this ordinance, shall be taken pursuant to this subsection. In such case, the 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. All appeals shall be taken in the appropriate circuit court within 30 consecutive calendar days after the action or decision of the planning commission or board of adjustments and all decisions, which have not been appealed within 30 consecutive calendar days shall become final. After the appeal is taken, the procedure shall be governed by the rules of civil procedure. When an appeal has been filed, the clerk of the circuit court shall issue a summons to all parties, including the planning commission in all cases, and shall cause it to be delivered for service as in any other law action.

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 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: Upon appeals, 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 a 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 9.14 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 site Plan, subject to the applicable requirements of Section 9.19, 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 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 is transferable to any future owner of 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 herein.
1. The board of adjustment shall have the power to hear and decide on applications to convert or change an existing 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 site plan, if applicable, subject to the applicable requirements of Section 9.19, 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;

   (2) That the new nonconforming use is of a nature which will emit less noise and air pollution than the prior nonconforming use;

   (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 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 site plan subject to the applicable requirements of Section 9.19, shall be submitted to the board.

2. Notice of public hearing shall be given in accordance with Sections 18.1 and 9.14, B., 6. of this ordinance.

3. The public hearing shall be held. Any person may appear in person, or by agent, or by attorney.

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 9.14.

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 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.

SECTION 18.9 ACTIONS OF BOARD OF ADJUSTMENT TO BE FURNISHED TO PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY

Pursuant to KRS 147.705, the board of adjustment shall, after final approval of any variance, change from one nonconforming use to another, conditional use permit, and other appeal, furnish, or cause to be furnished, within sixty (60) days after approval, a copy of same to Planning and Development Services of Kenton County.
ARTICLE XIX

SCHEDULE OF FEES

SECTION 19.0: Fees shall be as provided by the legislative body.
ARTICLE XX

MORATORIUM

AN ARTICLE PROVIDING FOR A MORATORIUM ON THE ESTABLISHMENT OF A SEXUALLY ORIENTED BUSINESS AND PROVIDING NO APPLICATION SHALL BE PROCESSED AND NO PERMIT ISSUED FOR THE ESTABLISHMENT OR EXPANSION OF A SEXUALLY ORIENTED BUSINESS, INCLUDING BUT NOT LIMITED TO A SEX SHOP, LINGERIE MODELING STUDIO, SEXUALLY ORIENTED CINEMA, SEXUALLY ORIENTED CABARET, SEXUALLY ORIENTED MEDIA OUTLET, OR BUSINESS CONTAINING A MOTION PICTURE ARCADE.

WHEREAS the Kenton County Planning Commission and the Fiscal Court of Kenton County, together with its several cities, have duly prepared a comprehensive plan in accordance with KRS Chapter 100, specifically "An Update 2000-2021: Northern Kentucky’s Future - A Comprehensive Plan for Development," adopted by Planning and Development Services of Kenton County and the Kenton County Planning Commission on December 18, 2001;

WHEREAS, Kenton County, and the incorporated municipalities within it, have long sought to regulate sexually oriented businesses within the limits of the Constitution to protect the County’s many residential neighborhoods; and

WHEREAS, the adopted comprehensive plan provides the following policy guidance for regulating such businesses:

Furthermore, the Area-Wide Comprehensive Plan does not identify specific land uses, but instead, categorizes land uses using broad categories. Undesirable land uses, including adult-oriented business may be appropriate within more than one land use category identified within this Plan Update. The following criteria are presented to provide guidance for siting of these uses:

- They should not be near residential areas, schools, churches, child care facilities or other public or semi-public community facilities;
- They should not be within view of the interstate roads.


WHEREAS, recent reviews have found that several of the jurisdictions within Kenton County have no regulations whatsoever to deal with sexually oriented businesses as a specific land use; and

WHEREAS, there are already several sexually oriented businesses in Kenton County; and
WHEREAS, a new sexually oriented cabaret has recently opened in Wilder, which is directly adjacent to Kenton County; and

WHEREAS, planning and building staff in the jurisdictions in Kenton County have received several recent inquiries about the possibility of additional sexually oriented businesses opening in the County; and

WHEREAS, Kentucky Revised Statutes §100.201(1) specifically authorizes the adoption of Interim Zoning Regulations while the planning commission completes additional parts of the plan and/or completes the necessary regulations to implement the plan; and

WHEREAS, the city of Edgewood finds that the adopted comprehensive plan does not provide adequate information to allow the Planning Commission to make recommendations for the appropriate regulation of sexually oriented businesses; and

WHEREAS, the Kentucky General Assembly has adopted and the Governor has approved Kentucky 2003 H.B. 268, “an act relating to licensing massage therapists”; and

WHEREAS, county officials have long noted a difference between legitimate massage therapists and some sexually oriented businesses which present themselves as “massage parlors” or similar establishments;

WHEREAS, the Planning Commission, acting on behalf of and with funding from the Fiscal Court and the several municipalities within the County, has hired national experts in the field as consultants to study the issues of regulating sexually oriented businesses in the County; and

WHEREAS, the consultants have represented to the Planning Commission and representatives of the Fiscal Court and cities that they will deliver their preliminary report within 4 to 6 months and specific regulatory recommendations shortly thereafter; and

WHEREAS, the city of Edgewood finds that the completion of the study of sexually oriented businesses by national experts, and under the guidance of the Planning Commission, is essential to supplement the comprehensive plan; and

WHEREAS, the city of Edgewood finds that it is essential to preserve the status quo and to avoid the addition of a new sexually oriented business in what may prove to be an inappropriate location until the Planning Commission and the city of Edgewood have available to them the results of the study;
NOW THEREFORE, be it RESOLVED by the Kenton County Planning Commission of Kenton County, Kentucky that:

SECTION 1. The following definitions are adopted for purposes of this Article, to supplement the definitions already contained in the zoning ordinances of the city of Edgewood and its several cities within it:

_Lingerie modeling studio_ means an establishment or business which provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples or small groups in a room smaller than 600 square feet.

_Massage_ means touch, stroking, kneading, stretching, friction, percussion and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).

_Massage therapy_ means the profession in which the practitioner applies massage techniques with the intent of positively affecting the health and well-being of the client, and may adjunctively (i) apply allied modalities, heat, cold, water and topical preparations not classified as prescription drugs, (ii) use hand held tools or devices designed as t-bars or knobbies, and (iii) instruct self care and stress management. "Manual" means by use of hand or body.

_Media_ means anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything which is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, cd-roms, other magnetic media, and undeveloped pictures.

_Motion picture arcade booth_ means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat customers and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, cd-rom, books, magazines or periodicals) for observation by customers therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth”.
*Primary live entertainment* means that entertainment which characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

*Sadomasochistic practices* mean flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

*Sex shop* means an establishment offering goods for sale or rent and that meets any of the following tests:

1. It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items make up more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area; or,
2. More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or,
3. More than five percent (5%) of its gross public floor area is devoted to the display of sexually-oriented toys or novelties.

*Sexual conduct* means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

*Sexual gratification* means sexual conduct as defined herein.

*Sexually oriented acts* means sexual conduct as defined herein.

*Sexually oriented business* is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented motion picture theater; motion picture arcade; bathhouse; massage parlor or shop; and/or sex shop. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the zoning code or other applicable ordinances.

*Sexually oriented cabaret* or *sex oriented cabaret* means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment which constitutes the “primary live entertainment” is distinguished or characterized by an emphasis on the exhibiting of “specific sexual activities” or “specified anatomical areas” for observation by customers therein.
Sexually oriented cinema, sexually oriented motion picture theater, or sex oriented cinema means a cinema or motion picture theater which shows hard-core features on more than half the days that it is open, or which is marketed as or offers features described as “adult”, “XXX”, or sexually oriented.

Sexually oriented media means magazines, books, videotapes, movies, slides, cd-roms or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (separately defined).

Sexually oriented media store or sex oriented media store means an establishment that rents and/or sells media, and that meets any of the following three tests:

(1) More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
(2) More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
(3) It is advertised, marketed, or holds itself out in any forum as “XXX,” “adult,” “sex” or otherwise as a sexually-oriented business.

SECTION 2. That the authority of those persons within each jurisdiction in the city of Edgewood authorized to accept applications and issue building permits is hereby limited as follows: no application shall be processed and no permit issued for the establishment or expansion of a sexually oriented business, including but not limited to a sex shop, lingerie modeling studio, sexually oriented cinema, sexually oriented cabaret, sexually oriented media outlet, or business containing a motion picture arcade.

SECTION 3. No permit, license or other authority shall be issued for the establishment of a massage parlor or similar establishment unless the applicant for such permit or license either: 1) has been licensed by the Kentucky Board of Licensure for Massage Therapy, or, 2) if such board has not been established or has not implemented its licensing procedure, can provide documentation that the applicant can substantially comply with the licensing requirements of Sections 9 and 11 of 2003 Ky. H.B. 268.

SECTION 4. These interim regulations shall go into effect upon adoption and remain in effect for a period concluding on May 15, 2004, or upon the adoption of a new ordinance in response to the study, whichever shall first occur.

SECTION 5. That any section or part of any section or any provision of this Article which is declared invalid by a Court of appropriate jurisdiction, for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Article.
SECTION 6. That this Article shall take effect and be in force when passed, published and recorded according to law.
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 herein established.

A. ASPHALT CONCRETE PAVEMENT

1. General Design Requirements

   a. Asphalt concrete pavements shall consist of specified thickness of asphalt concrete surface course and a base course, or courses, all constructed on prepared subgrade. Required pavement thickness shall be determined from Table A-1 of the appropriate subgrade soil and traffic use.

   b. Paved areas shall be so designed and constructed that water will quickly drain from the surface and be conducted away from the area through approved systems. Transverse and/or longitudinal slopes of not less than 5/8 inch in 10 feet shall be provided. For large paved areas, approved catch basins and storm drainage systems shall be provided.

   c. When the pavement includes a granular base, and the pavement is not constructed over granular subgrade, perimeter subsurface drainage shall be provided to prevent lateral flow of water into the base course and to provide for removal of seepage water that may enter the base.

   d. Successive layers of the pavement shall be offset from the edge of the underlying layer a distance equal to the course thickness of the lower layer, except when abutting existing construction. When the asphalt layers of the pavement abut a building foundation, barrier curb, or similar vertical surface, the abutting surface shall be heavily painted with asphalt prior to construction of the asphalt course. The surface course shall be finished 1/4 inch above adjacent flush construction to permit proper compaction.

2. Construction Materials and Procedures
a. Base courses shall consist of the following materials. Construction procedures shall conform to the requirements applicable to the base course selected.

   (1) Asphalt Concrete Base Course - Materials and construction shall conform to the current requirements of the Kentucky Department of Transportation, Bureau of Highways', Specifications for Asphalt Concrete Base Course, Class I, except as noted herein.

b. Asphalt Treated Base Course - Materials and construction procedures shall conform to the following requirements:

   (1) Hot-mix sand asphalt base material may be substituted for asphalt concrete base in a ratio of 1.3 inches of sand-asphalt base per inch of asphaltic concrete base.

   (2) Liquid and emulsified asphalt bases, designed and mixed in accordance with the Asphalt Institute Asphalt Mixed-In-Place Manual, may be substituted for asphaltic concrete base in a ratio of 1.4 inches of liquid or emulsified asphalt base per inch of asphaltic concrete base.

c. Crushed Stone Base Course -

   (1) Crushed stone base course shall conform to all the current requirements of the Kentucky Department of Transportation, Bureau of Highways, for Dense Graded Aggregate Base Course.

d. Asphalt Concrete Surface Course - Materials and construction shall conform to the current requirements of the Kentucky Department of Transportation, Bureau of Highways, for Asphalt Concrete Surface, Class I.

e. Asphalt Prime and Tack Coat

   (1) Asphalt Prime shall conform to the Kentucky Department of Transportation, Bureau of Highways’ requirements for Cutback Asphalt Emulsion Primer, Type L. Prime shall be applied to the surface of granular base course, as directed by the legislative body’s engineer.
(2) Tack Coat shall meet the requirements of the Kentucky Department of Transportation, Bureau of Highways. Tack coat shall be applied, upon direction of the legislative body's engineer, to the surface of asphalt courses that have become dusty or dry.

B. SOIL-CEMENT BASE COURSE (WITH ASPHALT CONCRETE SURFACE):

1. Description: Soil-cement base course shall consist of soil and cement uniformly mixed, moistened, compacted, finished, and cured in accordance with the specifications herein, and it shall conform to the lines, grades, thickness and typical cross section, shown on the plans. Soil-cement base course, mixed and applied as directed by the legislative body's engineer, may be substituted for granular base course in the ratio of 1.5 inches of soil-cement base to one inch granular base course.

C. CONCRETE PARKING AREAS

1. General Requirements - Thickness of concrete parking and access drives shall be:
   a. A minimum of five (5) inches for passenger cars and panel or pickup truck parking.
   b. A minimum of six (6) inches for driveways accommodating light trucks and for light truck parking.
   c. A minimum of seven (7) inches for heavier commercial or industrial needs.

2. General Requirements - Concrete Paving
   b. Maximum Size of Aggregate - 1-1/4 inches.
   c. Maximum Water Content - 0.49 lb./1 lb. of cement (5.5 gal./ bag).
   d. Maximum Slump - four (4) inches.
e. Air Entrainment

<table>
<thead>
<tr>
<th>Maximum Size Aggregate (inches)</th>
<th>Entrained Air (Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-1/4</td>
<td>5 + 1</td>
</tr>
<tr>
<td>3/4, 1</td>
<td>6 + 1</td>
</tr>
<tr>
<td>3/8, 1/2</td>
<td>7-1/2 + 1</td>
</tr>
</tbody>
</table>

3. Construction Procedures

a. All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or taped, shall be removed and replaced with suitable material, placed and compacted. The subgrade shall be thoroughly compacted with suitable equipment so as to have uniform density at moisture contents of not less than standard optimum (AASHO-T98).

b. Longitudinal joint spacing shall not exceed 12.5 feet.

c. Transverse joint spacings shall be at regular intervals of twenty (20) feet.

d. All transverse construction joints shall have a depth equal to one-fourth of the pavement thickness.

e. Form offsets at radius points shall be at least two (2) feet.

f. Pavement joints must be continuous through the curbs.

g. Where curbs are required, they shall be cast integrally.

h. The pavement shall be struck-off, consolidated, and finished, to the grades shown on the plans. All catch basins and manhole castings shall be boxed out and separated from the pavement with expansion joint material. All except premolded or sawed joints shall be edged with a tool having a maximum radius of 1/8 inch. Sawed and formed joints shall be cleaned and sealed before opening to traffic. Final surface texture shall be that obtained with a burlap drag. Curing shall be that obtained with a uniform coverage of white membrane curing compound or by seven-day coverage of white polyethylene or waterproof paper. The completed pavement shall be closed to traffic for seven (7) days.
### TABLE A-1

THICKNESS REQUIREMENTS OF SURFACE AND BASE COURSES FOR AUTOMOBILE AND TRUCK PARKING FACILITY PAVEMENTS

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>SOIL CLASS.</th>
<th>FULL DEPTH ASPHALT CONCRETE</th>
<th>ASPHALT CONCRETE WITH GRANULAR BASE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>SURFACE</td>
<td>BASE</td>
</tr>
<tr>
<td>Auto Parking Facilities</td>
<td>A</td>
<td>1-1/2</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>B</td>
<td>1-1/2</td>
<td>3-1/2</td>
</tr>
<tr>
<td></td>
<td>C</td>
<td>1-1/2</td>
<td>4-1/2</td>
</tr>
<tr>
<td>Truck Parking Facilities</td>
<td>A</td>
<td>1-1/2</td>
<td>3-1/2</td>
</tr>
<tr>
<td></td>
<td>B</td>
<td>1-1/2</td>
<td>5-1/2</td>
</tr>
<tr>
<td></td>
<td>C</td>
<td>1-1/2</td>
<td>6-1/2</td>
</tr>
</tbody>
</table>

(1) Soils are classified into three groups indicating their relative effectiveness as subgrade:

A  granular soils that drain well; sand, gravel or combination of sand and gravel; generally, soils having a California Bearing Ration (CBR) greater than 10, or having AASHO Soil Classification of A-1, A-2-6, A-2-5, A-2-4, or A-3, and some A-4 soils.

B  Silty clays, or lean clays, that retain considerable strength when wet. These are average subgrade soils; generally soils having a CBR greater than 5 or having an AASHO Soil Classification of A-2-7, A-4, A-7-5, and some A-5 and A-6 soils.

C  Heavy clay soils that lose most of their strength when wet; having an AASHO Soil Classification of A-5, A-6, or A-7-6.
APPENDIX B

R-1C ZONE AS REGULATED BY THE KENTON COUNTY FISCAL COURT

SECTION 10.5 R-1C (RESIDENTIAL ONE-C) ZONE

A. PERMITTED USES
   1. Single-family residential dwellings (detached)

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.

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 buildings for the purpose of religious worship, providing they are located adjacent to an arterial or arterial street.
   3. Governmental offices.
   4. Police and fire stations, provided they are located adjacent to an arterial or collector street.
   5. Institutions for higher education providing they are located adjacent to an arterial street.
   6. Institutions for human medical care - hospitals, convalescent homes, nursing home, and homes for the aged, providing they are located adjacent to an arterial street.
   7. Nursery 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 - Twelve thousand five hundred (12,500) square feet
2. Minimum lot width at building setback line - Eighty (80) feet
3. Minimum front yard depth - Thirty-five (35) feet
4. Minimum side yard width - Total both sides: Twenty (20) feet; Minimum 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:

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 rear yards - 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.

* When reviewing the regulations for the R-1C Zone, it is important to remember that other sections of the Kenton County Zoning Ordinance (i.e., General Regulations, Sign Regulations, Off-Street Parking Requirements, etc.) must be consulted since they also apply to this zoning district.
## APPENDIX C

### SUMMARY OF AMENDMENTS

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