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APPENDIX A SPECIFICATIONS FOR PAVING OF OFF-STREET PARKING AND LOADING AND/OR UNLOADING AREAS

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ARTICLE I

A ZONING ORDINANCE

SECTION 1.0 AN ORDINANCE DIVIDING THE CITY OF ERLANGER, 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 ERLANGER,
STATE OF KENTUCKY, AS FOLLOWS:
ARTICLE II

AUTHORITY AND PURPOSE

SECTION 2.0 AUTHORITY: The City of Erlanger, 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 Erlanger, Kentucky and shall be known, referred to, and recited to as the "OFFICIAL ZONING ORDINANCE OF THE CITY OF ERLANGER".
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 being the intent of the City Council of the City of Erlanger 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 no larger than 10% of the available yard area in which said structure is to be located. For the purpose of this ordinance, accessory structures attached to the principal structure shall be considered to be part of the principal structure;
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.

ADULT ARCADE:  Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE:  A business having as a substantial and significant portion of its stock and trade, revenues, space or advertising expenditures, resulting from the sale, renting or viewing of one or more of the following:

1. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, laser disks, slides, or
2. Instruments, devices, or paraphernalia which are designed for specified sexual activities.

ADULT CABARET: A nightclub, bar, tavern, restaurant or similar business which regularly features:

1. Persons who appear in a state of nudity; or

2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL: A hotel, motel or similar business which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER: A business where films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER: A theater, concert hall, auditorium, or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT VIDEO STORE: See ADULT BOOKSTORE.

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.

AIR RIGHTS: Air rights for the purpose hereof shall be defined to mean the ownership or control of all land, property, and 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: All public rights-of-way which normally affords a secondary means of access to abutting property.

ANYBODY: Any human being, and any combination thereof, in the form of partnership, corporation, joint venture, unincorporated association, or otherwise.

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.

APPLICABLE LAWS: The constitutions, statutes, ordinances, rules, regulations and other laws of the United States, Commonwealth of Kentucky, County of Kenton, City of Erlanger, and any other governmental entity or agency having jurisdiction.

AUTOMOBILE LAUNDRY: A building or portion thereof, containing facilities for washing more than two (2) automobiles, using production line methods with chain conveyor, blower, steam cleaning device, or other mechanical devices. 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.

AUTOMOTIVE PARTS AND ACCESSORIES STORE: Establishments engaged in the retail sale of new automobile parts, accessories, or fluids. Such use shall not include the installation, removal, or replacement of such parts, accessories, or fluids which are sold by the establishment.

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

BED AND BREAKFAST ESTABLISHMENT: A residential dwelling unit wherein the occupant offers overnight accommodations to guests for compensation.
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 Adjustment, City of Erlanger, Commonwealth of Kentucky.

BOARDING HOUSE: A residential building, other than a hotel, motel, or tourist cabin, where lodging and meals for four (4) or more persons are served for compensation, and by prearrangement for definite periods.

BORROW PIT: Any place or premises where dirt, soil, sand, gravel, or other material is removed by excavation or otherwise, below the grade of surrounding land, for any purpose other than mining operations such as gold, silver, coal, etc., and that necessary and incidental to grading or to building construction on the premises.

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 City of Erlanger for carrying out the building codes.

BUILDING LINE: A line defining the minimum front, side, and rear yard requirements.

BUILDING, MAIN: See BUILDING, PRINCIPAL.

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

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

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

BUILDING SITE: One contiguous piece of land that meets all of the provisions of the city's ordinances, regulations, and codes for building on said site. For the purpose of this ordinance, the entire amount of ground being called a building site shall be in one (1) specific zone category and this shall not be construed to mean merely residential, commercial, industrial, etc., but specifically residential R-1B, CBD-2, etc.

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

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 serving the purpose of protecting pedestrians from rain, snow, sun, or hail, which structure projects from a building. Such structure shall be open on three (3) sides and, if ground supported, supports shall be confined in number and cross section area to the minimum necessary for actual support of the canopy.
CARPORT: A shelter intended and used for motor driven vehicles, consisting of a roof extended from the side of a building.

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.

CHILD-ARE CENTER: Any child-care center which provides full or part-time care, day or night, to at least seven (7) children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator. “Child-Care Center” shall not include any child-care facility operated by a religious organization while religious services are being conducted, or a youth development agency. For the purposes of this section, “Youth Development Agency” means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which operates continuously throughout the year as an outside-school-hours center for youth who are six (6) years of age or older, and for which there are no fee or scheduled-care arrangements with the parent or guardian of the youth served.

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.

CLINIC, HUMAN CARE: A building used by medical persons for the treatment of persons on an out-patient basis only.

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

COFFEEHOUSE: An establishment that sells coffee and other non-alcoholic refreshments and provides seating for its patrons.

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.

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

COUNCIL PERSONS: Members of the City Council, City of Erlanger, Commonwealth of Kentucky.

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.

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".

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.

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

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

DRINKING ESTABLISHMENTS: See TAVERN.

DRIVEWAYS: An area which connects a parking space with a public street, road, or way.

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 building that has not less than three (3) one-family housekeeping units erected in a row as a single building on one lot or one adjoining lot, each being separated from the adjoining unit or units by an approved masonry party wall or walls extending from the basement or cellar floor to the roof along
the dividing lot line, and each such building being completely separated from any other building by space on all sides and such space shall be at least the required minimum yard setbacks as so specified in this ordinance.

**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, living independently of each other.

**DWELLING, MULTI-FAMILY:** A residential building, designed, arranged, or used exclusively by three (3) or more families, living independently of each other.

**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.

**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.

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.

**EMPLOYEE:** Any person who is paid directly or indirectly by the licensee for services performed on the premises whether such person would otherwise as a matter of law be classified as an employee, agent, manager, entertainer or independent contractor.
ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety, or general welfare.

EVERYBODY: Every human being, and every combination thereof, in the form of a partnership, corporation, joint venture, unincorporated association, or otherwise.

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

FAMILY CHILD-CARE HOME HOME: A private home that provides full or part-time care, day or night, for six (6) or fewer children who are not the children, siblings, stepchildren, grandchildren, nieces, nephews, or children in legal custody of the provider.

FENCE: A structure, other than a building, which is a barrier or means of security, confinement or separation.

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.

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

FRONTAGE: All the property abutting 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: An accessory building, intended and used for the storage of not more than four (4) motor driven vehicles, per dwelling unit, owned, used, and registered in the name of the occupants of the dwelling unit for which said private garage is intended. Not more than one (1) of the vehicles shall be a commercial vehicle and this vehicle shall not be more than two (2) ton capacity. This definition shall not include a public garage.

HELIPORT: An area used by a helicopter, which area may include passenger and cargo facilities, maintenance and overhaul, fueling, service, storage space, tie down space, hangars, and other structural facilities and open spaces.
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.

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.

JUNK: Scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc, and all other scrap metals and the alloys, and bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, inoperative motor vehicles, used tires and other manufactured goods that are so worn, deteriorated, or obsolete as to make them unusable in their existing condition or which are subject to being dismantled.

JUNK YARD: An open area where waste, used or second hand materials are bought, sold, exchanged, stored, shredded, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper rags, rubber tires, and bottles. A junk yard includes an auto wrecking yard or the storage or keeping of one (1) or more inoperative motor vehicles unless where otherwise specifically permitted but does not include uses established entirely within enclosed buildings.

LABORATORY: A building or a portion of a building devoted to the experimental study in science, or the testing and analysis of chemicals, drugs, explosives, minerals, etc.

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 home type washing, drying, and/or ironing machines for hire to be used by customers on the premises.
LEASABLE AREA, GROSS: The floor area occupied exclusively by occupant(s), including finished basement and mezzanine areas and excluding such common areas as elevators, stairways, corridors, and lobbies, 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: City of Erlanger.

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.

LODGING HOUSE: A building, other than an apartment, hotel-motel, hotel, motel, or tourist court where lodging for five (5) or more persons is provided for compensation.

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, river, creek, 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 or lines of the lot 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, MINIMUM: The width of the lot as measured along the building front setback line.

MANAGER: Any employee of a sexually oriented business who acts as a manager or supervisor of other employees, finances or patrons of the business or is otherwise responsible for operation of the business.

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 street right-of-way line and the front lot line, as defined herein.
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 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, or used for the purpose of supplying a location or accommodation for mobile homes; or any lot, parcel, or premises on which is parked, standing, or located two (2) or more mobile homes for a longer period than twenty-four (24) hours; or for one (1) or more mobile homes connected to either electrical lines, or water or sewer pipes; or any mobile home being utilized on the premises on which it is located. 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.

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 stilb. A candela, on which the definition is based, is a unit of measurement of the intensity of light. Part of the SI system of measurement, one candela (cd) is the monochromatic radiation of 540THz with a radiant intensity of 1/683 watt per steradian in the same direction. Another way of putting it is that an ordinary wax candle generates approximately one candela.

NOBODY: Not anybody, or no human being, or any combination thereof, in the form of a partnership, corporation, 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 preschool age children 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.
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 self-propelled motor vehicles and may be publicly or privately owned and/or operated and may be for remuneration, free, or privately utilized.

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.

PEEP BOOTH: Any room, other than a private room, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there is exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, slides or other visual representations which depict or described specified sexual activities or specified anatomical areas.

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

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

PET HOTEL: A business wherein domestic animals are provided one or more of the following for a fee: Boarding, Daycare, Training, or Grooming. The business does not have outside runs or kennels. Animals, when outside of the building, shall be accompanied by an employee of the business.

PRINTING ESTABLISHMENT, SMALL: Business facilities that are involved in the preparation and/or reproduction of material in a printed form. Such facilities are intended to be limited to activities serving the general public and not intended to include industrial type of printing establishments.

PRIVATE ROOM: A room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

PROFESSIONAL OFFICE: For the purpose of this ordinance, the following are uses defined as professional office: accounting office, architect office, attorney office, data
processing office, dentist office, engineer office, human care medical office, and real 
estate closing office.

PUBLIC BUILDING: Any building open to the general use, participation, or enjoyment 
of the public or operated for the public's benefit and owned and/or operated by a city, 
county, state, or federal government or by a public utility corporation or municipal district 
or authority.

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.

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

SCHOOLS, PAROCHIAL: 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.

SCHOOLS, TRADE: An institution or place for instruction of education specifically in one or more of the general trades such as: welding, carpentry, electrical, etc.

SCREENING AREA: An area set aside to remain vacant of buildings and/or structures, and to be planted and landscaped to reduce friction between incompatible land uses and improve aesthetic and functional quality of new development.

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. Service stations, in conjunction with the dispensing of automobile fuels, may also dispense, sell, or offer for sale, at retail, automobile oils, or accessories, and in connection with which is performed general automotive servicing other than body work.

SEXUAL ENCOUNTER ESTABLISHMENT: A business or commercial establishment, which as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one or more of the persons exposes any specified anatomical area.

SEXUALLY ORIENTED BUSINESS: An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or other similar business and includes:

1. The opening or commencement of any sexually oriented business as a new business.
2. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business.
3. The addition of any sexually oriented business to any other existing sexually oriented business.
4. The relocation of any sexually oriented business; or

5. The continuation of a sexually oriented business in existence on the effective date of this ordinance.

SEXUALLY ORIENTED BUSINESS LICENSE: A license required by the City of Erlanger, pursuant to the police power thereof, for the purpose of the regulation of sexually oriented businesses within the City, in a manner which will protect the property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses, while providing an opportunity to patronize sexually oriented businesses for those who are desirous thereof.

SEXUALLY ORIENTED BUSINESS LICENSE FEE: A fee required by the City of Erlanger, pursuant to the police power thereof, for each sexually oriented business license, to provide the money necessary to pay the expenses of supervising and regulating the sexually oriented business activities and operations within the City of Erlanger, including, without limitation, the expense of issuing licenses therefore.

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.”

SOCIAL SERVICE CENTER: Establishments primarily engaged in the organized activity for the benefit of the disadvantaged and the overall betterment of society. Such establishments may provide one or more of a wide variety of individual or family social, counseling, welfare, or referral services.

SPECIFIED ANATOMICAL AREAS: Defined as follows:

1. Less than completely and opaquely covered; human genitals, pubic region, buttocks and female breast below a point above the top of the areola.

2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Acts, simulated acts, exhibitions, representations, depictions or descriptions of:

1. Human genitals in a state of sexual stimulation or arousal.

2. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

3. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.

4. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or exrectory function.

5. Flagellation, mutilation or torture for purpose of sexual arousal, gratification or abuse.

STAGE: A raised floor or platform at least three feet (3’) above the surrounding floor measured perpendicularly from the edge of the state to the surrounding floor and at least thirty six (36) square fee in area.
STORAGE YARD: An accessory use in which materials, equipment and/or vehicles used for construction, excavating or building activities are stored, kept and/or maintained.

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 buildings, mobile homes, signs, and fences, but not including earthworks, ditches, canals, dams, reservoirs, pipe lines, telephones or telegraph or electric power lines, driveways, or curbs.

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 twenty-four (24) 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.

TENANT SPACE: An area owned or rented/leased within a building, completely separated from another area by a permanent wall, and having individual entrance/exit to the outside or to a common corridor.

TRAILER: A closed vehicle designed to be pulled by an automobile and equipped as a place to live in temporarily.

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

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 (VUA): All outside paved areas within the perimeter of the site that serves as vehicular parking and circulation areas, loading and/or unloading areas, outside storage and outside display areas, and ingress/egress lanes. Vehicular use areas are used to determine certain landscaping requirements as specified in Section 9.17.

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 city to administer and enforce the provisions of this ordinance.
ARTICLE VIII

ESTABLISHMENT OF ZONES

SECTION 8.0 ZONES: For the purpose and intent of this ordinance, the City of Erlanger, Commonwealth of Kentucky, is hereby divided into the following zones:

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<tr>
<th>Code</th>
<th>Name</th>
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<tbody>
<tr>
<td>CO</td>
<td>CONSERVATION ZONE</td>
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<tr>
<td>R-1B</td>
<td>RESIDENTIAL ONE - B ZONE</td>
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<tr>
<td>R-1C</td>
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<td>RESIDENTIAL ONE - MOBILE HOME PARK (PHASE) ZONE</td>
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<td>RESIDENTIAL TWO ZONE</td>
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<td>SHOPPING CENTER ZONE</td>
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<td>NEIGHBORHOOD COMMERCIAL ZONE</td>
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<td>NEIGHBORHOOD COMMERCIAL - TWO ZONE</td>
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<tr>
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<td>IP-4</td>
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<td>BUSINESS PARK ONE ZONE</td>
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<td>COMMONWEALTH STATION</td>
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<td>RENAISSANCE PROTECTION OVERLAY ZONE</td>
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<td>REC</td>
<td>RECREATIONAL ZONE</td>
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SECTION 8.1 OFFICIAL ZONING MAP: The zones are bounded and defined as shown on the map (or maps) entitled "OFFICIAL ZONING MAP OF THE CITY OF ERLANGER, KENTUCKY" and shall so remain on file in the city building of the City of Erlanger.
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.

No changes of any nature shall be made on the Official Zoning Map (or maps) or matter shown thereon which are not in conformity with the procedures set forth in this ordinance.

Regardless of the existence of purported copies of the Official Zoning Map (or maps), the Official Zoning Map, which shall be located in the office designated by law, shall be the final authority as to the current zoning status of land, buildings, and other structures in the City of Erlanger, Commonwealth of Kentucky.

SECTION 8.3 REPLACEMENT OF OFFICIAL ZONING MAP OR MAPS: In the event that the Official Zoning Map (or maps) 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 (or maps) which shall supersede the prior Official Zoning Map (or maps), 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, such area shall be automatically classified on the zoning map in accordance with the zone most closely related to the zoning of the area prior to the change in legislative jurisdiction. If such zoning is not in agreement with the recommendations of the locally adopted comprehensive plan, per the requirements of Article XVII of this ordinance, of the locally adopted comprehensive plan and the zoning map. Property which has not been included within a zone, either through error or omission, such property shall be officially included in the CO Zone until otherwise classified.

Within thirty (30) days after an annexed area officially becomes a part of the jurisdiction of the legislative body, and a determination is made that the zoning is not in agreement with the locally adopted comprehensive plan, 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 officially adopted comprehensive plan.
ARTICLE IX

GENERAL REGULATIONS

SECTION 9.0 PURPOSE: General regulations apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

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 18.0 of this ordinance.

SECTION 9.2 INTERFERENCE WITH TRAFFIC SIGNS AND/OR 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 9.4A DOUBLE FRONTAGE LOTS: On lots having frontage on more than one street, in any zone, the minimum front yard shall be provided for each street, road, or highway, in accordance with the provisions of this ordinance.

SECTION 9.4B FRONTAGE ON CORNER LOTS: On corner lots in any zone, the minimum side yard abutting the side street shall be one-half (1/2) of the minimum front yard for that zone. Except when such lots abut an arterial street as herein defined, a minimum front yard depth shall be provided for each street.

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

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

B. A building or structure, except an enclosing fence, shall be set back at least fifty (50) feet from any property line.

C. Such facilities shall be enclosed by a protective fence as regulated by Article XIII.

D. Open spaces on the premises shall be suitably landscaped and maintained and a screening area according to Section 9.17 of this ordinance may be required in and along any yard.

E. The storage of vehicles and equipment on the premises, unless enclosed or screened, shall be prohibited.

F. The surrounding area shall not be adversely affected by, and shall be protected from, noise, odor, glare, dust, gas, smoke, and vibration, by such suitable means and conditions as the board of adjustment may specify.

SECTION 9.6 RAILROAD RIGHTS-OF-WAY LOCATION: Railroad rights-of-way, exclusive of such uses as marshaling yards, spur lines, passenger and freight terminals, maintenance shops, fueling facilities, and round houses, may be located in any zone of this ordinance providing said railroad rights-of-way meet the requirements of those sections of the Kentucky Revised Statutes and other pertinent state regulations.

SECTION 9.7 EXCAVATION, MOVEMENT OF SOIL, TREE REMOVAL, AND EROSION AND SEDIMENTATION CONTROL

A. No governmental entity or other person or entity shall strip, excavate, fill, or otherwise move soil, trees, or other vegetation, except for minor changes such as: the filling of small depressions, removal of vegetation which is diseased or endangering the public safety, etc. without first insuring that all requirements of the Subdivision Regulations of the legislative body, if applicable, have been fulfilled and then obtaining a permit from the building inspector after being informed by letter from the city engineer.

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.

D. Provisions for restrictions of the temporary stockpiling of dirt during all phases of clearing, grading, and construction, to those which:

1. Shall not be located anywhere within fifty (50) feet of the common boundary line between the property being developed and any abutting property owned by others; and

2. Shall not be left undisturbed for more than forty-five (45) days without being seeded with a mixture of annual rye and fescue grasses; and

3. Shall have staked fabric fencing or hay bales along the base thereof as necessary to prevent erosion onto adjoining property; and
4. Shall be removed within twelve (12) continuous calendar months after the initial placement thereof.

SECTION 9.8 UNSIGHTLY OR UNSANITARY STORAGE: No rubbish, salvage materials, junk, or miscellaneous refuse shall be openly stored or kept in the open, and weeds shall not be allowed to go uncut within any zones, when the same may be construed to be a menace to public health and safety by the appropriate health department, or have a depressing influence upon property values in the neighborhood, in the opinion of the zoning administrator. Salvage and junkyards shall be adequately enclosed with a solid fence or wall, as regulated by Article XIII, and an approved permanent planting screen, may be required as regulated by Section 9.17 of this ordinance.

SECTION 9.9 JUNKYARD LOCATION: No person shall operate any junkyard which is situated closer than two thousand (2,000) feet from the centerline of any county, state, federal, or limited access highway or turnpike, including bridges and bridge approaches, unless a permit for such operation shall have been obtained from the Kentucky Department of Transportation, Bureau of Highways, in accordance with KRS 177.905 to 177.950.

SECTION 9.10 APPLICATION OF ZONING REGULATIONS

A. Except as hereinafter provided, no public or private structures, shall be used for any purpose other than that permitted in the zone in which such structures or land is to be located or is located. All of the required lot area shall be in one (1) zone.

B. Except as hereinafter provided, no public or private structures, may exceed the height and bulk limit herein established for the zone in which such structure is to be located or is located.

C. 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 building, structure, or use.

D. Every public or private building or other 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, except as hereinafter provided, nor shall any building be erected on any lot which does not abut a deeded and accepted public right-of-way.

E. Except as herein provided, accessory structures and uses shall not be permitted within any front yard or side yard (on each side of the lot) in any zone. Accessory structures and uses may be permitted to extend into the minimum rear
yard areas, as defined herein, in all zones, provided that such structures are set back from the rear lot line a minimum of five (5) feet, and required minimum side yard clearances are maintained. Location of off-street parking, loading and/or unloading areas, fences, and signs, are governed by their respective sections, as provided herein.

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 - Awnings and canopies; driveways and walkways, providing they are not closer than one (1) foot to the property line to which they run approximately parallel, except that in the event that a common driveway will be used to serve two (2) or more lots, then driveways may be permitted to abut the property line; steps, four (4) feet or less above grade and walkways which are necessary for access to a lot from a street or alley; fire escapes, chimneys, awnings, and canopies projecting eighteen (18) inches or less into the minimum required yards; arbors and trellises; flag poles and bird baths; fences and walls, subject to the requirements in Article XIII of this ordinance.

2. In Minimum Front Yard Depth - Bay windows, projecting three (3) feet or less into the yard; overhanging eaves and gutters, projecting three (3) feet or less into the minimum required front yard; open porches projecting five (5) feet or less into the yard.

3. In Minimum Rear Yard Depth - Bay windows, projecting three (3) feet or less into the minimum required rear yard; overhanging eaves and gutters, projecting three (3) feet or less into the minimum required rear yard.

4. In Minimum Side Yard Depth - Overhanging eaves and gutters, projecting eighteen (18) inches or less into the minimum required side yard; air conditioning units, provided they are set back a minimum distance of ten (10) feet from any side lot line.

G. All areas of the city which have been previously approved by the city legislative body for development as a PD Zone, pursuant to any prior Erlanger Zoning Ordinances, and in which substantial construction and development have occurred within one (1) year of the enactment of this section, shall be designated on the zoning map; and the development of such areas may continue according to the approved plans and specifications, with any amendments thereof, conforming to the provisions of this ordinance.

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 more than one (1) person, not residing in the home, shall be permitted to be engaged in the operation of the approved home occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than twenty-five (25) percent of the gross floor area of any one floor of the dwelling unit (including the basement or cellar) shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, such as utilization of trucks, that will indicate from the exterior that the building is being utilized, in part, for any purpose other than that of a dwelling unit, except that a name plate, as regulated by Article XIV of this ordinance, shall be permitted.

D. No home occupation shall be conducted in any accessory building, nor shall there be any exterior storage of any materials on the premises.

E. The selling of any commodity shall be ancillary to the home occupation and done primarily through the internet or telecommunication.

F. No traffic shall be generated by such home occupation in greater volumes or type (e.g., trucks) 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.

H. No signs, other than what was mentioned in Paragraph C above, shall be permitted.

I. All home occupations shall be licensed by the applicable local, state, and federal agencies laws and regulations.

J. All persons operating the home occupation, when required to professional licensure and/or certifications, must be properly licensed to provide services, in accordance with all applicable local, state and federal laws and regulations.
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 Kentucky Revised Statutes.

3. TERMINATION: The following shall be considered the termination of a Nonconforming Use:

   a. Nonoperative, nonused, or abandoned for a period of twelve (12) consecutive months.

   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.

   c. Whenever the structure, in which the nonconforming use is operated, becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such structure as of the date of the official order under the applicable ordinance.

   d. Whenever said nonconforming use is determined to be detrimental or injurious to the public 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: The following shall be considered the termination of a Nonconforming Structure:

   a. Whenever the nonconforming structure is damaged in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the market value of such structure.
b. Whenever the nonconforming structure becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such nonconforming structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such nonconforming structure as of the date of the official order under the applicable ordinance.

c. Whenever said nonconforming structure is determined to be detrimental or injurious to the public health, safety, or general welfare.

3. ZONE CHANGE: The foregoing provisions shall apply to structures which become legally nonconforming due to zone changes which take place thereafter.

D. REPAIRS AND MAINTENANCE: On any building devoted in whole, or in part, to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the building, as it existed at the time of passage or amendment of this ordinance which rendered it nonconforming, shall not be increased.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof, declared to be unsafe by any official charged with protecting the public safety, except for the conditions as stated in Section 9.12, B., 3., b., or 9.12, C., 2., b.

E. NONCONFORMING SIGNS

1. CONTINUANCE: Except as herein provided, any lawful nonconforming sign, existing at the time of adoption of this ordinance, may be continued provided, however, that no such sign shall be changed in any manner unless it is changed in compliance with all provisions of this ordinance.

2. TERMINATION: The following shall be considered the termination of a Nonconforming Sign:

a. Whenever the nonconforming sign is damaged in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the market value of such sign.

b. Nonuse or abandonment of said nonconforming sign for a period of twelve (12) consecutive months.
3. **ZONE CHANGE:** The foregoing provisions shall also apply to signs which become legally nonconforming due to zone changes which take place thereafter.

**SECTION 9.13 EXCEPTIONS AND MODIFICATIONS**

**A. EXCEPTIONS TO HEIGHT LIMITS**

1. The height limitations of this ordinance shall not apply to such things as church spires, various types of towers, smoke stacks, other related structures, and necessary mechanical appurtenances, etc. provided their construction is in accordance with existing or hereafter adopted ordinances of the city, and is acceptable to the Federal Aviation Agency and the Federal Communication Commission.

**B. AREA EXCEPTIONS**

1. For the purpose of side yard regulations, the following dwellings with common party wall shall be considered as one (1) building occupying one (1) lot: two-family and multi-family dwellings.

2. In the case of a court apartment or multi-family dwellings, side yards may be used as rear yards provided that:
   
   a. The required side yard shall be increased by one (1) foot for each entrance or exit opening into or served by such yard.
   
   b. All other requirements, including front, side, and rear yards shall be complied with in accordance with the regulations of the district in which said court apartments or multi-family dwellings are located.

   Rear yards shall be complied with in accordance with the regulations of the district in which said court apartments or multi-family dwellings are located.

   c. Every part of a required minimum yard or court shall be open from its lowest point to the sky unobstructed, except for permitted obstructions in minimum required yards, as specified in Section 9.10, F. of this ordinance.

3. In the case of Planned Development areas, no yard requirements will be utilized in the preparation and adoption of the preliminary development plan, except as indicated by the Planned Development regulations.
C. OTHER EXCEPTIONS: Service stations or gasoline filling stations shall be so constructed that the centerlines of the pumps shall be at least twenty-five (25) feet from any street right-of-way line.

D. 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.

E. EXCEPTION TO AREA AND YARD REGULATIONS

1. Where existing or proposed ownership or development within the R-1D, R-1F, R-2, R-3, PO, PO-1, NSC, SC, NC, HC, HC-2, HC-3, INST, IP-1, IP-2, IP-3, OR BP-1 Zones is to be subdivided, the minimum area and yard requirements may be less than required by this ordinance provided that:
   a. The maximum density of the zone is not exceeded and/or the minimum site for the total development must not be less than required by the respective zone;
   b. A community association or other responsible entity is established prior to the approval by the planning commission of any subdivision of land. The "association" shall be obligated and empowered to own, operate, and maintain all common areas (as specifically identified on the submitted site plan required by item c. of this section) including such items as open space, recreational facilities, access drives, parking areas, pedestrian walkways, etc., and all facilities constructed thereon.
   c. A site plan, as regulated by the applicable requirements of Section 9.19 of this ordinance, including the proposed area and yard requirements for the development, is submitted for review and approval by the planning commission.

2. In addition, the planning commission may waive the requirement that all lots abut a minimum frontage along a dedicated right-of-way provided that
those lots that do not abut a dedicated right-of-way are assured an unencumbered and maintained accessway by the association to a dedicated right-of-way in accordance with Subsection 9.13, E., paragraph 1., b., above, of this ordinance.

SECTION 9.14 CONDITIONAL USES

A. As regulated by Kentucky Revised Statutes, Chapter 100.

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 building codes.

B. WATER AND SANITARY SEWER SERVICE: No building may be constructed in any zone unless such building is connected to a public water and public sanitary sewer system of adequate capacity and design, and approved by proper authorities.

Where existing buildings are presently unserved by a public sanitary sewer system and a public water supply, and are located within a reasonable distance of an existing or newly extended sanitary sewer or water 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 and water system and the private sewage disposal system and private water supply 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.

8. 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 company, railroad companies, and the State Highway Department of Kentucky, and the Kenton County Road Supervisor, unless it can be shown by the applicant, that these agencies are not interested in the matter.

D. FEES

1. There will be a building investigation fee, as established by the legislative body, to cover the costs of investigation and inspection for determining the structural soundness of buildings, structures, or improvements to be
moved, the fee is payable in advance and must accompany the application provided for herein. This fee is not returnable. If any alterations or improvements to be made are found to be in compliance with the legislative body's applicable codes and regulations, a building permit to move and set will be issued and the fee will be based on the cost of new foundations and all work necessary to place the building or structure in its completed condition in the new location. This fee is in addition to the building investigation fee.

2. No person, corporation, or company shall transport, move, or set any building, structure, or improvement in the legislative body, until and unless such person, corporation, or company shall post with the building inspector a good and sufficient indemnity bond in the amount of five thousand dollars ($5,000.00) for each one-half (1/2) mile of that move, in favor of the legislative body, which will cover the costs of any damage or claim to damage to public improvements (e.g., street pavement, curb and gutter, catch basins, sewers) and other damage to private property resulting from the move and set. Such bond shall be made by a surety corporation authorized to do business in the state of Kentucky.

SECTION 9.17 LANDSCAPE REGULATIONS

A. INTENT: The purpose and intent of this section is to preserve and promote the health, safety and general welfare of every inhabitant and every other member of the population of the city. The city has an abundant resource and amenity with the tree and vegetation cover located within the city. This resource provides ecological, environmental and economical benefits to every inhabitant and every other member of the population of the city. Development often requires the removal of this resource in order to accommodate new structures, parking and vehicular access.

Certain land uses by their nature are not compatible with other land uses. These incompatible uses can create adverse visual impacts, noise, light, and air pollution, which could potentially diminish the quality of life and the health, safety and welfare of the community. This section shall serve to mitigate these impacts and hazards and improve the visual character of the community. Landscaping also provides a separation between parking areas and buildings which defines pedestrian and vehicular circulation areas and, lessens the visual impact and mass of continuous building facades. Therefore, this section requires landscaping to be planted between uses, around buildings, within and around parking lots, around signs and along street frontages in order to:

1. Encourage the preservation of existing trees and vegetation and replenish vegetation that is removed.
2. Facilitate the creation of an attractive and harmonious community which enhances property values.

3. Improve the visual quality of the city by minimizing negative impacts of development such as dust, glare of lights, parking lots, traffic, outside storage, loading docks, and buildings.

4. Reduce environmental impacts, such as, noise, air and light pollution, reduce stormwater runoff and decrease soil erosion, improve water quality, protect wildlife habitat, and reduce heat convection from impervious surfaces.

5. Minimize conflicts between land uses, reduce visual impacts to adjoining properties and public rights-of-way, create a transition between dissimilar land uses, promote and preserve the character and value of an area, and provide a sense of privacy.

6. Establish standards for the location, spacing, quantity, type, size, protection, planting and maintenance of landscape materials in order to accomplish the objectives listed above.

B. LANDSCAPE REVIEW PROCEDURE: Applies to all developments subject to Site Plan Review as required by Sections 9.19 and 9.20. The requirements stated in this section shall be addressed during the applicable Site Plan Review procedures outlined within Sections 9.19 and 9.20 for all sites listed below:

1. New Sites Currently Undeveloped - No new site development, building, or structure shall be constructed or vehicular use area created or used unless landscaping is provided as required by this section.

2. Existing Sites Currently Developed - Improvements to an existing site that include building additions, vehicular use area expansions or load/unloading area expansion shall be required to bring only the new improvements into compliance with this section.

C. GENERAL REQUIREMENTS

1. A Landscaping Plan will be required as part of the Site Plan Review procedure. The information required on this plan is listed in Section 9.20, B., 1., e.

2. The owner of the property is responsible for maintenance of all landscaping materials, and shall keep all plants in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced by the next planting season.
(seasons can differ depending on the type of plant) or within one year, whichever comes first.

3. The legislative body shall have on file a plant manual that outlines plant materials, characteristics, and uses. All landscaping shall be installed and maintained according to this planting manual.

4. The Plant Lists within this article identify types of plants that are compatible with U.S.D.A. Zones for Plant Hardiness and are arranged by the size of plant. Deviations from the plant lists may be permitted by the zoning administrator, but the applicant must identify this deviation and provide information of the size and characteristic of the plant. Any deviations from the approved landscaping plan shall be pre-approved by the Zoning Administrator before the plant is installed.

5. All trees from Plant List D shall be a minimum of six (6) feet (not to include the root ball) in overall height at the time of planting. In addition, all trees from Plant List A and B shall be a minimum of two (2) inches in caliper size (at dbh) and all shrubs from Plant List E shall be a minimum 24 inches B & B or 3 gallon size at planting.

6. All plant material must be installed according to the approved landscaping plan by no later than the next planting season or within 6 months from the date that a building occupancy permit is issued, season permitting. If no occupancy permit is required, all plant material must be installed by the next planting season from the date of approval for the landscaping plan.

7. All plant material that is selected should be able to tolerate their specific planting environment and be easily maintained. Also, all landscaping shall be designed and installed to permit access to any area where repairs, renovations or maintenance to site, buildings, utilities, etc. can be reasonably expected.

D. ENFORCEMENT: Inspections will be conducted by the Zoning Administrator before and after construction to assure compliance with the submitted and approved Site Plan.

E. WAIVER OF REQUIREMENTS: 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 waiver. The Zoning Administrator shall review each written request and grant a waiver only: under unusual or extreme circumstances which cause an unreasonable hardship such as the size of the lot; or, when an innovative or alternative approach can be made which still meets the intent and purpose of this section.
F. SIGHT TRIANGLES: Sight triangles are areas clear of visual obstruction to allow for the safe egress of vehicles from an access point, including an intersecting street onto a roadway. Sight triangles shall conform to the distance detailed in Figure 9-1. No landscaping materials which impair visibility of vehicle operators shall be located within any sight triangle. No plant materials taller than 3.5 feet above ground level shall be located within any sight triangle, including, without limitation, trees which are limbed up because a mature tree trunk can impair the visibility of vehicle operators.

G. LANDSCAPING ALONG STREET FRONTAGES: When a use adjoins a street, regardless of whether it is public or private, landscaping shall be required from Buffer Yard A (See Table 2). This landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the street frontage and not clustered entirely at the ends of the property. This landscaping will provided screening for vehicular use areas, while also allowing flexibility for uses which require high visibility from street frontages. If the street frontage (area between the building and the street) does not contain a VUA, then only the trees from Plant List A, B, or D shall be required. The required plants from Plant List C and E can be reduced by 50 percent if the buffer yard width is increased from 10 feet to 20 feet and can be eliminated if the buffer yard area is increase to 30 feet. However, in all cases, the trees required from Plant List A, B, or D shall still be required.

Activities, such as outside storage, loading and/or unloading areas, parking of semi trailers and heavy equipment or other unsightly activities or operation which do not require public visibility for the operation of the use, shall be required to provide screening found within Buffer Yard C (See Table 2). Buffer yards required in this section shall include the specified width of each buffer yard found within Table 2.

H. INTERIOR LANDSCAPING FOR VEHICULAR USE AREAS (VUAs): Landscaping shall be provided for vehicular use areas, as defined in Article VII, in accordance with the following standards:

1. A minimum of 5 percent of the total VUA shall be landscaped and the landscaping shall be dispersed throughout the paved area (See Figure 9-2). This VUA landscaping shall only be required for uses which have more than 50 parking spaces. This landscaped area cannot be combined into one large planting area, except as permitted by Items 4 and 5 of this section. No interior landscaping will be required within industrial zones if the VUA is located behind the front of the building. This interior landscaping shall be in addition to any other planting or landscaping required within this article.
2. The VUA landscaping shall contain a variety of trees listed from Plant List A and be dispersed in the form of islands or peninsulas throughout the VUA (See Figure 9-2). The minimum size of planting areas shall be 10 feet in width and 200 square feet in size.

3. Planted areas will be required to have 1 tree from Plant List A per 200 square feet of area if designed as in (See Figure 9-3B) and 1 tree per 40 linear feet, or faction thereof, if designed as in (See Figure 9-3A).

4. Planted areas shall be required at the end of every other parking row and when parking adjoins each other at or near right angles (See Figure 9-4). Planting areas that are a minimum of 600 square feet will be required if rows of parking are unbroken for 180 linear feet or more (See Figure 9-3B).

5. Sites which have large uninterrupted circulation areas for tractor trailers and trucks, such as warehouses and distribution centers, can provide one or more large landscape islands in order to comply with the required 5% landscaped area within the large circulation areas.

6. All planting islands shall be planted with either grass, low ground cover, shrubs, flowers, mulch or any combination of these. Hard surfaces or gravel are not permitted. All planting islands shall have minimum 6 inch curbs installed to protect the planting area from vehicular traffic.

7. All plant material (other than grass, or ground cover) located within landscape islands where vehicle overhangs are needed shall be setback a minimum of 2’ 6” from the edge of pavement or face of curb (See Figure 9-5).

I. BUILDING LANDSCAPING: Any blank facade or portion of a facade of a building that is not used for outdoor display, storage or loading and/or unloading shall be required to provide the following landscaping if the wall is visible from a public right-of-way. Blank facades shall be classified as any wall which does not have windows used for display or entry doors for customers or the general public. Buildings which are 10,000 square feet or smaller shall be exempt from the requirement within this section.

1. The landscaping found within Buffer Yard A shall be required to break the mass and visual monotony of long continuous facades. This landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the length of the building facade. If the required buffer yard can be used to adequately reduce the view of the facade from the public right-of-way no building landscaping shall be required. However, the determination of whether the required buffer yard can be
used for building landscaping shall be determined by the Zoning Administrator.

2. Facades that abut VUA's shall have a minimum eight (8) feet wide planting area. This planting area can be reduced by four (4) feet if sidewalks are installed.

3. The landscaping materials that are selected shall be able to tolerate their specific planting environment and be easily maintained. Also, all landscaping should permit access for repairs, renovations or needed maintenance to the building. Landscaping should not be installed in an area that is intended for future expansion and shall not be installed in an area that is used for an emergency exit from the building.

J. LOADING AND/OR UNLOADING AREAS, STORAGE AREAS, UTILITY AND MECHANICAL EQUIPMENT AND TRASH COLLECTION AREAS: The loading and/or unloading areas, storage areas, utility and mechanical equipment and trash collection areas shall be screened from any public street right-of-way or if visible to an adjoining property. This screening shall be accomplished by continuous solid closed fence, wall, earthen berm, hedging, evergreen plant materials or combination thereof which is high enough to effectively screen the items mentioned above from view. Any wall or fence shall be the same or compatible, in terms of texture and quality, with the material and color of the principle building.

K. SIGN LANDSCAPING: Landscaping shall be located around the base of freestanding signs. This landscaping should be ornamental in nature with small trees from Plant List C and shrubs from Plant List E, (See Table 2) flowers and other ornamental plant materials. Landscaping for freestanding signs shall be required only when Site Plan Review is required and shall be reviewed as part of this procedure. This landscaping is not required to be installed for existing freestanding signs. The amount of landscape area required shall be one square foot of landscape area per one square foot of sign area. At least 50 percent of the required landscaping area shall be planted with trees and/or shrubs.

L. BUFFER YARDS: Table 1 indicates the buffer yard which is required when one zoning district adjoins another zoning district. If the adjoining property falls within the same zoning district as the use being developed, a buffer yard shall still be required. This buffer yard along with all buffer yards are identified within Table 2. This table specifies the width of the required buffer yard and the plant material required for the specified buffer yard.

A buffer yard is defined as a planted area that is used to separate uses that are not compatible. This planted area should reduce or eliminate noise and light pollution and other adverse impacts, while providing a year round or partial visual
separation. Buffer yards shall consist of a continuous strip of land and screening that shall contain existing vegetation, planted vegetation, a berm, a wall or fence or any combination of these. Buffer yards shall be required in addition to any other landscaping requirement listed in this section, except for subsection G.

1. The buffer yard shall extend along the entire property line which abuts another or an incompatible land use.

2. A proposed use may reduce the required buffer yard width by one-half if the developing use adjoins an existing use which has an established mature buffer which meets or exceeds the buffer yard required for the adjoining developing use. However, the same quantity of plant material shall still be required within the buffer yard if a healthy planting environment can be provided.

3. The elimination or reduction of buffer yard requirements can be made if a developing site contains healthy mature vegetation. The amount of reduction permitted will depend on the size, type and density of the trees and vegetation which exists on the site. However, the maximum reduction which can be made in the buffer yard width is 50 percent. The required plant material can be completely eliminated if the existing vegetation accomplishes the type of screening required by the prescribed buffer yard. If this is not accomplished by the existing vegetation, then evergreens, fencing, berming, masonry wall or combination shall be used to supplemented the existing screening if required within that buffer yard. The determination regarding whether a buffer yard is not required or regarding the amount of reduction which can be permitted shall be made during the Site Plan Review process.

4. Buffer yards can be located within building setbacks, and in some circumstances can be located within utility easements or rights of ways. However, this will require approval by the Zoning Administrator and shall only be permitted if the required amount of plant material can be accommodated in an area in which the plants will be permitted to flourish. Planting within these areas shall require a written agreement from the grantee of the easement or owner of the right-of-way. If the vegetation is removed or damaged because of necessary maintenance or construction, it will be the responsibility of the owner of the property to replace the required vegetation at their expense. No activity can be conducted within the buffer yard except for ingress and egress to the site (including driveway connections between adjoining sites), sidewalks, bicycle trails and passive recreation uses. In addition, detention and retention systems can also be located within the required buffer yards, however, the visual screening requirements shall not be altered or diminished. Activities not
permitted within buffer yards shall include parking, loading, storage, paving except for that mentioned above or accessory structures.

5. The design and exact placement of the buffer yard shall be the decision of the designer or developer, but shall be reviewed during Site Plan Review procedure to ensure compliance with this section. However, trees and shrubs should be planted a minimum of five (5) feet away from the property line to ensure maintenance access and to avoid encroachment on neighboring property.

6. When a proposed use adjoins an undeveloped parcel of property the required buffer yard shall be determined by the adjoining property’s zoning designation and shall be installed in the time period required by this section as if the adjoining property where developed.

7. Buffer yards can be shared between uses if an easement is provided and recorded which indicates how maintenance and replacement of unhealthy plants will be accomplished. The more restrictive buffer yard width and plant material shall be provided between the two properties in this instance if different requirements would normally apply.

8. In all undeveloped areas of the city, both residential and nonresidential, a buffer yard no less than fifty (50) feet shall be maintained around the entire site, which shall hereinafter be identified as the surrounding buffer yard; and all existing natural vegetation, trees and flora therein shall be preserved and maintained in the natural state thereof; but with the following exceptions that may be permitted by the Zoning Administrator:

a. Those areas of the surrounding buffer yard that are reasonably necessary for motor vehicle and pedestrian ingress into and egress out of the development site; and

b. Those areas of the surrounding buffer yard that are reasonably necessary for the installation and construction of underground utilities and other infrastructure into and out of the development site; provided however, that any existing natural vegetation, trees and flora that are removed for such purposes shall be replaced with similar plant life by the owner or developer within a reasonable time thereafter.

c. Permanent earthen berms, mounds or ridges of dirt, which:

   (1) Have a height or elevation no greater than eight (8) feet above the elevation of the adjoining property, at the common boundary line; and
(2) Has a slope no greater than three (3) to one (1); and

(3) Shall be seeded with perennial grass seed, within thirty (30) days after the final placement of dirt, and landscaped no later than four (4) months thereafter with ground cover, vegetation, trees and flora in conformity with those of the neighborhood of the adjoining property; and

(4) Shall include erosion controls consisting of staked fabric fencing and or straw bales along the boundary of the adjoining property, which shall be removed after the seeding thereof has germinated and matured.

M. PLANT LISTS: The following list includes the Scientific Name and Common Name of plants arranged by size with a list of characteristics for each plant and places where to use and not use the particular plant. The following Plant Lists are copied from the Lexington-Fayette Urban County Kentucky Zoning Regulations December 15, 1983, Amended June 3, 1993. Plant Lists A through E found within this section are defined as follows:

Plant List A: Large deciduous trees over 50 feet in height at maturity
Plant List B: Medium sized deciduous trees 25 to 50 feet in height at maturity
Plant List C: Large Shrub or Small Tree 10 to 25 feet in height at maturity
Plant List D: Large evergreen trees over 50 feet in height at maturity
Plant List E: Shrubs which include all sizes and ground cover
Plant List F: Trees and shrubs of all sizes which should not be used.
### TABLE 1

#### BUFFER YARDS

<table>
<thead>
<tr>
<th>DEVELOPING USE ZONE</th>
<th>ADJOINING ZONES</th>
<th>BUFFER YARD REQUIRED*</th>
</tr>
</thead>
<tbody>
<tr>
<td>BP-1, IP-1, IP-2, IP-3, IP-4, REC</td>
<td>BP-1, IP-1, IP-2, IP-3, IP-4, REC</td>
<td>A</td>
</tr>
<tr>
<td>BP-1, IP-1, IP-2, IP-3, IP-4, REC</td>
<td>PO, PO-1, NSC, SC, NC, NC-2, HC, HC-2, HC-3, INST, LHS</td>
<td>B</td>
</tr>
<tr>
<td>BP-1, IP-1, IP-2, IP-3, IP-4, REC</td>
<td>R-2, R-3, R-1M</td>
<td>C</td>
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<tr>
<td>BP-1, IP-1, IP-2, IP-3, IP-4, REC</td>
<td>All other residential and conservation zones</td>
<td>D</td>
</tr>
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<td>PO, PO-1</td>
<td>BP-1, IP-1, IP-2, IP-3, IP-4, REC</td>
<td>B</td>
</tr>
<tr>
<td>PO, PO-1</td>
<td>PO, PO-1</td>
<td>A</td>
</tr>
<tr>
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<tr>
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<td>B</td>
</tr>
<tr>
<td>PO, PO-1</td>
<td>All other residential and conservation zones</td>
<td>C</td>
</tr>
<tr>
<td>PO, PO-1 (if larger than 50,000 square feet)</td>
<td>All other residential and conservation zones</td>
<td>D</td>
</tr>
<tr>
<td>NSC, SC, NC, NC-2, HC, HC-2, HC-3, INST, LHS</td>
<td>BP-1, IP-1, IP-2, IP-3, IP-4, REC</td>
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<td>R-2, R-3, R-1M</td>
<td>B</td>
</tr>
<tr>
<td>NSC, SC, NC, NC-2, HC, HC-2, HC-3, INST, LHS</td>
<td>All other residential and conservation zones</td>
<td>C</td>
</tr>
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#### TABLE 1 (continued)
**BUFFER YARDS**

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<th>BUFFER YARD REQUIRED*</th>
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<td>All other residential and conservation zones</td>
<td>D</td>
</tr>
<tr>
<td>R-2, R-3, R-1M</td>
<td>BP-1, IP-1, IP-2, IP-3, IP-4, REC</td>
<td>C</td>
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<tr>
<td>R-2, R-3, R-1M</td>
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<td>R-2, R-3, R-1M</td>
<td>A</td>
</tr>
<tr>
<td>R-2, R-3, R-1M</td>
<td>All other residential and conservation zones</td>
<td>B</td>
</tr>
<tr>
<td>R-2, R-3, R-1M (if more than 80 units or 25 mobile home lots)</td>
<td>All other residential and conservation zones</td>
<td>C</td>
</tr>
</tbody>
</table>

* Refer to Table 2.

No buffer yard is required for developments within single-family residential or conservation zones. Buffer yards within the AP, RCD, and PUD Overlay Zones, shall be as approved in the plan.
TABLE 2  
BUFFER YARD TYPES

The numbers shown are the minimum quantities required for each plant type. Smaller trees may be replaced with larger varieties. Buffer yards are established in 100 feet increments with the number of plants specified. The number of plants required for a given buffer yard shall be determined by dividing the actual length of the buffer yard by 100 and multiplying that number by the number of plants from each plant list required and rounding to the next whole number. A minimum of two genera (a group of species possessing fundamental traits in common, but differing in other lesser characteristics) shall be used from each plant list required at an even ratio per 100 linear feet of buffer yard required. Fences or walls which are used within buffer yards shall be located within the center of the buffer yard and the plants shall be installed on both sides of the fence or wall. Fences shall be solid and provide 100 percent opacity. Chain link fences with slats shall not be permitted.

BUFFER YARD A - 10 FOOT WIDTH
Landscaping required per 100 linear feet at 10 feet wide
- 5 Small Trees - Plant List C
- 3 Large Trees / 3 Medium Trees / or 3 Evergreen or any combination of 3 - Plant List A, B, or D
- 30 Shrubs - Plant List E
- Ground Cover (Required in all areas not covered with grass)
- Mulch (Temporary)

BUFFER YARD B - 20 FOOT WIDTH
Landscaping required per 100 linear feet at 20 feet wide
- 10 Small Trees - Plant List C
- 5 Large Trees / 5 Medium Trees / or 5 Evergreens or any combination of 5 - Plant List A, B, or D
- 60 Shrubs - Plant List E
- Mulch (Temporary)
- Ground Cover (Required)

BUFFER YARD C - 60 FOOT WIDTH
Landscaping required per 100 linear feet at 30 and 60 feet wide
- 10 Evergreen - Plant List D
- 5 Small Trees - Plant List C
- 5 Large or Medium Trees - Plant List A or B
- 90 Shrubs - Plant List E

30 FOOT WIDTH
The same number of trees, and 30 shrubs are required as for the 60 feet width buffer yard, but the width may be reduced to 30 feet if a 6 foot high berm, fence, or masonry wall is used. The maximum slope for the berm is 2.5 to 1.

BUFFER YARD D - 80 FOOT WIDTH
Landscaping required per 100 linear feet at 80 and 50 feet wide
20 Evergreens - Plant List D Planted in a double row spaced 10 feet on center in an equal lateral triangle configuration
10 Small Trees - Plant List C
5 Large Trees - Plant List A
90 Shrubs - Plant List E

50 FOOT WIDTH
The same number of trees and 30 shrubs are required as for the 80' width buffer yard, but the width may be reduced to 40 feet if a 6 foot high berm, fence or masonry wall is used. The maximum slope for the berm is 2.5 to 1.
**FIGURE 9-2**

INTERIOR LANDSCAPING

- 200 Square Feet (minimum)
- 10' Minimum Width

Interior Landscaping

Building Area

\[ VUA = (A \times B) - \text{Building Area} \]

5% of VUA = Interior Landscaping

Building Area = Building + Sidewalk + Landscaping
FIGURE 9-3
LANDSCAPE ISLAND TYPES

9-3A

Trees 40' On Center

9-3B

1 Tree Per 200 Square Feet

200
Square Feet
(minimum)

600
Square Feet
FIGURE 9-4

PARKING ISLANDS

Not Permitted Without Landscape Island

Parking At Right Angles Requires Landscape Island
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 shall be permitted to be located only to the rear of the principal permitted dwelling or dwellings.

2. Except as herein provided, no swimming pool, including the apparatus and equipment pertaining to the operation of the swimming pool shall be permitted within any required yards of the lot nor within the limits of any public utility right-of-way easement.

3. No person, firm, or corporation shall maintain or operate a swimming pool without first obtaining a permit and enclosing said pool with a fence, including a self-latching gate or door. Said fence shall not be less than four (4) feet in height and of class 1, 3, or 5, and of such construction that a small child may not reach the pool from a street or adjacent property without opening a gate or scaling a wall or fence.

4. Glare from flood lights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties.

5. All swimming pools, including the apparatus and equipment pertaining to the operation of the swimming pool, shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the city. Any water used in the operation of a swimming pool, other than a public source, shall be approved by the appropriate health department.

B. PUBLIC, SEMI-PUBLIC, AND COMMERCIAL SWIMMING POOLS: All public, semi-public, and commercial swimming pools shall be regulated according to the following requirements:

1. Except as herein provided, no swimming pool, including the apparatus and equipment pertaining to the operation of the swimming pool, shall be permitted within any required yards of the lot 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-locking door or gate (only classes 1, 3, and 5 are permitted, as regulated by Article XIII of this ordinance) 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 opening a gate or door or scaling a wall or fence.
3. Glare from flood lights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties.

4. All swimming pools, including the apparatus and equipment pertaining to the operation of the swimming pool, shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the city. Any water used in the operation of the swimming pool, other than a public source, shall be approved by the appropriate health department.

5. No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent residential properties through the emission of noises, voices, or music which is loud enough to cause complaints from said adjacent residential property owners.

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

All such site plans shall be reviewed by the planning commission, or its duly authorized representative, and the factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of this ordinance, and the comprehensive plan for the city. However, no action of approving or rejecting any site plan shall be taken unless and until a review of the proposal has been made by 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 City of Erlanger, or its duly authorized representative, have been complied with.
SECTION 9.20 PLAN REQUIREMENTS - STAGES I, II, AND RECORD PLAT:

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

1. Plan(s) of the subject property, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet showing:

   a. The total area in the project;
   b. The present zoning of the subject property and all adjacent properties;
   c. All public and private rights-of-way and easement lines located on or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned;
   d. Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed five (5) feet;
   e. Delineation of all existing and proposed residential areas in the project with a statement indicating net density of the total project:

      (1) Detached housing - location and approximate number of lots, including a typical section(s) identifying approximate lot sizes and dimensions, and setback and height of buildings;
      (2) Attached housing - location and description of the various housing types (i.e., townhouse, fourplex, garden apartment, etc.) including approximate heights of typical structures, and the approximate number of units by housing type;
   f. Delineation of all existing and proposed nonresidential uses in the project:

      (1) Commercial uses - location and type of all uses including approximate number of acres, gross floor area and heights of buildings;
      (2) Open Space/Recreation - the approximate amount of area proposed for common open space, including the location of recreational facilities, and identification of unique natural features to be retained;
(3) Other public and semi-public uses - location and type of all uses, including approximate number of acreage, and height of buildings;

g. Location of proposed pedestrian walkways, identifying approximate dimensions;

h. Location of proposed streets, identifying approximate dimensions of pavement, right-of-way widths, and grades;

i. Location of all existing and proposed water, sanitary sewer, and storm drainage lines, indicating approximate pipe sizes. Indication should also be given regarding the provision of electric and telephone service.

j. Certification from appropriate water and sewer agencies that services will be available.

k. Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed methods of handling said problems.

l. Other information that may be determined necessary for description and/or to insure proper integration of the proposed project in the area.

m. A schedule of development, including the staging and phasing of:

   (1) Residential area, in order of priority, by type of dwelling unit.
   (2) Streets, utilities, and other public facility improvements, in order of priority.
   (3) Dedication of land to public use or set aside for common ownership.
   (4) Nonresidential buildings and uses, in order of priority.

The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated. A separate plan or drawing for each element is not necessary, but may be provided at the option of the applicant.

B. STAGE II -- PLAN REQUIREMENTS: The Stage II Plan shall conform to the following requirements:
1. Plan(s) of the subject property drawn to a scale of not smaller than one (1) inch equals one hundred (100) feet, that identifies and provides the following information:

a. The existing and proposed finished topography of the subject property shown by contours with intervals not to exceed five (5) feet. Where conditions exist that may require more detailed information on the proposed topography, contours with intervals of less than five (5) feet may be required by the planning commission;

b. All housing units on the subject property:

   (1) Detached housing - Location, arrangement, and number of all lots, including lot dimensions and setbacks, and maximum height of buildings;

   (2) Attached housing - Location, height, and arrangement of all buildings, indicating the number of units in each building, and, where applicable, location, arrangement and dimensions of all lots;

c. Location, height, arrangement, and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions;

d. Location and arrangement of all common open space areas, and recreational facilities, including lot dimensions. Methods of ownership and operation and maintenance of such lands shall be identified;

e. Location, size, and type of all landscaping features (e.g., berms, walls, fences, planting material), including: a landscape schedule that specifies plant species, number of plants per species, plant size at installation, and mature plant size; total square footage of the vehicular use area (VUA), the total square footage required to be landscaped and the total landscaped area provided; and, existing trees which are to be retained including temporary fenced or taped areas which will be used to protect the trees during site disturbance.

f. Location of signs indicating their orientation and size and height;

ɡ. 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 (see Section 9.7);

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. Improvements to be provided shall be designed and constructed in accordance with the applicable articles and sections of the Subdivision Regulations, unless specifically waived.

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

A. It shall be unlawful for any person(s) to live in any boat, automobile, camper, recreational vehicle, or truck, within the jurisdiction of the legislative body.

B. It shall be unlawful to park or to keep any truck of in excess of 6,000 pounds gross vehicle weight, at any place on property located in a residential district zone, except in a completely enclosed garage.

C. It shall be unlawful to park any vehicle containing hazardous materials when said vehicle is required to be placarded by the U.S. Department of Transportation, in
any zone except the Highway Planned Development Zone, except for loading and unloading purposes.

SECTION 9.24 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 Erlanger, Kentucky, hereby adopts the following floodplain management ordinance, as follows:

2. FINDINGS OF FACT

a. The flood hazard areas of the City of Erlanger 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/AO, 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 of Erlanger 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 (FHBIM) 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 Erlanger from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the legislative body of the City of Erlanger 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 Erlanger.

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 Erlanger, and for those land areas acquired by the City of Erlanger 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 Erlanger 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 9.24.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 Erlanger, 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 Erlanger 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 9.24.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 9.24.E.2.b and Section 9.24.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 9.24.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 9.24.D.2.b;

(2) Certification required by Section 9.24.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 9.24.D.2.a;

(3) Certification required by Section 9.24.E.2.c (elevated structures),

(4) Certification of elevation required by Section 9.24.E.5.a (subdivision standards),

(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 9.24.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 9.24.F.3.a;

(2) When base flood elevation data and floodway data have not been provided in accordance with Section 9.24.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 9.24.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 9.24.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 9.24.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 9.24.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
Article IX  General Regulations

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 9.24.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 9.24.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 9.24.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:
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(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 9.24.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 9.24.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 9.24.E.

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

Located within the special flood hazard areas established in Section 9.24.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 9.24.C.2.

4. STANDARDS FOR SHALLOW FLOODING ZONES

Located within the special flood hazard areas established in Section 9.24.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
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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 9.24.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;
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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 Erlanger on March 12, 2013.

SECTION 9.25 PHASED ZONING REGULATIONS

A. Phased zoning is an overlay type regulation to be used in cases where the timing and/or phasing of the zoning of an area is especially critical to the implementation of the adopted comprehensive plan. The intent of the phased zoning regulations is to encourage redevelopment of a specified area for the use and/or density designated within the comprehensive plan when the necessary conditions for such development are realized (e.g., demolition of existing buildings). Implicit in such a phased zoning approach is the premise that until such conditions are realized, the type of development designated within the comprehensive plan is premature; such development would be prevented by temporarily zoning the area to generally conform with the predominant existing land use, with a clear stipulation of an intended future rezoning, which would be in compliance with the adopted comprehensive plan.

B. The phased zoning regulations may be overlaid over any zoning classification by means of a zone change process. The use of the phased zoning regulations would indicate that the regulations of the overlaid zone are currently being enforced, based upon the general existing land use, but upon attainment of all the requirements of the zone which corresponds to the adopted comprehensive plan for the type of use and/or density, the area could be rezoned in direct compliance with the plan.

C. Phased zones are indicated on the official zoning map by adding to the overlaid zone, the letter "P", as a suffix enclosed in parentheses. For example, in order to properly phase its change, an area zoned R-1M, which is identified for future use on the adopted comprehensive plan for "industrial" could be temporarily zoned R-1M(P), indicating that present development on the site would be in conformance
with the regulations of the overlaid R-1M Zone, but that, upon the attainment of certain conditions (e.g., demolition of existing buildings) as indicated on the local comprehensive plan, the area could be rezoned through a conventional zone change procedure. At the time of the zone change, the temporary R-1M(P) Zone is removed and the area is developed according to the regulations of the new zone, which is in conformance with the adopted comprehensive plan.

D. The minimum size of any area to be rezoned, as regulated by this section of the ordinance, is five (5) acres, provided that all other provisions of this ordinance and the subdivision regulations are adhered to.

SECTION 9.26 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 engineer and Planning and Development Services of Kenton County staff, who will recommend to the planning commission, or its duly authorized representative, what effect the proposed development will have on hillside slippage and/or soil erosion.

After consideration of the recommendations, the planning commission, or its duly authorized representative, may authorize use of the site in accordance with the submitted plans.

4. If, after review of the plans required by this section of the ordinance, the planning commission, or its duly authorized representative, determines that said proposed plans will not minimize hillside slippage, the planning commission shall deny a permit for the development of said land.

SECTION 9.27 LAND USED FOR AGRICULTURAL PURPOSES: Pursuant to KRS 100, any land which is used for agricultural purposes (exclusive of land and building used for residences), shall have no regulations, except that:

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

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

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 9.28 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 9.29 SANITARY LANDFILL REGULATIONS: Sanitary landfills are not permitted within any zone in the City of Erlanger.

SECTION 9.30 GARAGE SALES

A. As regulated by separate City Ordinance.

SECTION 9.31 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 adjustment, whichever body(s) impose(s) any land use restrictions.

SECTION 9.32 CONCEPTUAL PLANS

Where any provision of this ordinance, or any amendment thereto, prohibits any use or development of any land, or any construction thereon, which does not conform to a conceptual plan approved by the zoning administrator pursuant to the provisions of this section:

A. Such conceptual plan shall include a plat of the boundaries of the area of land for which a conceptual plan is required, with an indication thereon of:
1. The use of the buildings and maximum building height proposed for each area thereof;

2. The proposed location of streets and sidewalks for the general movement and circulation of vehicles and pedestrians throughout the entire area for which a conceptual plan is required; and

3. The ownership, maintenance, and location of areas proposed for open spaces, which shall be no less than 20% of the entire area for which a conceptual plan is required, exclusive of proposed streets, parking areas, and buildings.

B. Such conceptual plans shall be approved by the zoning administrator only if after such conceptual plan has been submitted to Planning and Development Services of Kenton County staff and the Kenton County and Municipal Planning and Zoning Commission, or its duly authorized representative, for review and recommendation, and the zoning administrator determines that such conceptual plan conforms to all city ordinances and other applicable laws.

SECTION 9.33 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 9.34 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 9.35 REGULATIONS OF SEXUALLY ORIENTED BUSINESSES

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

B. The Fiscal Court, in association with 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 Erlanger 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 Erlanger to balance the Constitutional rights of businesses that present sexually oriented entertainment with the city of Erlanger 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 Erlanger 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:


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 Erlanger recognizes that some of the cited studies included bars without sexually oriented entertainment among the businesses studied; the city of Erlanger 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 Erlanger 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 Erlanger 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 Erlanger 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 Erlanger 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 Erlanger finds
that the following principles are essential to effective zoning controls of sexually oriented businesses:

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

2. Although there are currently several such businesses located near one another in Covington’s downtown area, the Covington City Commission has determined that the City will not attempt to require these existing businesses be relocated;

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

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

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

6. Experiences in other communities show that private booths, back rooms, “VIP” rooms and other small and private spaces in sexually oriented businesses create the opportunity for casual sexual activity and create logistical difficulties and risks of physical endangerment for police officers responsible for dealing with such activities. For that reason, it is essential that movies, performances and other activities at sexually oriented businesses should be permitted only in large rooms that are open and visible to management, other patrons and code and police officers who may visit the establishment during operating hours.

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

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

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

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

4. DISPLAY PUBLICLY – the act of expousing, 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 analingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, sodomy, or any excretory functions as part of or in connection with any of the activities set forth above with any person on the premises. This definition shall include apparent sexual stimulation of another person’s genitals whether clothed or unclothed.

Z. **PROHIBITED USES**: The following uses are prohibited in the city of Erlanger 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.

AA. PERMITTED USES: The following uses are permitted if they hold an approved Zoning Permit and a valid License approved under the county-wide Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus:

1. Media store with some sexually oriented media (not subject to licensing);
2. Sexually oriented media store;
3. Sex shop;
4. Service oriented escort bureau;
5. Sexually oriented motion picture theatre; and
6. Sexually oriented cabaret or theatre.

AB. PERMITTED ZONING DISTRICTS:

1. A media store carrying some sexually oriented media is permitted in any zoning district where other retail establishments are permitted.
2. A sexually oriented media store, sex shop or service oriented escort bureau is permitted in the following zoning districts if it holds an approved Zoning Permit and a valid License approved under the county-wide Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus:
   a. SC (Shopping Center) Zone

3. A sexually oriented business featuring on-premise entertainment such as sexually oriented motion picture theatre, cabaret or theatre is permitted in the following zoning districts if it holds an approved Zoning Permit and a valid Kenton County Sexually Oriented Business License:
   a. HC-1 (Highway Commercial One) Zone
   b. HC-3 (Highway Commercial Three) Zone
   c. LHS (Limited Highway Service) Zone
   d. LSC (Limited Service Commercial) Zone
   e. SC (Shopping Center) Zone
   f. All Industrial (I) Zones, except for the IP (Industrial Park) Zone

AC. ZONING PERMIT: Any application for a sexually oriented business Zoning Permit shall be processed in accordance with Article XVI of the Zoning Ordinance with the following additional requirements:
1. **Zoning Permit and License Required**

   a. Permit and license required. Each sexually oriented business or service oriented escort bureau is required to obtain a Zoning Permit under the City of Covington's Zoning Code and License under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. However, no license is required for a media store with some sexually oriented media.

   b. Order of submissions. For a new sexually oriented business or service oriented escort bureau, the process is designed for the applicant to apply for a Zoning Permit first and Kenton County License second.

   c. Application Contents: In addition to the other requirements of an application for a Zoning Permit, the applicant shall submit to the Zoning Administrator at least the following:

   1. A complete description of the exact nature of the business to be conducted;
   2. A location plan, showing the location of the property and the applicant’s identification of any school, religious institution, public recreation area, park or day care center within 1,500 feet of the property;
   3. A sketch of the exterior and interior of the premises, showing all areas that will be open to the public and their purposes, the dimensions of such areas, all entrances and exits, the location of the screen for a motion picture theatre, the location and dimensions of the stage for a cabaret or theatre;
   4. A parking plan; and
   5. A lighting and signage plan, showing fixtures that are adequate in number, design and location to meet the lighting requirements and applicable provisions of the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus.

**AD. GENERAL STANDARDS:**

1. General Standards related to sexually oriented businesses and service oriented escort bureaus.

   a. Separation distances. No retail-only sexually oriented business (sexually oriented media store or sex shop) or service oriented
escort bureau shall be located within 500 feet of any area within the zoning districts having the designation of “residential” as the district classification or within 500 feet of any parcel of land occupied by a school, religious institution, park, library, public recreation area, or day care center (considered “protected uses”) in any other district.

b. Separation distances. No sexually oriented business offering on-premise entertainment (sexually oriented motion picture theatre, cabaret or theatre) shall be located within 1000 feet of any area within the zoning districts having the designation of “residential” as the district classification or within 1000 feet of any parcel of land occupied by a school, religious institution, park, library, public recreation area, or day care center in any other district.

c. Separation distances. No sexually oriented business shall be located within 1,000 feet of any other sexually oriented business or service oriented escort bureau; this restriction shall require such a separation regardless of whether it is located within the city or within the county.

d. Single use. There shall be no more than one type of sexually oriented business or service oriented escort bureau at any one location.

e. Nonconformity. No legally established and permitted sexually oriented business or service oriented escort bureau shall become nonconforming through subsequent establishment of a school, religious institution, park, library, public recreation area, or day care center (protected uses); nor shall a Zoning Permit for a sexually oriented business or service oriented escort bureau be denied based on the filing of a Zoning Permit application for a protected use after the filing of such application for a sexually oriented business.

f. Measurement method. Where this section requires that one use be separated from another use, measurements shall be made in accordance with this subsection. For a use which is the only use or the principal use on a lot or parcel, the measurement shall be made from property line to property line from a point nearest to the use for which the measurement is being made. If the use is located in a multi-tenant building, then the distance shall be measured from the portion of the building of the leasehold or other space actually controlled or occupied that is nearest to the use for which the measurement is being made. Measurements between properties or spaces under this section shall be made by the shortest distance between the two properties and/or spaces.

2. Standards for Parking: An Off-Street Parking Plan shall be submitted as a part of the application for a Zoning Permit. All off-street parking shall be in accordance with Article XI with specific standards related as follows:
a. A sexually oriented media store, sex shop or service oriented escort bureau: 5.5 spaces per 1,000 square feet of gross public floor area.

b. A sexually oriented cabaret or theatre: 1 parking space for each 100 square feet of floor area used for dancing or assembly, or 1 space for each 4 persons based on design capacity, whichever is greater, plus 1 space for each 2 employees on shift of largest employment.

c. A sexually oriented motion picture theatre: 1 parking space for each 4 seats, based on a maximum seating capacity, plus 1 additional space for each 2 employees on shift of largest employment.

3. Standards for Exterior Lighting and Signage: An Exterior Lighting and Signage Plan shall be submitted with the application for a Zoning Permit. The required lighting shall be as follows:

a. Exterior lighting of the entries and private parking areas shall be a minimum of 15 footcandles as measured 3 feet from the ground or paving.

b. For a business on a single lot or parcel, no lighting shall illuminate any property not in control of the business by more than 5 footcandles as measured at the nearest adjacent property.

c. All signage shall be in accordance with the Article XIV.

AE. INDIVIDUAL BUSINESS STANDARDS:

1. Standards for a Service Oriented Escort Bureau: A service oriented escort bureau shall be subject to the following additional standards:

a. Room size. The establishment shall operate all business in an open area of at least 600 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room where customers are located.

b. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.

2. Standards for a Media Store with Some Sexually Oriented Media: A retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area shall not be classified as a sexually oriented business but shall be subject to the following standards:
a. Separate room. The sexually explicit media shall be kept in a separate room from the rest of the inventory of the store and shall not visible outside the room;
b. Age limit. Sexually explicit media shall be available only to persons 18 years or older;
c. Access. Access to the room shall be through a solid door, accessed by an electronic control device monitored by the clerk or manager on duty through direct visual control;
d. Visibility. Customers and activities in the room shall be visible at all times to the clerk or manager on duty through a video system located at the clerk’s or manager’s counter; and
e. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.

3. Standards for a Sexually Oriented Media Store or Sex Shop: A sexually oriented media store or sex shop shall be subject to the following additional standards:

a. Room size. The establishment shall operate all business in an open area of at least 600 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room where customers are located;
b. Displays. No displays of sexually explicit media or images shall be visible from the exterior of the buildings; and
c. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.

4. Standards for a Sexually Oriented Motion Picture Theatre: A sexually oriented motion picture theater shall be subject to the following additional standards:

a. Presentation area. All screenings and presentations of motion pictures, videos or other media shall occur in a room open to all customers of the establishment and containing at least 1000 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room.
b. Lighting. The lighting level in the area occupied by customers shall be at least 5 footcandles as measured at the floor.
c. Seating. Seating shall consist of individual, theater-style chairs, with solid arms separating the chairs. No couches, benches, portable chairs, beds, loose cushions or mattresses, or other forms of seating may be provided. Separate spaces for wheelchairs shall be provided in accordance with the applicable provisions of the building code and the Americans with Disabilities Act.
5. Standards for a Sexually Oriented Cabaret or Theatre: A sexually oriented cabaret or theater shall be subject to the following additional standards:

   a. Presentation area. All entertainment shall occur in an unobstructed room of at least 600 square feet of floor area with a person in any part of such room having a clear view of all entertainment areas;

   b. Performance stage. All entertainment shall take place on stage elevated at least 24 inches above the surrounding floor area, with a minimum area of 100 square feet, and with a horizontal separation of at least 60 inches between the edge of the stage and the nearest space to which customers have access—the horizontal separation shall be physically enforced by a partial wall, rail, or other physical barrier, which may be located either on the stage (to keep the entertainers back from the edge) or on the floor (to keep the customers back from the stage);

   c. Lighting. The lighting level in the area occupied by customers shall be at least 15 footcandles as measured 3 feet from the floor.

   d. Seating. Seating shall consist of chairs or open booths; no couches, beds, or loose cushions or mattresses, or of any form shall be provided.

AF. ZONING ADMINISTRATOR REVIEW AND EXPIRATION OF ZONING PERMIT:

1. Determination of Completeness: Within 5 business days of submission of the sexually oriented land use permit application, the Zoning Administrator shall determine if the application is complete. If the application is incomplete, the Zoning Administrator shall return the application to the applicant with a letter or form specifying the items that are missing. The application shall not be further processed unless and until the applicant submits a complete application.

2. Review, Decision: If the Zoning Administrator determines that an application is complete, the Zoning Administrator shall review the application and, within 20 calendar days of submittal of the complete application, grant or deny the permit. If the permit is denied, the denial shall be made in writing, by letter or on a form, and shall specify the reasons why the application was denied, citing the specific provisions of this ordinance or other provisions of the City’s ordinances that provide the basis for such denial. If the Zoning Administrator fails to act on a complete application within the 20-day period, the application is deemed denied. Upon denial or deemed denial, the applicant may appeal that denial to the Board of Adjustment.
3. The applicant may, at its option, pursue other or additional administrative remedies available under the zoning ordinance; by doing so, applicant shall be deemed to have waived any right to a decision within a particular time period and shall be subject to all of the terms, conditions and timelines applicable to such administrative remedies under the zoning ordinance.

4. Expiration of Zoning Permit: The issuance of the Zoning Permit shall be conditioned on the applicant obtaining and retaining a Kenton County Occupational License for the use represented by the Zoning Permit. If no license has been granted within 6 months after the issuance of the Zoning Permit, then the Zoning Permit shall expire; provided, however, that the expiration date for the Zoning Permit shall be extended until 30 days after the end of any administrative or judicial appeal of the Zoning Permit.

AG. APPEAL PROCEDURES:

1. Appeals to Board of Adjustment
   
a. Appeals to the Board of Adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. Such appeal shall be taken within 10 calendar days after such action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator, by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. A fee, as required by § 158.007, shall also be paid to the Zoning Administrator at this time. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record on which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the Board, an interested person may appear and enter his or her appearance, and all shall be given an opportunity to be heard.

b. The Board of Adjustment shall hear the appeal within 30 calendar days of its filing with the Zoning Administrator and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least 7 calendar days prior to the hearing. The affected parties may appear at the hearing in person or by an attorney. The Board of Adjustment shall hear the matter and render a decision within 36 days after the filing of the appeal. If the Board of Adjustment fails to act within such time, the application is deemed denied.
2. Appeals from the Board of Adjustment

   a. Any person or entity claiming to be injured or aggrieved by any final action of the Board of Adjustment shall appeal from the action to the circuit court of the county in which the property which is the subject of the action of the Board of Adjustment lies. Such appeal shall be taken within 30 calendar days after the final action of the Board of Adjustment. The Board of Adjustment shall be a party in any such appeal filed in the circuit court. All final actions which have not been appealed within 30 days shall not be subject to judicial review and shall become final.

   b. After the appeal is taken, the procedure shall be governed by the Rules of Civil Procedure. When an appeal has been filed, the Clerk of the Circuit Court shall issue a summons to all parties, including the Board of Adjustment in all cases, and shall cause it to be delivered for service as in any other law action.

AH. SEVERABILITY: It is hereby declared to be the intention of the city of Erlanger 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 Erlanger without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.
ARTICLE X

ZONES

SECTION 10.1 CO (CONSERVATION) ZONE

A. PERMITTED USES

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

D. AREA AND HEIGHT REGULATIONS

1. Minimum lot area - Three (3) acres
2. Minimum lot width - Three hundred (300) 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 9.24.
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 10.2  R-1B (RESIDENTIAL ONE-B) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.34 of this ordinance

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 of this ordinance
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 street, or abut a street which intersects an arterial street and is within one (1) block of the intersecting arterial street
3. Fire and police stations
4. Governmental offices
5. Institutions for higher education, providing they are located adjacent to an arterial street
6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
7. Nursery schools, adjacent to an arterial or collector street
8. Public and parochial schools
9. Parks, playgrounds, golf courses, community recreation centers, swimming pools, and libraries, which are operated publicly or by a non-profit organization
10. Recreational uses, other than those publicly owned and/or operated as follows:
   a. Golf courses
   b. Country clubs
   c. Swimming pools

11. Child-care center, adjacent to an arterial or collector street
12. Family child-care home
13. Fences in front yards on corner lots, per the conditions in Section 13.4.A.5

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 - Total: Twenty-five (25) feet; One Side: Ten (10) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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.
5. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling unit.
6. All utilities must be underground in a new subdivision when transmission lines have to be extended.
SECTION 10.3 R-1C (RESIDENTIAL ONE-C) ZONE

This zone is intended to provide the option of developing subdivisions that preserve open space through the reduction of lot size requirements when certain development standards are met. The intent of this regulation is to preserve open space by allowing flexibility in design that will allow no more than a twenty-five (25) percent increase in density.

A. PERMITTED USES

1. Single-family residential dwellings (detached) with open space
2. Single-family residential dwellings (detached)
3. Qualified manufactured homes, subject to the compatibility standards established in Section 9.34 of this ordinance

B. ACCESSORY USES

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

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 street
3. Fire and police stations
4. Governmental offices
5. Institutions for higher education, providing they are located adjacent to an arterial street
6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
7. Nursery schools, providing they are located adjacent to an arterial or collector street
8. Public and parochial schools;
9. Parks, playgrounds, golf courses, community recreation centers, swimming pools, and libraries, which are operated publicly or by a non-profit organization
10. Recreational uses other than those publicly owned and/or operated, as follows:
a. Golf courses  
b. Country clubs  
c. Swimming pools  

c  
11. Child-care center, adjacent to an arterial or collector street  
12. Family child-care home  
13. Fences in front yards on corner lots, per the conditions in Section 13.4.A.5  

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES WITH OPEN SPACE CONSIDERATIONS  

1. Minimum lot area – Eight thousand five hundred (8,500) 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 – Five (5) feet  
5. Minimum rear yard depth - Twenty-five (25) feet  
6. Maximum building height - Thirty-five (35) feet  

E. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES WITHOUT OPEN SPACE CONSIDERATIONS  

1. Minimum lot area - Twelve thousand five hundred (12,500) square feet  
2. Minimum lot width at building setback line - Eighty (80) feet  
3. Minimum front yard depth - Thirty-five (35) feet  
4. Minimum side yard width - Total: Twenty (20) feet; One Side: Seven (7) feet  
5. Minimum rear yard depth - Twenty-five (25) feet  
6. Maximum building height - Thirty-five (35) feet  

F. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:  

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet  
2. Minimum lot width at building setback line - One hundred fifty (150) feet  
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet  
4. Maximum building height - Thirty-five (35) feet  

G. OTHER DEVELOPMENT CONTROLS  

1. Off-street parking and loading and/or unloading 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.

5. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling unit.

6. All utilities must be underground in a new subdivision when transmission lines have to be extended.

7. To utilize single-family residential dwellings (detached) with open space, the following criteria shall be met:

   a. Priorities for open space shall include evaluation of wetlands, floodplains, slopes, significant wildlife habitats, woodlands, farmlands, and historical features on the land.
   b. At least twenty (20) percent of the total acreage of the proposed development shall be retained as common open space/recreation area.
   c. The city of Erlanger shall approve the areas identified by the developer to be conserved as open space.
   d. Open space shall be controlled, through ownership or easement, by a governmental entity to be approved by the city of Erlanger.
   e. The density of the development shall not be increased by more than twenty-five (25) percent of the density permitted under the typical residential single-family development under this zone without open space.
   f. Each residential dwelling unit should have a view of functional open space from the front, rear, or side of the unit.
   g. The open space character shall be maintained from the existing main roadway, via the preservation or introduction of landscaping.
   h. All residential dwellings within the development shall have adequate access to open space areas. This will be accomplished, to the extent possible, by providing pedestrian walkways within each block or cul-de-sac.
   i. Wet stormwater retention areas may qualify for open space for the purposes of density calculation if properly designed to accommodate public recreation.
SECTION 10.4  R-1D (RESIDENTIAL ONE-D) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.34 of this ordinance

B. ACCESSORY USES

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

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 street
3. Fire and police stations
4. Governmental offices
5. Institutions for higher education, providing they are located adjacent to an arterial street
6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
7. Nursery schools, providing they are located adjacent to an arterial or collector street
8. Public and parochial schools
9. Parks, playgrounds, golf courses, community recreational centers, swimming pools, and libraries, which are operated publicly or by a non-profit organization
10. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Golf courses
   b. Country clubs
   c. Swimming pools
11. Child-care center, adjacent to an arterial or collector street
12. Family child-care home
Article X  Zones

13. Fences in front yards on corner lots, per the conditions in Section 13.4.A.5

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: Eighteen (18) feet; One Side: Six (6) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

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.
5. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling unit.
6. All utilities must be underground in a new subdivision when transmission lines have to be extended.
SECTION 10.5 R-1E (RESIDENTIAL ONE-E) ZONE

A. PERMITTED USES
   1. Single-family residential dwellings (detached)
   2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.34 of this ordinance

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

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 street
   3. Fire and police stations
   4. Governmental offices
   5. Institutions for higher education, providing they are located adjacent to an arterial street
   6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
   7. Nursery schools, providing they are located adjacent to an arterial or collector street
   8. Public and parochial schools
   9. Parks, playgrounds, golf courses, community recreational centers, swimming pools, and libraries, which are operated publicly or by a non-profit organization
   10. Recreational uses other than those publicly owned and/or operated, as follows:
       a. Golf courses
       b. Country clubs
       c. Swimming pools
   11. Child-care center, adjacent to an arterial or collector street
   12. Family child-care home
13. Fences in front yards on corner lots, per the conditions in Section 13.4.A.5

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: Fifteen (15) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

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.
5. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling unit.
6. All utilities must be underground in a new subdivision when transmission lines have to be extended.
SECTION 10.6 R-1F (RESIDENTIAL ONE-F) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.34 of this ordinance

B. ACCESSORY USES

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

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 street
3. Fire and police stations
4. Governmental offices
5. Institutions for higher education, providing they are located adjacent to an arterial street
6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
7. Nursery schools, providing they are located adjacent to an arterial or collector street
8. Public and parochial schools
9. Parks, playgrounds, golf courses, community recreational centers, swimming pools, and libraries, which are operated publicly or by a non-profit organization
10. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Golf courses
   b. Country clubs
   c. Swimming pools

11. Child-care center, adjacent to an arterial or collector street
12. Family child-care home
13. Fences in front yards on corner lots, per the conditions in Section 13.4.A.5

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 - Sixty (60) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total: Fifteen (15) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

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.
5. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling unit.
6. All utilities must be underground in a new subdivision when transmission lines have to be extended.
SECTION 10.7 R-1G (RESIDENTIAL ONE-G) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Housing for the elderly, provided they are served by more than one street. The maximum site for development shall be one acre; the maximum density shall not exceed 55 dwelling units per net acre; the building height should not exceed three stories
3. Qualified manufactured homes, subject to the compatibility standards established in Section 9.34 of this ordinance

B. ACCESSORY USES

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

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 street
3. Fire and police stations
4. Governmental services
5. Institutions for higher education, providing they are located adjacent to an arterial street
6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
7. Nursery schools, providing they are located adjacent to an arterial or collector street
8. Public and parochial schools
9. Parks, playgrounds, golf courses, community recreational centers, swimming pools, and libraries, which are operated publicly or by a non-profit organization
10. Recreational uses other than those publicly owned and/or operated, as follows:
    a. Golf courses
    b. Country clubs
c. Swimming pools  
d. Campground

11. Child-care center, adjacent to an arterial or collector street  
12. Family child-care home  
13. Fences in front yards on corner lots, per the conditions in Section 13.4.A.5

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 - Thirty (30) 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 or two and one-half (2-1/2) stories

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.  
5. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling unit.  
6. All utilities must be underground in a new subdivision when transmission lines have to be extended.
SECTION 10.8 R-1M (P) (RESIDENTIAL - MOBILE HOME PARK (PHASED) ZONE)

A. PURPOSE: To accommodate mobile homes and provide such an area that will be so designated and constructed that it will be for the health, safety, and welfare of the people.

B. PERMITTED USES

1. Mobile homes

C. PERMITTED ACCESSORY USES AND STRUCTURES

1. Customary accessory uses and structures as related to mobile home parks including recreational and washing facilities, but shall not include any commercial operations.

D. SPACE, HEIGHT, AND OTHER STANDARDS

1. Required area and minimum width of mobile home park - There shall be required a minimum of ten (10) acres for each mobile home park and the width of said park shall have a minimum of two hundred fifty (250) feet as measured along a dedicated and accepted right-of-way.

2. Required lot area and lot widths - There shall be required a minimum lot area of six thousand (6,000) square feet for each mobile home lot widths at the building lot line, as set forth as the minimum of fifty (50) feet and shall abut an accepted and dedicated right-of-way.

3. Required access to lots - Ingress and egress to the individual lots shall be only over an interior road developed as part of the mobile home park.

4. Building height - No building or structure shall exceed twenty-five (25) feet in height.

5. Required setback of all buildings at the exterior boundary lines of all mobile home parks - All buildings within the mobile home park shall be set back a minimum of fifty (50) feet from any street, lot, highway, dedicated right-of-way, or property line which is the exterior boundary line of said mobile home park.

6. Front yard - For every mobile home lot there shall be a minimum front yard of twenty (20) feet from its respective lot line.

7. Side yard
a. For each mobile home lot there shall be a minimum side yard on the non-entrance side of fifteen (15) feet and on the entrance side of twenty (20) feet. This shall provide at least thirty-five (35) feet between all mobile homes.

b. Any side yard abutting any street, lot, highway, or dedicated right-of-way, shall have a minimum requirement of twenty (20) feet.

8. Rear yard - For each mobile home lot there shall be a minimum rear yard of twenty (20) feet.

9. Patio required - A patio slab of at least one hundred eighty (180) square feet shall be provided on each mobile home lot and conveniently located at the entrance of the mobile home. The patio slab shall be constructed of an all-weather type material and said patio slab shall meet the approval of the building inspector.

10. Sidewalks - Sidewalks shall be provided in the street right-of-way as set forth in the Kenton County Subdivision Regulations.

11. Each mobile home park and each mobile home shall be served with water, sewer facilities, and electric service in conformity with the regulations of the City of Erlanger.

12. Streets - All streets shall be dedicated public right-of-way and constructed to the required Kenton County specifications for subdivisions.

13. Recreation area - There shall be required that not less than five (5) percent of the gross area of the mobile home park to be set aside, appropriately designed, constructed, and equipped as a playground area. A minimum of one-half (1/2) acre per recreation site shall be provided.
SECTION 10.9 R-2 (RESIDENTIAL TWO) ZONE

A. PERMITTED USES

1. Two-family residential dwellings
2. Attached single-family residential dwellings
3. Housing for the elderly (not limited to attached single-family)

B. ACCESSORY USES

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

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. Fire and police stations
4. Governmental offices
5. Institutions for higher education, providing they are located adjacent to an arterial street
6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
7. Nursery schools, providing they are located adjacent to an arterial or collector street
8. Public and parochial schools
9. Parks, playgrounds, golf courses, community recreational centers, swimming pools, and libraries, which are operated publicly or by a non-profit organization
10. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Golf courses
   b. Country clubs
   c. Swimming pools
11. Child-care center, adjacent to an arterial or collector street
12. Family child-care home
D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES: No buildings shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum site for development - Five (5) acres, except that development of a smaller area is permitted if the proposed development conforms to and extends an existing five (5) acre (or greater) development.

2. Maximum density -
   a. Two-family and attached single-family - Ten (10) dwelling units per acre
   b. Housing for the elderly - Fifty-five (55) dwelling units per acre

3. Per individual building (e.g., one attached group of townhouses)
   a. Maximum number of dwelling units - Attached single-family building - Eight (8) units
   b. Minimum setback from boundaries of R-2 Zone under one ownership - Thirty (30) feet; which shall remain an open area not including swimming pools, playground equipment, or parking facilities, but a street may be located within this area if approved by the legislative body in the conceptual plan
   c. Maximum building height - Five (5) stories - housing for the elderly; three (3) stories - attached single-family and two-family

4. More than one principal building, as defined herein, may be permitted on the minimum site for development

5. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling, attached or detached garage parking shall be required, except for housing for the elderly

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 - Forty (40) 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 private lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

4. No construction or development shall occur in the R-2 Zone until a conceptual plan has been approved by the zoning administrator pursuant to Section 9.32.

5. A site plan, in accordance with the requirements of Section 9.19, shall be approved by the zoning administrator, prior to the construction of any public improvements or the issuance of any zoning or building permits. The site plan may be approved for individual sections within the minimum site for development, or plan may be submitted for the entire minimum site for development.

6. Where any yard of any 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.

7. All utilities must be underground in a new subdivision when transmission lines have to be extended.
SECTION 10.10  R-3 (RESIDENTIAL THREE) ZONE

A.  PERMITTED USES

1. Multi-family residential dwellings

B.  ACCESSORY USES

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

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 street
3. Fire and police stations
4. Governmental offices
5. Institutions for higher education, providing they are located adjacent to an arterial street
6. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
7. Nursery schools, providing they are located adjacent to an arterial or collector street
8. Public and parochial schools;
9. Parks, playgrounds, golf courses, community recreational centers, swimming pools, and libraries, which are operated publicly or by a non-profit organization
10. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Golf courses
   b. Country clubs
   c. Swimming pools
11. Social service centers, provided they are located adjacent to an arterial street
12. Child-care center, adjacent to an arterial or collector street
13. Family child-care home
D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES: No buildings shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - Twelve thousand five hundred (12,500) square feet for the first four (4) dwelling units or less; two thousand (2,000) square feet shall be provided for every dwelling unit thereafter. In the case of this zone, more than one (1) principal building, as defined herein, may be permitted on one (1) lot.

2. Minimum lot width at building setback line - One hundred (100) feet

3. Minimum front yard depth - Fifty (50) feet, except housing for the elderly which shall be forty (40) feet.

4. Minimum side yard width on each side of lot - Fifteen (15) feet. Multi-family dwellings in addition to the above requirement, no off-street parking or access drive may be located closer than twenty-five (25) feet to a single-family residential zone or properties of separate ownership within the same zone. Off-street parking and access drive may extend to the property line when the adjoining property is in the same ownership. Common parking areas and access drives may be permitted when adjoining property is not in the same ownership provided agreements relative to use are provided.

5. Minimum rear yard depth - Fifty (50) feet

6. Maximum building height - Forty-five (45) feet

7. Maximum density - Conventional multi-family -- Twenty (20) dwelling units per net acre; Housing for the elderly -- Sixty (60) dwelling units per net acre

8. Off-street parking shall be prohibited within the required minimum front yard and the required minimum rear yards for multi-family dwellings

9. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling unit, except housing for the elderly.

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 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.
5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.
6. All utilities must be underground in a new subdivision when transmission lines have to be extended.
SECTION 10.11 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 an 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 (R) Zones and the Business Park – One (BP-1) Zone, 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, or its duly authorized representative, prior to approval or disapproval by the city 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. 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 Plan with regard to its compliance with the required elements of this ordinance and other applicable regulations, and its conformity with the Stage I approved plan. The city zoning administrator, in approving the Stage II Plan, may authorize minor adjustments from the Stage I approved plan, provided that the adjustments do not: affect the spatial relationship of structures; change land uses; increase overall density; alter circulation patterns (vehicular and pedestrian); or decrease the amount and/or usability of open space or recreation areas; or affect other applicable requirements of this ordinance.
Upon completion of the review by the planning commission, or its duly authorized representative, of the Stage II Plan, a copy of said plan shall be forwarded to the zoning administrator, permits shall be issued 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. Bakery shop
2. Banks
3. Beauty or barber shops
4. Business or professional office
5. Clothing store
6. Delicatessen, grocery, meat, fruit, or vegetable market - carry-out
7. Drug store
8. Eating and drinking establishments - carry-out
9. Hardware stores
10. Laundry/dry cleaning pick-up stations, or self-service facilities
11. Shoe repair shops
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. Churches
2. Community centers, including day care facilities
3. Country clubs
4. Fire or police stations
5. Libraries
6. Open space/recreation areas
7. Schools (nursery, elementary, and secondary);

G. AREA REQUIREMENTS No PUD Overlay Zone shall be permitted on less than twenty-five (25) 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 Stage I 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 permitted by the zoning administrator, 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 approval of the Stage I approved plan and overlay zone amendment by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the 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 legislative body of a particular section; 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.

O. UTILITIES: All utilities in a PUD Overlay Zone shall be underground.
SECTION 10.12  RCD (RESIDENTIAL CLUSTER DEVELOPMENT) OVERLAY ZONE

A. PURPOSE: The purposes of the Residential Cluster Development (RCD) Overlay Zone are to: provide a means whereby clusters of attached and detached single-family residential units may be constructed in any Residential Zones, and therein, through a development plan, permit a wide flexibility in the design, location, siting of the building, and yard and setback requirements in order to provide for, to the greatest extent possible, the preservation of hillside areas and other natural geographic and topographic features, and to provide for more usable and suitably located recreation facilities and open space than would otherwise be provided under conventional residential land development procedures.

B. GENERAL: A Residential Cluster Development (RCD) Overlay Zone may only be permitted to be superimposed over any of the Residential (R) Zones, provided that all conditions or provisions of this section of the ordinance, the applicable requirements of the subdivision regulations, and any additional requirements, as may be determined necessary to provide for the most efficient layout of the RCD Overlay Zone and its proper integration with the surrounding development, are met; and a public hearing is held on the RCD application.

C. APPLICATION AND PROCESSING: Applications for Residential Cluster Development Overlay Zone shall be submitted to the planning commission with a copy to the city engineer. The application shall be processed as follows in two stages:

1. Stage I -- Development Plan and Zoning Map Amendment - Application for amendment to RCD 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 RCD Overlay Zone, the required elements of the Stage I Development Plan, and other applicable requirements of this section. Upon holding such hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Stage I Development Plan and the bases for their recommendation.

   b. The legislative body shall, within forty-five (45) days after receiving the recommendations of the planning commission, review said
recommendations and take action to approve or disapprove said RCD application. Such action may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection C., 1., a., above. Approval of the RCD Overlay Zone shall require that development be in conformance with the 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 requirements for Stage II Plan and record plat.

Zoning Map Amendment - Upon approval of the RCD Overlay Zone, the official zoning map shall be amended by adding the prefix "RCD" to the existing residential zone (e.g., RCD-R-1B, RCD-R-1C, RCD-R-2, 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, or its duly authorized representative, prior to approval or disapproval by the city 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. 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 Plan with regard to its compliance with the required elements of this ordinance and other applicable regulations, and its conformity with the Stage I approved plan. The city zoning administrator, in approving the Stage II Plan, may authorize minor adjustments from the Stage I approved plan, provided that the adjustments do not: affect the spatial relationship of structures; change land uses; increase overall density; alter circulation patterns (vehicular and pedestrian); or decrease the amount and/or usability of open space or recreation areas; or affect other applicable requirements of this ordinance.

Upon completion of the review by the planning commission, or its duly authorized representative, of the Stage II Plan, a copy of said plan shall be
forwarded to the zoning administrator, permits shall be issued 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: Attached and detached single-family dwellings may be permitted within a RCD Overlay Zone. The density of dwelling units in a RCD shall be determined by the density (dwelling units per net acre) as calculated from the existing residential (R) zone superimposed by the RCD Overlay Zone. This density shall be applied to the total project area, excluding that land devoted to streets (public and private).

E. PUBLIC AND SEMI-PUBLIC USES: Public and semi-public structures and uses may be permitted in the RCD. These uses shall be delineated on the plan and shall be limited to one or more of the following uses:

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

F. AREA REQUIREMENTS: No RCD Overlay Zone shall be permitted on less than three (3) acres of land. However, development of a smaller tract adjacent to an existing RCD 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.

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

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

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

K. COMMON OPEN SPACE/RECREATION AREA: At least twenty percent (20%) of the total acreage of the proposed RCD shall be retained as common open space/recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the RCD. 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.

L. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the zoning administrator, 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.

M. EXPIRATION: Any amendment to the RCD Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said 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 approval of the Stage I approved plan and overlay zone amendment by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the 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 legislative body of a particular section; 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.

N. UTILITIES: All utilities in a RCD Overlay Zone shall be underground.
SECTION 10.13 PO (PROFESSIONAL OFFICE BUILDING) ZONE

A. PERMITTED USES

1. Banks and other financial institutions, including loan, savings and finance companies with drive - in windows
2. Bed and breakfast establishments
3. Clinics - medical or dental
4. Coffeehouse, which may include a drive-thru window, and abuts an arterial street
5. Off - street parking lots and/or garages
6. Offices
7. Police and fire stations
8. Post offices

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 providing that the accessory uses shall not exceed ten (10) percent of the gross floor area of the permitted uses in the building and no exterior advertising displays for any of the accessory uses shall be visible from outside the building

   a. Prescription pharmacies
   b. Barber shops
   c. Beauty shops
   d. Medical and dental laboratories
   e. News and confectionery stands
   f. Eating establishments and taverns, excluding drive - ins

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

   1. Minimum Lot Area - Twenty two thousand five hundred (22,500) square feet, except for Bed and Breakfast Establishments which shall have a minimum lot area of ten thousand (10,000) square feet.
   2. Minimum Lot Width at Building Setback Line - One hundred (100) feet, except for Bed and Breakfast Establishments which shall have a minimum lot width at building setback line of ninety (90) feet.
   3. Minimum Front Yard Depth - Forty (40) feet.
4. Minimum Side Yard Width - Fifteen (15) feet.
5. Minimum Rear Yard Depth - Forty-five (45) feet.
6. Maximum Building Height - Fifty (50) feet.

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any dedicated street, or into any adjacent property.
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.
5. A site plan, as regulated by Section 9.19 of this ordinance shall be required for any use in this zone.
6. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
7. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas.
8. All utilities must be underground when new development occurs.
SECTION 10.13 A PO-1 (PROFESSIONAL OFFICE - ONE) ZONE

A. PURPOSE: To allow appropriate non-residential uses to integrate with single-family dwellings, while preserving the residential character of the buildings in the zone, and not interfering with existing dwellings in adjacent zones.

B. PERMITTED USES

1. Bed and breakfast establishments
2. Police and fire stations
3. Professional offices
4. Single-family dwellings

C. 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

D. AREA AND HEIGHT REGULATIONS: No buildings shall be structurally altered or demolished hereafter, in such way that as observed by a reasonable person, it would contrast or conflict with the residential architectural style and accessory uses that now exist in this zone, however, all approved alterations shall be in accord with the following requirements:

1. Minimum Lot Area - Six thousand five hundred (6,500) square feet, except for bed and breakfast establishments which shall have a minimum lot area of ten thousand (10,000) square feet.
2. Minimum Lot Width At Building Setback Line - Fifty (50) feet, except for bed and breakfast establishments which shall have a minimum lot width at building setback line of ninety (90) feet.
3. Minimum Front Yard Depth - Thirty (30) feet.
4. Minimum Side Yard Width - Total: Fifteen (15) feet; One Side: Five (5) feet.
5. Minimum Rear Yard Depth - Fifty (50) 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. Parking may be permitted on street, provided a study is prepared by the owner or operator
in compliance with Section 11.2, H., and it is determined that the on street parking will not over burden the area.

2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

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

4. Screening and landscaping shall be in compliance with Section 9.17 of this ordinance.

5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.

6. No use producing objectionable odors, noise, or dust shall be permitted within this zone.

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

8. All utilities shall be underground when new development occurs.
SECTION 10.14 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 shops
6. Beauty shops
7. Billiard or pool hall, bowling lanes
8. Book, stationery, or gift shop
9. Camera and photographic supplies
10. Candy store, soda fountain, ice cream store, excluding drive-ins
11. Child-care center
12. Delicatessen
13. Drug store
14. Dry cleaning and laundry pick-up station
15. Eating places - carry-out
16. Florist shop
17. Food store and supermarkets - no consumption of food or beverages on premises
18. Furniture store
19. Garden supplies
20. Glass, china, or pottery store
21. Haberdashery
22. Hardware store
23. Health spas
24. Hobby shop
25. Household and electrical appliance store, including incidental repair
26. Interior decorating studio
27. Jewelry store, including repair
28. Laundromats and self-service washing and drying
29. Leather goods and luggage store
30. Library
31. Locksmith shop
32. Music, musical instruments, and records, including incidental repair
33. Off-street parking lots and/or garages
34. Offices
35. Opticians and optical goods
36. Package liquor and wine store
37. Paint and wallpaper store
38. Pet shop, excluding boarding and outside runs
39. Police and fire stations
40. Pools
41. Post office
42. Radio and television store, including repair
43. Shoe store and shoe repair
44. Skating rinks
45. Small printing establishments
46. Sporting goods
47. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
48. Tailor shop
49. Tennis courts
50. Theater, indoor
51. Toy store
52. 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 by the board of adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance:

1. Taverns, provided the conditional use is not within one thousand (1,000) feet of another tavern, a structure used for a public or parochial school, or a church; and complies with all other federal, state, and local laws. Distances indicated are as measured in a straight line between those portions of the structure closest to each other.

2. Outdoor Dining, provided that such area meets the following requirements:
   a. Such area shall be designed to clearly identify the limits of the outdoor seating area, which shall not include any drive-thru facility.
   b. Such area shall not exceed twenty-five (25) percent of the maximum seating capacity of the indoor seating area.
   c. Entertainment, music, and sound amplifying systems shall not be permitted within the outdoor seating areas.
   d. Such areas shall not be permitted to locate within any minimum required front, side, or rear yard except where a variance has been approved by the Board of Adjustments. If the outdoor seating areas are to be located within 340 feet of any residence, then the seating areas shall be operated no later than ten (10) o’clock p.m. on Sunday through Thursday inclusive, and no later than eleven (11) o’clock p.m. on Friday and Saturday.
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 - Four (4) 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 site), and rear yards, except where the lot abuts an arterial street, as identified in the adopted comprehensive plan, then there shall be a minimum yard requirement of one hundred (100) feet.

3. Maximum building height - Fifty (50) 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. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance, shall be provided.

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, loading and/or unloading areas, and outdoor play areas associated with a child-care center.

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.

8. All utilities must be underground when a new development occurs.
SECTION 10.15  SC (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 shops
6. Beauty shops
7. Billiard or pool hall, bowling lanes
8. Book, stationery, or gift shop
9. Camera and photographic supplies
10. Candy store, soda fountain, ice cream store, excluding drive-ins
11. Child-care center
12. Delicatessen
13. Drug store
14. Dry cleaning and laundry pick-up station
15. Eating places, excluding drive-ins
16. Florist shop
17. Food store and supermarkets - no consumption of food or beverages
18. Furniture store
19. Garden supplies
20. Glass, china, or pottery store
21. Haberdashery
22. Hardware store
23. Health spas
24. Hobby shop
25. Household and electrical appliance store, including incidental repair
26. Interior decorating studio
27. Jewelry store, including repair
28. Laundromats and self-service washing and drying
29. Leather goods and luggage store
30. Library
31. Locksmith shop
32. Music, musical instruments, and records, including incidental repair
33. Off-street parking lots and/or garages
34. Offices
35. Opticians and optical goods
36. Package liquor and wine store
37. Paint and wallpaper store
38. Pet shop, excluding boarding and outside runs
39. Police and fire stations
40. Pools
41. Post office
42. Radio and television store, including repair
43. Shoe store and shoe repair
44. Skating rinks
45. Small printing establishments
46. Sporting goods
47. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
48. Tailor shop
49. Tennis courts
50. Theater, indoor
51. Toy store
52. 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 by the board of adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance:

1. Taverns, provided the conditional use is not within one thousand (1,000) feet of another tavern, a structure used for a public or parochial school, or a church; and complies with all other federal, state, and local laws. Distances indicated are as measured in a straight line between those portions of the structure closest to each other.
2. Outdoor Dining, provided that such area meets the following requirements:
   a. Such area shall be designed to clearly identify the limits of the outdoor seating area, which shall not include any drive-thru facility.
   b. Such area shall not exceed twenty-five (25) percent of the maximum seating capacity of the indoor seating area.
   c. Entertainment, music, and sound amplifying systems shall not be permitted within the outdoor seating areas.
   d. Such areas shall not be permitted to locate within any minimum required front, side, or rear yard except where a variance has been approved by the Board of Adjustments. If the outdoor seating areas are to be located within 340 feet of any residence, then the seating areas shall be operated no later than ten (10) o’clock p.m. on Sunday through Thursday inclusive, and no later than eleven (11) o’clock p.m. on Friday and Saturday.
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 - Four (4) 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 site), and rear yards, except where the lot abuts an arterial street, as identified in the adopted comprehensive plan, then there shall be a minimum yard requirement of one hundred (100) feet.

3. Maximum building height - Fifty (50) 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. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance, shall be provided.

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 child day care centers.

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.

8. All utilities must be underground when a new development occurs.
SECTION 10.16 NC (NEIGHBORHOOD COMMERCIAL) ZONE

A. PERMITTED USES

1. Apparel shop
2. Art supplies
3. Automobile laundry, provided it has a minimum of 150 feet of lot frontage on each of two (2) public streets
4. Automotive parts and accessories store
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. Batting cages, provided they are in a completely enclosed building
9. Book, stationery, or gift shop
10. Camera and photographic supplies
11. Candy store, soda fountain, ice cream store, excluding drive-ins
12. Child-care center
13. Convenient store, provided it is located on a lot with at least 200 feet of lot frontage and the primary building is set back a minimum of 100 feet from the front property line
14. Delicatessen
15. Drug store
16. Eating places, excluding drive-ins
17. Florist shop
18. Food store and supermarkets
19. Fuel dispensing facilities when incidental to and operated as a part of and located within 1,000 feet of a grocery store containing at least 60,000 gross square feet
20. Funeral parlors
21. Furniture store
22. Glass, china, or pottery store
23. Haberdashery
24. Hardware store
25. Health spas
26. Hobby shop
27. Household and electrical appliance store, including incidental repair
28. Interior decorating studio
29. Jewelry store, including repair
30. Laundromats and self-service washing and drying
31. Leather goods and luggage store
32. Library
33. Locksmith shop
34. Music, musical instruments, and records, including incidental repair
35. Nursery school
36. Off-street parking lots and/or garages
37. Offices
38. Opticians and optical goods
39. Paint and wallpaper store
40. Pet shop, excluding boarding and outside runs
41. Police and fire stations
42. Post office
43. Radio and television store, including repair
44. Retail laundry and dry cleaning
45. Shoe store and shoe repair
46. Small printing establishments
47. Sporting goods
48. Sports facilities
49. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
50. Tailor shop
51. Toy store
52. Variety 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 accessory buildings or uses, subject to the approval of the board of adjustments, as set forth in Sections 9.14 and 18.0 of this ordinance:

1. Auto repair shops, provided that:
   a. All repair, except that of a minor nature – e.g., change of fan belt, minor carburetor adjustment, tire removal, etc. – is conducted wholly within a completely enclosed building.
   b. It is located adjacent to an arterial street, as identified in the adopted Comprehensive Plan.
   c. It has a minimum of 125 feet of lot frontage on each of two (2) public streets.

2. Outdoor Dining provided that such area meets the following requirements:
   a. Such area shall be designed to clearly identify the limits of the outdoor seating area, which shall not include any drive-thru facility.
b. Such area shall not exceed twenty-five (25) percent of the maximum seating capacity of the indoor seating area.

c. Entertainment, music, and sound amplifying systems shall not be permitted within the outdoor seating areas.

d. Such areas shall not be permitted to locate within any minimum required front, side, or rear yard except where a variance has been approved by the Board of Adjustments. If the outdoor seating areas are to be located within 340 feet of any residence, then the seating areas shall be operated no later than ten (10) o’clock p.m. on Sunday through Thursday inclusive, and no later than eleven (11) o’clock p.m. on Friday and Saturday.

3. Pet Hotel
4. Tattoo Parlor

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; except when rail spur forms rear property line, no rear yard setback is required
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 residential zone.
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall
be maintained by a screening area, as regulated by Section 9.17 of this ordinance.

5. 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.

7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.

8. All utilities must be underground when any new development occurs.

9. Retail laundry and dry cleaning establishments shall comply with the following requirements: (1) the dry cleaning shall be performed using a single machine process; (2) machines used for dry cleaning shall not have direct ventilation of outside air; and (3) waste material generated by dry cleaning machines shall not be discharged into the public sanitary sewer system.
SECTION 10.17  NC-2 (NEIGHBORHOOD COMMERCIAL-TWO) ZONE

A. PERMITTED USES

1. Apparel shop
2. Art supplies
3. Auto laundry
4. Automotive parts and accessories store
5. Automotive service and repairs, provided that all repair shall be conducted wholly within a completely enclosed building, and providing further that all vehicles, awaiting repair, be screened from view from adjacent property, and be located adjacent to an arterial or collector street, as identified in the Adopted Comprehensive Plan.
6. Bakery and bakery goods store, provided the products are sold exclusively on the premises
7. Banks and other financial institutions, including savings, loan, and finance companies with drive-in windows
8. Barber and beauty shops
9. Book, stationery, or gift shop
10. Camera and photographic supplies
11. Candy store, soda fountain, ice cream store, excluding drive-ins
12. Convenient store, provided it is located on a lot with at least 200 feet of lot frontage and the primary building is set back a minimum of 100 feet from the front property line
13. Delicatessen
14. Drug store
15. Eating places, excluding drive-ins
16. Florist shop
17. Food store and supermarkets, with no gas pumps
18. Funeral Parlors
19. Furniture store
20. Glass, china, or pottery store
21. Haberdashery
22. Hardware store
23. Health spas
24. Hobby shop
25. Household and electrical appliance store, including incidental repair
26. Interior decorating studio
27. Jewelry store, including repair
28. Laundromats and self-service washing and drying
29. Leather goods and luggage store
30. Library
31. Locksmith shop
32. Music, musical instruments and records, including incidental repair
33. Off-street parking lots and/or garages
34. Offices
35. Opticians and optical goods
36. Package liquor and wine store
37. Paint and wallpaper store
38. Pet shop, excluding boarding and outside runs
39. Police and fire stations
40. Post office
41. Radio and television store (including repair)
42. Retail laundry and dry cleaning
43. Service Stations, including auto repairing, provided all repair, except that of a minor nature -- e.g., change of fan belt, minor carburetor adjustment, tire removal, etc. -- is conducted wholly within a completely enclosed building and provided further that such service is located adjacent to an arterial street, as identified in the Adopted Comprehensive Plan.
44. Shoe store and shoe repair
45. Small printing establishments
46. Sporting goods store
47. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
48. Tailor shop
49. Tool rental, provided all rental equipment is stored inside
50. Toy shop

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 by the Board of Adjustment, as set forth in Sections 9.14 and 18.0 of this ordinance:

1. Outdoor Dining, provided that such area meets the following requirements:
   a. Such area shall be designed to clearly identify the limits of the outdoor seating area, which shall not include any drive-thru facility.
   b. Such area shall not exceed twenty-five (25) percent of the maximum seating capacity of the indoor seating area.
   c. Entertainment, music, and sound amplifying systems shall not be permitted within the outdoor seating areas.
   d. Such areas shall not be permitted to locate within any minimum required front, side, or rear yard except where a variance has been approved by the Board of Adjustments. If the outdoor seating areas are to be located within 340 feet of any residence, then the
seating areas shall be operated no later than ten (10) o’clock p.m. on Sunday through Thursday inclusive, and no later than eleven (11) o’clock p.m. on Friday and Saturday.

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

1. Minimum lot area - Ten thousand (10,000) square feet
2. Minimum lot width at building setback line - Seventy (70) feet
3. Minimum front yard depth - Fifty (50) feet
4. Minimum side yard width - No restrictions, except when adjacent to a street, road, highway, or other right-of-way, when the required width shall be the same as required for a minimum front yard depth in this zone. When buildings abut each other, firewall construction, as required by the building code, shall be required. In the event a side yard is provided, it shall never be less than fifteen (15) feet
5. Minimum rear yard depth - Fifteen (15) feet
6. Maximum building height - Forty (40) feet
7. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot

E. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with 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. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.
5. 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.
8. New construction or renovation shall be compatible with the architectural style (i.e., building materials, design elements) of other commercial structures recently developed in the area.
SECTION 10.18  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 alley
6. Convenient stores
7. Eating establishments, including drive-ins
8. Hotels and motels
9. Off-street parking lots and garages
10. Offices
11. Package liquor and wine store
12. Police and fire stations
13. 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 on a major arterial road)
14. Theaters
15. Hospitals (Human Care)

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

1. Taverns, provided the conditional use is not within one thousand (1,000) feet of another tavern, a structure used for a public or parochial school, or a church; and complies with all other federal, state, and local laws. Distances indicated are as measured in a straight line between those portions of the structure closest to each other.

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

1. Minimum site for a highway commercial zone - Twenty-two thousand five hundred (22,500) square feet
2. Minimum front yard depth - Fifty (50) feet
3. Minimum side yard width on each side of lot - Fifteen (15) feet
4. Minimum rear yard depth - Fifteen (15) feet
5. Maximum building height - Fifty (50) feet
6. 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. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.
5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
6. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
7. All utilities must be underground when new development occurs.
SECTION 10.19  HC-2 (HIGHWAY COMMERCIAL TWO) ZONE

A. PURPOSE: The purpose of the HC-2 Zone is to provide locally oriented services, either retail, recreational or office uses, in areas located near or adjacent to interstate highways and arterial roads. Such uses would serve to accommodate the service demands of an expanding local population. These types of uses are intended to serve the local population and the region. Such districts shall be located near or adjacent to interstate highways and/or along arterial roads whereby access and visibility are required to serve local and regional residents.

B. PERMITTED USES

1. Apparel shop
2. Art supplies
3. Automobile, motorcycle and truck sales, new
4. Automobile used car sales, provided the automobiles for sale are:
   (a) predominantly not older than six (6) years with an unaltered odometer indication of no more than 60,000 miles
   (b) without flood or frame damage, but this use shall not include any of the following uses, which are prohibited:
      (1) the use of loudspeakers
      (2) automobiles for sale displayed with open hoods
      (3) the use of promotional gimmicks, like balloons, dirigibles and other inflatable’s, streamers, shoe polish on windshields, flags other than one (1) United States, Kentucky and Erlanger flag

5. Bakery and bakery goods store, provided the products are sold exclusively on the premises
6. Banks and other financial institutions, with drive-in windows
7. Barber shops
8. Beauty shops
9. Book, stationary, or gift shop
10. Camera and photographic supplies
11. Candy store, soda fountain, ice cream store, excluding drive-ins
12. Carpet store
13. Clinics, medical or dental
14. Convenient stores
15. Daycare center
16. Delicatessen
17. Department stores or general merchandise stores
18. Drug store
19. Dry cleaning
20. Eating and drinking establishments, including alcoholic beverages
21. Florist, excluding greenhouses
22. Food store and supermarkets
23. Furniture store
24. Garden and landscaping sales and supplies, excluding greenhouses
25. Hardware store
26. Hotels and motels, including convention facilities
27. Household and electrical appliance stores, including incidental repair
28. Institutions for higher education
29. Jewelry store, including repair
30. Music and musical instrument store
31. Nursing home
32. Off-street parking garages
33. Offices
34. Package liquor and wine stores
35. Paint and wallpaper store
36. Recreational centers, gyms, clubs and similar athletic uses
37. Sporting goods store
38. Theaters and amphitheaters
39. Toy store
40. Hospitals (Human Care)

C. 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 hotels and motels

D. AREA AND HEIGHT REGULATIONS:

1. Minimum lot area – One (1) acre. However, a small lot of fifteen thousand (15,000) square feet will be permitted provided it is an out lot of a larger development.
2. Minimum lot width at building setback line – One hundred (100) feet; Seventy (70) feet for an out lot
3. Minimum front yard depth – Thirty (30) feet
4. Minimum side yard width – Ten (10) feet
5. Minimum rear yard depth – Twenty (20) feet
6. Maximum height – Fifty (50) 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. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, and the required screening, as regulated by Section 9.17 of this ordinance.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking, loading and/or unloading areas, and the outside dining of the eating and drinking establishments.
7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.
8. All utilities must be underground when new development occurs.
SECTION 10.20 HC-3 (HIGHWAY COMMERCIAL - THREE) ZONE

A. PERMITTED USES

1. Automobile sales, new
2. Hotels
3. Offices
4. The sale of used automobiles, provided that the automobiles for sale are: (i) predominantly not older than 6 years, with an unaltered odometer indication of no more than 60,000 miles and (ii) without flood or frame damage; but this use shall not include any of the following uses, which are prohibited:
   a. The use of loudspeakers
   b. Automobiles for sale displayed with hoods open
   c. The use of promotional gimmicks, like balloons, dirigibles and other inflateables, streamers, shoe polish on windshields, and flags other than one United States, Kentucky, and Erlanger flag

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 a hotel
5. Uses as listed below, included within and entered from within any 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 shop
   b. Beauty shop
   c. News and confectionery stand
   d. Liquor and wine store
6. Vehicle repair, provided all activities are conducted wholly within a completely enclosed building

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

1. Minimum lot area - Two (2) acres
2. Minimum front yard depth - One hundred (100) feet
3. Minimum side yard width on each side of lot - Twenty-five (25) feet
4. Minimum rear yard depth - Twenty-five (25) feet
5. Maximum building height - Eighty (80) feet
6. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot.

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided in accordance with Section 9.17 of this ordinance.
5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
6. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
7. All utilities shall be underground when new development occurs.
SECTION 10.21 INST (INSTITUTIONAL) ZONE

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

1. Churches and other buildings for the purpose of religious worship
2. Colleges and universities, including those structures used by the college or university and used for directly related purposes, including recreation and the housing of students, guests, and the 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. Hospitals, including those structures used by the hospital for directly related purposes, including recreation and housing of employees, guests, and students of the hospital. This includes administrative buildings, classrooms, lecture halls, laboratories, libraries, dormitories, faculty and staff housing, student and faculty centers, and maintenance buildings
4. public, parochial, and vocational schools
5. Nursing schools
6. Nursing homes, convalescent homes, rest homes, and homes for the aged
7. Child-care center
8. Municipal buildings and police and fire stations
9. publicly owned parks, playgrounds, and community recreation centers

B. ACCESSORY USES

1. Customary accessory buildings 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. 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 use permitted in this zone, 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. Cafeterias
   b. Coffee shops or refreshment stands
   c. Book stores
   d. Medical supply stores
C. AREA AND HEIGHT REGULATIONS

1. Minimum tract for institutional development - Six (6) acres, except where area restrictions are less, as identified in the adopted comprehensive plan; however, development of a smaller tract adjacent to an existing approval site may be permitted providing the proposed development conforms to and extends the original development as if the new site has been part of the originally approved site plan layout.

2. Minimum lot area within minimum tract - Three (3) acres

3. Minimum lot width at building setback line - Two hundred (200) feet

4. Minimum front yard depth - Sixty (60) feet

5. Minimum side yard width - Thirty (30) feet, except where side yard abuts a right-of-way, then the side yard shall be forty-five (45) feet

6. Minimum rear yard depth - Fifty (50) feet

7. Maximum building height - Sixty (60) feet

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

D. OTHER DEVELOPMENT CONTROLS

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

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

3. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of seventy-five (75) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.

4. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.

5. No outdoor storage of any items, which are to be sold or any components, which will be manufactured, processed, packed or assembled to create an item to be sold or used, shall be permitted in this zone.
SECTION 10.22 IP-1 (INDUSTRIAL PARK-ONE) 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. Except for those that decompose or detonate, the manufacturing, compounding, processing, packaging, or assembling of the following materials:
   a. Animated and/or illuminated billboards and other commercial advertising structures
   b. Candy and confectionery products, food and beverage products, except the rendering or refining of fats and oils excluding poultry and animal slaughtering and dressing
   c. Cigars and cigarettes
   d. Cosmetics, pharmaceuticals, and toiletries
   e. Electric appliances, television sets, phonographs, household appliances
   f. Electrical machinery, equipment and supplies
   g. Fountain and beverage dispensing equipment
   h. Furniture
   i. Instruments of professional, scientific, photographic, and optical use
   j. Metal products and metal finishing, excluding the use of blast furnaces or drop forgers
   k. Musical instruments, toys, novelties, jewelry, rubber or metal stamps
   l. Office equipment
   m. Pottery and figurines, using only previously pulverized clay and kilns fired only with gas or electricity
   n. Products from the following previously prepared materials: paper, glass, cellophane, leather, feathers, fur, precious or semi-precious metals, hair, horn, shell, tin, steel, wood, plastics, rubber, bone, cork, felt, fibers, yarn, wool, tobacco
   o. Textile products including asbestos products, canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope and twine

2. Bottling and canning works
3. Building materials, sales yards
4. Contractors offices and accessory storage yards, including storage of general construction equipment and vehicles
5. Corporate, regional, and administration offices
6. Crating services
7. Freight terminals
8. Governmentally owned and/or operated city, county, and state garages  
9. Heliports, subject to the requirements of the applicable federal agencies  
10. Indoor theaters  
11. Industrial engineering consultant offices  
12. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private  
13. Large truck and construction equipment sales and service  
14. Laundries and dry cleaning plants, involving laundering and dry cleaning of articles delivered to the premises by commercial vehicles  
15. Machine shops  
16. Printing, engraving and related reproduction processes  
17. Professional, medical, and dental offices  
18. Public utilities rights-of-way and pertinent structures  
19. Publishing and distribution of books, newspapers, and other printed materials  
20. Railroad facilities, exclusive of marshaling yards, maintenance and fueling facilities  
21. School for industrial or business training  
22. Studios for professional work or teaching any form of fine art, photography, music, drama, dance, or gymnastics  
23. Warehousing or wholesaling  
24. Indoor athletic and recreational facilities  
25. Hospitals (Human Care)  

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, as regulated by Article XV 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. Recreational uses, other than those publicly owned and/or operated, provided the conditional use is located on a collector street and the access is provided by the collector street, as follows:
   a. Country clubs
   b. Golf courses
   c. Swimming pools
   d. Volleyball courts

2. Private schools, provided the conditional use is located on an arterial street and the access is provided by the arterial street

3. Pet hotels

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 on each side of lot - Twenty-five (25) feet

6. Minimum rear yard depth - Fifty (50) feet. No rear yard is required where a rail spur forms the rear property line

7. Maximum Building Height - Fifty (50) feet or three (3) stories

8. 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 areas shall be provided in accordance with Articles XI and XII of this ordinance.

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

3. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of seventy-five (75) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which
shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.

4. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.

5. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
SECTION 10.23 IP-2 (INDUSTRIAL PARK-TWO) 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. Corporate, regional, and administration offices
2. Crating services
3. Industrial engineering consultant offices
4. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private
5. Pet hotel
6. Professional, medical, and dental offices
7. Public and semi-public recreational facilities
8. School for industrial or business training
9. Storage and mini-storage buildings
10. Studios for professional work or teaching any form of fine art, photography, music, drama, dance, or gymnastics
11. Testing laboratories
12. Warehouses and associated office space
13. Wholesale houses and storage facilities

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. Fences and/or walls, as regulated by Article XIII of this ordinance
3. Signs - only business and identification signs pertaining to the identification, use, or occupation of the building, structure, or premises, as regulated by Article XIV of this ordinance, will be allowed in this zone.

C. AREA AND HEIGHT REGULATIONS: No building shall be erected or structurally altered hereafter, except in accordance with the following regulations (in the case of this zone, more than one principal building may be permitted to be constructed within the minimum lot area):

1. Minimum site for an IP-2 Zone - Ten (10) acres
2. Minimum lot area within minimum tract - One (1) acre
3. Minimum lot width at minimum 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 is required where a rail spur forms the rear property line
7. Maximum Building Height - Forty (40) feet or three (3) stories
8. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot.

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading areas shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers
3. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property.
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of seventy-five (75) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.
5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
6. The industrial activity will be conducted wholly within a completely enclosed building.
7. All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo, or similar material, and except for parking areas, the grounds shall be planted and landscaped.
8. Off-street parking, access drives, and loading areas may be located within the minimum front, side, and rear yards in this zone, provided that no off-street parking shall be closer than fifteen (15) feet to an adjacent street right-of-way line or the boundary line of any adjacent district. In no case shall the access drive, parking area, or loading area be closer than five (5) feet to the property line.
SECTION 10.24 IP-3 (INDUSTRIAL PARK-THREE) 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. Except for those that decompose or detonate, the manufacturing, compounding, processing, packaging, or assembling of the following materials:
   a. Animated and/or illuminated billboards and other commercial advertising structures
   b. Candy and confectionery products, food and beverage products, except the rendering or refining of fats and oils excluding poultry and animal slaughtering and dressing
   c. Cigars and cigarettes
   d. Cosmetics, pharmaceuticals, and toiletries
   e. Electric appliances, television sets, phonographs, household appliances
   f. Electrical machinery, equipment and supplies
   g. Fountain and beverage dispensing equipment
   h. Furniture
   i. Instruments of professional, scientific, photographic, and optical use
   j. Metal products and metal finishing, excluding the use of blast furnaces or drop forgers
   k. Musical instruments, toys, novelties, jewelry, rubber or metal stamps
   l. Office equipment
   m. Pottery and figurines, using only previously pulverized clay and kilns fired only with gas or electricity
   n. Products from the following previously prepared materials: paper, glass, cellophane, leather, feathers, fur, precious or semi-precious metals, hair, horn, shell, tin, steel, wood, plastics, rubber, bone, cork, felt, fibers, yarn, wool, tobacco
   o. Textile products including asbestos products, canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope and twine

2. Bottling and canning works
3. Building materials, sales yards
4. Contractors offices and accessory storage yards, including storage of general construction equipment and vehicles
5. Corporate, regional, and administration offices
6. Crating services
7. Freight terminals
8. Governmentally owned and/or operated city, county, and state garages
9. Industrial engineering consultant offices
10. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private
11. Laundries and dry cleaning plants, involving laundering and dry cleaning of articles delivered to the premises by commercial vehicles
12. Machine shops
13. Printing, engraving and related reproduction processes
14. Professional, medical, and dental offices
15. Public utilities rights-of-way and pertinent structures
16. Publishing and distribution of books, newspapers, and other printed materials
17. Railroad facilities, exclusive of marshaling yards, maintenance and fueling facilities
18. School for industrial or business training
19. Storage and mini-storage buildings
20. Studios for professional work or teaching any form of fine art, photography, music, drama, dance, or gymnastics
21. 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, as regulated by Article XV of this ordinance.

C. AREA AND HEIGHT REGULATIONS

1. Minimum lot area - One-half (1/2) acre
2. Minimum lot width at minimum building setback line - One hundred (100) feet
3. Minimum front yard depth - Fifty (50) feet
4. Minimum side yard width on each side of lot - Twenty-five (25) feet
5. Minimum rear yard depth - Fifty (50) feet. No rear yard is required where a rail spur forms the rear property line
6. Maximum Building Height - Fifty (50) feet
7. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot.

D. OTHER DEVELOPMENT CONTROLS

1. Off - street parking and loading and/or unloading areas shall be provided in accordance with Articles XI and XII of this ordinance.
2. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property.
3. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of seventy-five (75) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.
4. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
SECTION 10.25  BP-1 (BUSINESS PARK ONE) ZONE

A. PURPOSE: This zone is established to provide for traditional industrial uses (i.e., manufacturing, warehousing, and processing) along with other uses (i.e., retail, service, public, and semi-public and a residential component) which serve to supplement the needs of the area labor force.

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

1. Corporate, regional and administration offices
2. Professional, medical and dental offices
3. Sales and marketing offices
4. Data, computer communication centers including information processing facilities
5. Sales and service offices related to electronic equipment, computers and similar office equipment
6. Research and development facilities
7. Medical clinics, medical supplies and other related sales and services
8. Hotels and meeting facilities
9. Training, educational, retreat, conference facilities
10. Printing and publishing facilities
11. Athletic and recreational facilities
12. Financial institutions and services including branch facilities
13. Retail and retail services in conjunction with and located within an office building, hotel, conference center or athletic facility
14. Child-care center
15. Free - standing sit - down restaurants without drive - through
16. Neighborhood retail service shopping centers
17. The following uses are permitted unless any listed use involves: the storage of explosives or fireworks; gas or petroleum; bag cleaning; blast furnaces; cupolas; rolling mills; coke ovens; forging; foundering; refining or smelting; creosote treatment; distillation of bones, coal, or wood; enameling, japanning, or lacquering; radium or radioactive elements; crushing or other reduction or waterproofing; and the storage of chemicals:

a. Food and kindred products, including the manufacturing or processing of grain, sugar, oil, fat, glues, grease, tallow, lard gelatin, vinegar, yeast, starch, dextrin, glucose and sauerkraut but excluding the primary manufacture of meat and fish, which includes the stocking and storing of live animals or garbage, offal of dead animal reduction or dumping of any tanning, curing or storage of rawhides or skins
b. Apparel and other finished products made from fabrics, leather and similar materials except primary manufacture of rubber

c. Fabricated wood products, including containers, building components, structure members, but excluding the primary manufacture of wood or wood products

d. Furniture and fixtures

e. Paper products including envelopes, bags, boxes and containers

f. Printing industries

g. Pharmaceutical preparations, perfumes, cosmetics and other toiletry preparations

h. Soaps and other detergents

i. Fabrication of metal products except firearms and accessories, large scale machinery and transportation vehicles

j. Professional, scientific and controlling instruments, photographic and optical goods, watches and clocks

k. Electric and electronic equipment

l. Jewelry and precious metals, musical instruments and parts, toys, amusement, sporting and athletic goods, pens, pencils and other office and artistic materials, brooms and brushes, lamp shades, signs and advertising displays, umbrellas, parasols and canes and other miscellaneous fabrication activities

m. Other wholesale trade except non-containerized or bulk raw metals and minerals, petroleum products, scrap, waste material and used auto parts and accessories

n. Laundering, dry cleaning and dyeing services including rugs, linen supply and industrial laundry services

o. Window cleaning, disinfecting, exterminating and other dwelling and building services

p. Refrigerated, household goods (mini-warehouses) and other general refrigerated warehousing and storage

q. Photo finishing and other photographic laboratories

r. Electrical repair and armature rewinding services

s. Reupholstery and furniture repairing and refinishing services

t. Building construction, general contractor, plumbing, heating, air conditioning, painting, paper handling, decorating, electrical, masonry, stonework, tile setting, plastering, carpentering, wood flooring, roofing and sheet metal, water-well drilling, septic and other special construction trade offices, supply, storage and related activities

u. Postal services

v. Agricultural contract sorting, grading and packaging services of fruits and vegetables

w. Motor freight terminals, public warehousing, freight garaging and equipment maintenance

x. Freight forwarding, packing and crating services
y. Blueprinting and photocopying services, stenographic services
   and other duplicating, mailing and delivering services
z. Rental and leasing services of automobile and trucks
aa. Manufacture of plastic products but not the primary manufacture
    of plastics
bb. Welding shops for the repair of industrial machinery and heavy
    equipment
18. Multi-family residential dwellings within a Planned Unit Development
    Overlay only.
19. Hospitals (Human Care)

C. ACCESSORY USES

1. Customary accessory buildings 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. 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 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

D. 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. Body piercing establishment
2. Massage parlor
3. Pawn shop
4. Sexually oriented business
5. Tattoo parlor
6. Vehicle Towing & Auto Repair, provided:

   a. The use is located on a lot with a minimum size of 8.5 acres.
   b. The lot has a minimum of 600 feet of road frontage.
   c. The use does not have gasoline pumps.
   d. All towed vehicles are stored indoors, except vehicles awaiting
      minor service, which may be stored outdoors temporarily.
e. All vehicles awaiting repair are screened from view from any right-of-way or adjacent property.

E. AREA AND HEIGHT REGULATIONS

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

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

3. Minimum Lot Width at Building Setback Line - One hundred (100) feet

4. Minimum Front Yard Depth - Forty (40) feet

5. Minimum Side Yard Width - Fifteen (15) feet, except where side yard abuts a right-of-way, the side yard width shall be forty (40) feet

6. Minimum Rear Yard Depth - Forty-five (45) feet

7. Maximum Building Height - Eighty (80) feet

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

9. Maximum density – Conventional multi-family – Twenty (20) dwelling units per net acre

F. 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 lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

3. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of seventy-five (75) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.

4. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.

5. No outdoor storage of any items, which are to be sold or any components which will be manufactured, processed, packed, or assembled to create an item to be sold or used, shall be permitted in this zone.

6. Multi-family dwellings shall be limited to a maximum of 10% of the total BP-1 acreage within the city boundary.
SECTION 10.27 AP (AREA PROTECTION) OVERLAY ZONE

A. PURPOSE: The purposes of the Area Protection (AP) Overlay Zone are to: promote public and private redevelopment efforts; discourage redevelopment efforts on relatively small parcels of land; coordinate access via the limitation of curb cuts and the use of shared off-street parking facilities; discourage redevelopment efforts which would hinder other redevelopment efforts on nearby properties; protect those areas from developing in a manner inconsistent with the adopted Kenton County Comprehensive Plan or other plans which have been adopted by the legislative body; and promote flexibility in design while maintaining the relationships of adjacent uses and structures.

B. GENERAL: An Area Protection (AP) Overlay Zone may be permitted to be superimposed over any zone within the city, 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 site and its proper integration with the surrounding area, are met.

C. APPLICATION AND PROCESSING: Applications for an Area Protection (AP) Overlay Zone shall be processed as follows in two (2) stages:

1. Stage I -- Except as provided for in Section 17.0, I., of this ordinance, applications for a map amendment to zone an area AP shall be accompanied by a development plan, in accordance with the Stage I Development Plan Requirements, provided for within Section 9.20, A. of this ordinance, along with supporting information/documentation pertaining to each of the criteria items identified in Subsection O., below. If an area, however, is currently zoned AP, the submission of the Stage I Development Plan, for review by the planning commission and the legislative body, shall not be required until the area is proposed to be developed. Development shall include the demolition, erection, physical expansion, change of use, or outside remodeling of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.

   a. The planning commission shall hold a public hearing on the proposed application in accordance with the requirements of KRS Chapter 424, and review said application with regard to its compliance with the stated purposes of the AP (Area Protection) Overlay Zone, the required elements of the Stage I Development Plan, and other applicable requirements of this section. Upon holding such hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The planning commission
shall submit, along with their recommendations, a copy of the Stage I Development Plan and the bases for their recommendation.

b. The legislative body shall review said recommendations and take action to approve or disapprove said AP (Area Protection) Overlay Zone 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 AP (Area Protection) Overlay Zone shall require that development be in conformance with the approved Stage I Development Plan.

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

d. Upon approval of the AP (Area Protection) Overlay Zone, the official zoning map shall be amended by adding the suffix "AP" to the existing zones (e.g., AP-NC, AP-R-2, etc.).

2. Stage II - A Stage II Development Plan and Record Plat shall be developed in conformance with the approved Stage I Development Plan and in accordance with the requirements of Section 9.20, B. and C., of this ordinance, and submitted to the planning commission, or its duly authorized representative, for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, 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, 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, other applicable elements of this ordinance, and its conformity with the approved Stage I Development Plan. Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not 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 (e.g., parking requirements, sign regulations, etc.). The planning commission, or its duly authorized representative, upon completion of its review of the proposed Stage II Development Plan, shall make one of the following recommendations to the legislative body, or its duly authorized representative: approval, approval with conditions, or disapproval. The planning commission, or its duly authorized representative, shall submit along with their recommendation, a copy of the Stage II Development Plan and the bases for their recommendation.

b. The legislative body, or its duly authorized representative, shall review said recommendations of the planning commission, or its duly authorized representative, and take action to approve or disapprove the Stage II Development Plan. Such action may incorporate any conditions imposed by the planning commission, or its duly authorized representative. However, should the legislative body take action to impose different conditions than were reviewed and considered by the planning commission, or its duly authorized representative, then said conditions shall be resubmitted to the planning commission, or its duly authorized representative, for further review and recommendation, in accordance with Subsection C., 2., a., above.

c. Upon approval of the Stage II Development Plan, by the legislative body, or its duly authorized representative, a copy of said plan shall be forwarded to: (1) the zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other regulations, as may be required by this ordinance; (2) the planning commission.

d. Upon approval of the Stage II Development Plan, the planning commission, or its duly authorized representative, shall review the submitted Record Plat, if applicable, with regard to its compliance with the required elements of Section 9.20, C., of this ordinance, the applicable requirements of the subdivision regulations, and its conformance with the approved Stage II Development Plan.

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

D. PERMITTED USES AND DENSITIES: Permitted uses shall be as specified within the zone being overlaid. In the case where the underlying zone is a
residential zone, the density of dwelling units in the AP Overlay Zone shall be determined by the density (dwelling units per net acre) as calculated from the existing residential zone being overlaid. This density shall be applied to the total project area excluding that land devoted to streets (public and private).

E. ACCESSORY USES: Accessory uses shall be as specified within the zone being overlaid.

F. CONDITIONAL USES: Conditional uses, including any customary accessory buildings and uses, shall be as specified within the zone being overlaid, subject to the approval of the Board of Adjustment, as set forth in Sections 9.14 and 18.7, of this ordinance.

G. AREA REQUIREMENTS

1. No AP Zone shall be permitted on less than five (5) acres of land. However, an area of less than five (5) acres may be overlain with an AP Zone, provided it is adjacent to an area within an existing approved Stage I Development Plan which is currently overlain with an AP Zone.

2. The minimum area for submission of a Stage I Development Plan, within an area overlain with an existing AP (Area Protection) Overlay Zone, shall be not less than one (1) acre. However, a Stage I Development Plan may be submitted for an area of less than one (1) acre, provided it is adjacent to and extends the existing approved Stage I Development Plan and conforms to the requirements of this section of the ordinance.

H. HEIGHT, YARD, AND SETBACK REGULATIONS: 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, and the Kenton County Subdivision Regulations.

L. OPEN SPACE: Any part of the total building site not used for structures, streets, off-street parking, or off-street loading and/or unloading, shall be landscaped as approved in the approved development plan and in accordance with Section 9.17 of this ordinance. At least twenty percent (20%) of the total acreage of the
proposed AP development shall be retained as open space or recreation area. Such open space/recreation area shall be that part of the total project exclusive of buildings, off-street parking areas, access drives, and streets. At such time as the Stage II Development Plan for a particular development is submitted to the planning commission, or its duly authorized representative, notwithstanding Subsection C., 2., a., open space requirements of less than 20% may be considered for the development if: unusual topographic conditions exist, unique treatment of parking areas is provided for, and unique conditions and circumstances exist on or adjacent to the site.

M. OTHER DEVELOPMENT CONTROLS

1. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
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 off-street parking and loading and/or unloading areas and the outdoor play area of child care centers.
5. All utilities must be underground when redevelopment occurs.
6. A minimum of one attached or detached garage shall be required for each dwelling unit.
7. Access to the site shall meet the requirements of Section 11.3 of this ordinance.

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

1. Agreement with the various elements of the Kenton County Comprehensive Plan.
2. Agreement with any KRS Chapter 99 approved Urban Renewal Development Plan
3. Agreement with any conceptual development plan/study which has been adopted/approved by the legislative body.
4. Extent to which the proposed development plan is consistent with the stated purposes of the AP (Area Protection) Overlay Zone.
5. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (based on topography, natural features, streets, relationship of adjacent uses, etc.).
6. Nature and extent of the proposed uses in relation to the unique characteristics of the site; the current or anticipated need for such use(s) and the specific size and locale of the market area from which the specific uses of the site will draw or serve.

7. Extent to which the proposed design, as indicated in the Stage I Development Plan, is compatible and coordinated with existing or proposed development contiguous to the site. Compatibility and coordination with existing or proposed development shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding area, including coordination of vehicular and pedestrian circulation; the scale (e.g., height and mass of structures) of the proposed development; location of open spaces and size of setbacks; provision of screening areas or utilization of natural features; the transition of land use types based on the proposed design; and the impact of the proposed development on adjacent uses, such as noise, visual impact, hours of operation, traffic circulation, etc.

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

9. 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.

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

O. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the legislative body, or its duly authorized representative, shall be made in accordance with the procedure required by Subsection C., subject to the same limitations and requirements as those under which such plans were originally approved.

P. EXPIRATION: Development plans within the AP 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 AP Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions apply:

1. Stage II Development Plan has not been approved by the legislative body, or its duly authorized representative, within a period of twelve (12) consecutive months from the date of approval of the Stage I Development
Plan by the legislative body, except as agreed upon for the phasing of development: 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 prevailing conditions have not changed appreciably to render the approved Stage I Development Plan obsolete.

2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II development plan by the legislative body, or its duly authorized representative, provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the approved Stage II Development Plan.
SECTION 10.28 RP (RENAISSANCE PROTECTION) OVERLAY ZONE

A. PURPOSE: The purpose of the Renaissance Protection Overlay Zone is to improve the economic viability of the designated areas within the city of Erlanger, while enhancing the visual quality of the environment and the quality of life.

B. GENERAL: In order to accomplish the purpose and goals of the Renaissance Protection Overlay Zone, the city of Erlanger has adopted design guidelines applicable to public and private improvements. These guidelines are hereby adopted by reference. Any new development within the designated area shall be reviewed for compliance with the guidelines and obtain a certificate of appropriateness prior to any permits being issued for construction.

C. APPLICATION: A Renaissance Protection (RP) Overlay Zone may be permitted to be superimposed over any zone within the city.

D. PERMITTED USES AND DENSITIES: Permitted uses shall be as specified within the zone being overlaid. In the case where the underlying zone is a residential zone, the density of dwelling units in the RP Overlay Zone shall be determined by the density (dwelling units per net acre) as calculated from the existing residential zone being overlaid. This density shall be applied to the total project area excluding that land devoted to streets (public and/or private).

E. ACCESSORY USES: Accessory uses shall be as specified within the zone being overlaid.

F. CONDITIONAL USES: Conditional uses, including any customary accessory buildings and uses, shall be as specified within the zone being overlaid, subject to the approval of the Board of Adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance.

G. HEIGHT, YARD, AND SETBACK REGULATIONS: Requirements shall be as specified within the zone being overlaid. However, where any provisions conflict with the adopted design guidelines, the design guidelines shall prevail.

H. OFF-STREET PARKING AND LOADING AND/OR UNLOADING: Off-street parking and, when applicable, loading and/or unloading facilities, shall be as specified within the zone being overlaid. However, where any provisions conflict with the adopted design guidelines, the design guidelines shall prevail.

I. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs, shall be as specified within the zone being overlaid. However, where any provisions conflict with the adopted design guidelines, the design guidelines shall prevail.
J.  EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance and the Kenton County Subdivision Regulations.

K.  OTHER DEVELOPMENT CONTROLS:

1.  Shall be as specified in the zone being overlaid. However, where any provisions conflict with the adopted design guidelines, the design guidelines shall prevail.

2.  All alterations, remodeling, exterior work, painting, signs, additions, changes, or demolitions shall follow the procedures established by the Urban Design Review Board.
SECTION 10.29  IP-4 (INDUSTRIAL PARK-FOUR) 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. Except for those that decompose or detonate, the manufacturing, compounding, processing, packaging, or assembling of the following materials:

   a. Animated and/or illuminated billboards and other commercial advertising structures
   b. Candy and confectionery products, food and beverage products, except the rendering or refining of fats and oils excluding poultry and animal slaughtering and dressing
   c. Cigars and cigarettes
   d. Cosmetics, pharmaceuticals, and toiletries
   e. Electric appliances, television sets, phonographs, household appliances
   f. Electrical machinery, equipment and supplies
   g. Fountain and beverage dispensing equipment
   h. Furniture
   i. Instruments of professional, scientific, photographic, and optical use
   j. Metal products and metal finishing, excluding the use of blast furnaces or drop forgers
   k. Musical instruments, toys, novelties, jewelry, rubber or metal stamps
   l. Office equipment
   m. Pottery and figurines, using only previously pulverized clay and kilns fired only with gas or electricity
   n. Products from the following previously prepared materials: paper, glass, cellophane, leather, feathers, fur, precious or semi-precious metals, hair, horn, shell, tin, steel, wood, plastics, rubber, bone, cork, felt, fibers, yarn, wool, tobacco
   o. Textile products including asbestos products, canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope and twine

2. Bottling and canning works
3. Building materials, sales yards
4. Contractors offices and accessory storage yards, including storage of general construction equipment and vehicles
5. Corporate, regional, and administration offices
6. Crating services
7. Freight terminals
8. Governmentally owned and/or operated city, county, and state garages
9. Heliports, subject to the requirements of the applicable federal agencies
10. Industrial engineering consultant offices
11. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private
12. Large truck and construction equipment sales and service
13. Indoor theaters
14. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private
15. Machine shops
16. Printing, engraving and related reproduction processes
17. Professional, medical, and dental offices
18. Public utilities rights-of-way and pertinent structures
19. Publishing and distribution of books, newspapers, and other printed materials
20. Railroad facilities, exclusive of marshaling yards, maintenance and fueling facilities
21. School for industrial or business training
22. Studios for professional work or teaching any form of fine art, photography, music, drama, dance, or gymnastics
23. Vehicle towing and storage – provided all vehicles towed and/or stored are stored on a gravel or paved surface and are screened from view from any adjacent property
24. 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, as regulated by Article XV 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. Recreational uses, other than those publicly owned and/or operated, provided the conditional use is located on a collector street and the access is provided by the collector street, as follows:
   
   a. Country clubs  
   b. Golf courses  
   c. Swimming pools  
   d. Volleyball courts  

2. Private schools, provided the conditional use is located on an arterial street and the access is provided by the arterial street

D. AREA AND HEIGHT REGULATIONS

1. Minimum Tract for Development - Five (5) acres  
2. Minimum Lot Area Within Minimum Tract - One (1) acre  
3. Minimum Lot Width at Building Setback Line - One hundred (100) feet  
4. Minimum front yard depth - Fifty (50) feet  
5. Minimum side yard width on each side of lot - Twenty-five (25) feet  
6. Minimum rear yard depth - Fifty (50) feet. No rear yard is required where a rail spur forms the rear property line  
7. Maximum Building Height - Fifty (50) feet or three (3) stories  
8. 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 areas shall be provided in accordance with Articles XI and XII of this ordinance.  
2. No lighting shall be permitted which would glare from any use located within this zone onto any street or into any adjacent property.  
3. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of seventy-five (75) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.  
4. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
SECTION 10.30 REC (RECREATIONAL) ZONE

A. PERMITTED USES

1. Private recreational uses, other than those publicly owned and/or operated:
   a. Indoor and outdoor pools
   b. Country clubs
   c. Indoor skating rinks
   d. Amphitheaters, indoor motion picture theaters and playhouses
   e. Auditoriums, exhibition halls and meeting rooms
   f. Indoor and outdoor sports and athletic facilities
   g. Hiking trails and other passive recreational uses
   h. Studios for professional work or teaching of any form of the arts, photography, music, drama, dance, cooking, karate, computer use, yoga and other similar uses
   i. Playgrounds and/or tot lots
   j. Health spas

2. Publicly owned and/or operated parks and/or recreation areas
3. Museums
4. Libraries

B. ACCESSORY USES

1. Customary accessory buildings and uses, such as:
   a. Concession/Restaurant facilities
   b. Day Care/Nursery School facilities
   c. Game rooms

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

C. 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 – Fifty (50) feet
7. In case of this zone, more than one (1) principal building, as defined herein, may be constructed on one (1) lot
D. OTHER DEVELOPMENT CONTROLS

1. A site plan, as regulated by Section 9.19 of this ordinance shall be required for any permitted 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 9.24

3. Off-street parking shall be provided for any use within this zone, according to the provisions if Article XI

4. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers

5. No motor vehicle, which is inoperative, or mobile home or trailer shall be stored or used for storage 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. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone

8. Where any yard or any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, then ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance, except if the permitted use and/or building abuts a publicly owned and/or operated parking and/or recreation area
SECTION 10.26

COMMONWEALTH STATION
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SECTION 10.26, A.

LEGAL AND APPLICATION PROVISIONS

1. Purpose Statement
2. Severability
3. Conflict
4. Applicability
5. Application and Processing
6. Variances and Modifications
1. Purpose Statement
The purpose of the CS (Commonwealth Station) Zone is to enable the implementation of the community vision established through the public charrette as described in Appendix C.

The regulations contained within this section are meant to foster redevelopment adjacent to the I-71/75 and Commonwealth Avenue interchange by allowing expanded uses, increased density, smaller setbacks, and architectural consistency. Together these requirements are intended to enhance the pedestrian and consumer experience within the area.

The CS Zone provides the specific means to guide the implementation of the citizen and city endorsed vision for redevelopment in area. The CS Zone regulates land development by setting careful and coherent controls on building form, while employing more flexible parameters relative to building use and density. The focus on physical form is intended to produce safe and attractive places.

2. Severability
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.

3. Conflict
In any case where the standards of the CS Zone conflict with other provisions to the Erlanger Zoning Ordinance, the standards of the CS Zone shall apply.

Illustrations in the CS Zone are intended to illustrate building forms and to demonstrate how measurements are made. They do not illustrate the full range of possible building forms or outcomes allowed within the standards.

4. Applicability
Each development shall, in themselves, comply with the regulations, but shall not require the retrofitting of the existing elements to comply with the code. For instance, an addition to the rear of a building would not require the front of said building to be retrofitted to meet the transparency, entry features, etc. if the front of the building is not being improved. For existing buildings and structures, these regulations shall only apply to the immediate scope of any improvement or project made to said structures or building.

The requirements of this section shall not apply to existing single-family homes that are used exclusively for residential purposes within any subdistrict. Additions or renovations to such structures or accessory uses are permitted, subject to the zoning requirements contained within the R-1G Zone. Existing single-family homes that are partially or fully destroyed may be rebuilt as a matter of right.

The architectural standards in Section 10.26, E., shall not apply to new or existing single-family residential homes in the any subdistrict.

The architectural standards in Section 10.26, E., shall not apply to existing commercial buildings in any subdistrict as it pertains to normal repairs, maintenance, interior alterations, or restoration to a safe condition of the existing structure. For the purposes of this section, "normal repairs and maintenance" shall include: painting; replacing a roof; replacing a driveway, interior sidewalk or patio; replacing gutters and down spouts; replacement of trim and siding; interior alterations; sealing of wood or masonry; repointing of brick; the addition of a customer entrance or fire exits; and any other work that is necessary to maintain and correct a damaged or deteriorating structure. Any façade changes less than 25% of the total façade area shall be considered normal repairs and maintenance.
Compliance with the regulations CS Zone shall be required according to the following:

- **Level 1:** Any change of use or expansion of use within an existing building
  - Permitted uses
  - Off-street parking (only if more is required)

- **Level 2:** Any change of a sign
  - Signage

- **Level 3:** Façade changes that involve any area greater than 25% of the total façade area of the entire building, including any increase in windows, entry features, or material changes
  - Transparency
  - Materials
  - Public entry articulation

- **Level 4:** An addition of 25% or less of the square footage of the existing building; or an addition of less than 10 off-street parking spaces
  - Footprint
  - Height
  - Setbacks
  - Off-street parking
  - Use
  - Transparency
  - Materials
  - Public entry articulation
  - Roof shapes
  - Sidewalks, when located within the build-to zone in the CO-1 Regulating Plan

- **Level 5:** An addition of more than 25% of the square footage of the existing building or 1,000 square feet, whichever is greater; redevelopment after the demolition or destruction of more than 25% and less than 50% of the existing building; or the addition of 10 or more off-street parking spaces
  - Footprint
  - Height
  - Setbacks
  - Off-street parking
  - Use
  - Transparency
  - Materials
  - Public entry articulation
  - Roof shapes

- **Level 6:** Redevelopment after the intentional demolition or removal of more than 50% of the existing building
  - All standards of the CS Zone

- **Level 7:** New construction
  - All standards of the CS Zone

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## 5. Application and Processing

Developments within the CS Zone require review and approval in accordance with the following procedures:

a. **Level 1, level 2, level 3, and level 4 projects** may be reviewed and approved pursuant to Section 9.19 of this ordinance.

Any development that requires an administrative approval will need to submit an application, fees, a site plan as regulated by Section 9.19 of this ordinance, and any other information that is required by the City for zoning and/or building permits.

The City Administrator, or his or her designee, reserves the right to require Stage II Plan approval for developments whose scope is deemed to have an important location, an important significance to the City or region, or a significant impact on the corridor or surrounding areas.

b. **Level 5, level 6, and level 7 projects** need to follow the following procedures:

i. **Pre-application meeting**
   Prior to filing for development plan review, the developer, petitioner, applicant, or property owner shall attend a pre-application meeting. The pre-application meeting is
intended to be an informal meeting with the City staff and with the Kenton County Planning Commission’s duly authorized representative/PDS staff to discuss the development review process and the requirements of the zoning ordinance.

The pre-application meeting is intended to discuss the proposed development and identify any issues in applying the CS Zone. The applicant shall include a conceptual development plan encompassing the proposed street and pedestrian networks and the proposed types of land uses. The applicant should also be prepared to discuss the proposed building façades and finish materials, the area, height and amount of proposed signage, as well as other design features, if applicable. Any plans brought to the pre-application meeting do not have to be engineered drawings, but should be clear enough to convey the nature and character of the proposed development.

No person should 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 ultimately will be approved or rejected in any form.

ii. Stage II Development Plan
Projects may be built as a matter of right when they meet all of the standards of the CS Zone regulations. Incomplete applications will not be accepted for review. Following the formal submission of a Stage II Development Plan, which shall include elevation views, the KCPC’s duly authorized representative/PDS staff shall prepare a recommendation of approval, approval with conditions, or disapproval. This recommendation shall be forwarded to the City’s Chief Administrative Official.

iii. The City’s Chief Administrative Official, or his/her 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 by the city's chief administrative official, or his/her duly authorized representative, the zoning administrator shall grant permits only in accordance with the approved Stage II Development Plan, and other regulations as may be required by this ordinance.

c. Applications for a map amendment to the CS Zone shall include a development plan in accordance with the requirements of Section 9.20, A., Stage I Plan Requirements.

6. Variances and Modifications
a. Variances
Any modification to the dimensional terms of the CS Zone pertaining to the height, width, or location of structures, and the size of yards and open spaces, must be heard and decided by the Erlanger Board of Adjustment, pursuant to Article XVIII and KRS 100.

b. Minor Modifications
Based on site-specific issues, an applicant may seek modifications to the non-dimensional standards of the CS Zone, insofar as the intent of the standard is being met, the modification results is consistent with the type of environment intended by the zone, and the modification does not impede or burden existing or future development of adjacent properties.

The following minor modifications may be approved by the city's chief administrative official, or his/her duly authorized representative:
i. For all buildings, the minimum front façade that must be within the allowable setback range may be reduced to 67.5%.

ii. The minimum required reduction of off-street parking spaces in the CO-1 subdistrict may be modified to allow, but not exceed, the required number of off-street parking spaces as permitted in Section 11.2.

iii. The minimum transparency required for flex-use and live-work buildings may be reduced as follows:

CO-1, CO-2, CO-3 – the ground floor may be reduced to a minimum of 20% transparency. The upper floor may be reduced to a minimum of 15% transparency.

UR-1 – the ground floor may be reduced to a minimum of 15% transparency.

iv. The maximum building width of live-work buildings, multi-family buildings, and attached single-family buildings can be increased up to 275 feet along the sidewalk.

In granting the above modifications, the city's chief administrative official, or his/her duly authorized representative must find that the modification:

i. will not adversely affect the health, safety, or welfare of the public;

ii. will not alter the essential character of the general vicinity;

iii. will not cause a hazard or nuisance to the public;

iv. arises from special circumstances that do not generally apply to land in the general vicinity or within the zone;

v. the strict application of the regulations would deprive the applicant of the reasonable use of the land; and

vi. the circumstances are not a result of a willful violation of the zoning ordinance.
SECTION 10.26, B.

REGULATING PLAN

1. Regulating Plan
   Exhibit 1 Regulating Plan
   Exhibit 2 CO-1 Regulating Plan

2. Subdistricts
1. **Regulating Plan**

The Regulating Plan is the guiding map for the implementation of Commonwealth Station. The Regulating Plan graphically articulates four distinct development subdistricts (Core-1, Core-2, Core-3, Urban-1). Each subdistrict varies density and configuration, range of building forms, types of allowable uses, structured in such a way as to encourage maximum compatibility with adjoining property uses and zoning.

**LEGEND**

- **CORE ONE (CO-1)**
- **CORE TWO (CO-2)**
- **CORE THREE (CO-3)**
- **URBAN ONE (UR-1)**
2. Subdistricts

The intent and purpose of each subdistrict located on the regulating plan is as follows:

**CORE-1 (CO-1)** – The role of this subdistrict is to serve as a nucleus for development in the Commonwealth Station area. The intent and purpose of these regulations is to create development consisting of single, two, or three story mixed-use buildings with retail and office uses on the first floor and residential or office uses on the upper floors.

This area should feature a planned node of commercial or mixed use development with complimentary development organically occurring within the peripheral areas. In order to create this nucleus of activity the regulating plan to the right identifies private access drives that function as streets (light blue solid lines) which intersect to
create a focus for development and activity. These access drives shall begin where current vehicular ingress and egress occurs within the subdistrict boundary. Sidewalks shall be provided along these access drives.

Also identified within the regulating plan are specific build to zones (yellow solid line) in which a building must be located within a certain proximity to the sidewalk. The dotted blue line indicates potential extensions of the private access drives.

Permitted building forms include Flex-Use and Public and Civic.

**CORE-2 (CO-2)** – The role of this subdistrict is to be complimentary to both the CO-1 subdistrict and the adjacent public and civic uses. The intent and purpose is to allow for flexible development, with an emphasis on mixed uses but also includes the ability to develop high density multi-family.

Permitted building forms include Flex-Use, Multi-Family, and Public and Civic.

**CORE-3 (CO-3)** – The role of this subdistrict is to create a transition between the adjacent subdistricts and the existing residential areas. The intent and purpose of these regulations is to create less intense development that compliments development occurring in the surrounding areas.


While higher density forms are encouraged, the intensity and density of the residential building forms within this subdistrict may vary. Smaller, neighborhood oriented commercial uses may be located within the area to provide convenience for residents.

Permitted building forms include Flex-Use, Live-Work, Multi-Family, Detached and Attached Single-Family, and Public and Civic.

**URBAN 1 (UR-1)** – The role of this subdistrict is to create a critical density of residential dwellings located within close proximity to the Core subdistricts.
SECTION 10.26, C.

BUILDING DEVELOPMENT STANDARDS

1. Flex-Use Buildings
2. Live-Work Buildings
3. Multi-Family Buildings
4. Single-Family Buildings
5. Public and Civic Buildings
1. Flex-Use Buildings

a. Maximum Building Footprint

CO-1, CO-2 - 15,000 square feet
CO-3 - 10,000 square feet for a building with commercial uses only, 15,000 square feet for a building containing a mixture of commercial and residential land uses

UR-1 - 4,000 square feet for a building with commercial uses only, 15,000 square feet for a building containing a mixture of commercial and residential land uses

b. Maximum Building Height

CO-1, CO-2, CO-3 - 50’
UR-1 - 35’ for a building with commercial uses only, 50’ for a building containing a mixture of commercial and residential land uses

c. Setbacks

75% of the front façade of the primary structure must be within the allowable setback range, except within the required build to zone area in the CO-1 Subdistrict, where all of the building façade shall be required to be within the required setback distance.

CO-1 Build to Zone

The CO-1 build-to zone is indicated by solid yellow lines on the CO-1 Regulating Plan. When redevelopment occurs sidewalks shall be constructed along both portions of the access drives indicated on the CO-1 Regulating Plan (solid blue line.)

The required build to zone shall extend 100 feet from the intersection of both private access drives, as indicated on the regulating plan. The required front yard setback in this area shall be between 0 and

Above: The use of varied roof heights and building materials help to break up the mass of larger structures to create a more walkable environment.

Above: A smaller scale flex-use building featuring an articulated building facade containing different primary building materials.

Above: A larger scale flex-use building featuring modern architecture and materials.

Above: A mixture of commercial and residential uses create a synergy of activity and a “main street” character.

Above: A group of flex-use buildings featuring a consistent setback creates a defined edge between the public and private realm.

Above: A group of flex-use buildings featuring a consistent setback creates a defined edge between the public and private realm.
5 feet from the edge of the sidewalk. The side yard setback of individual buildings within this area shall be a maximum of 10 feet. The rear yard setback shall not apply.

**CO-1, CO-2, CO-3**

*Front (Min/Max) – 0’ / 75’*

*Side – 0’, 5’ when adjacent to a residential use or zone*

*Rear – 0’, 10’ when adjacent to a residential use or zone*

**UR-1**

*Front – 10’*

*Side – 5’*

*Rear – 5’*

d. Off-Street Parking

**CO-1** - A minimum reduction of 10% in the required number of off-street parking spaces is mandatory. A maximum allowable reduction of 50% shall be permitted

**CO-2, CO-3, UR-1** – A maximum allowable reduction of 25% shall be permitted

e. Transparency

*All residential uses on upper floors are exempt from these regulations*

**CO-1, CO-2, CO-3** – Minimum along public ROW or a private drive or street within a development which functions as a public ROW shall be 35% on the ground floor and 20% on any upper floors

**UR-1** - Minimum along public ROW shall be 20% on the ground floor.

f. Other Development Controls

**CO-1, CO-2, CO-3, UR-1**

No outdoor storage of materials or equipment related to the business activity shall be allowed. Outdoor play areas used in connection with a daycare are permitted.

Temporary outdoor displays of products shall be permitted

g. Permitted Uses

**Commercial Use Group**

Artists / craftsmen galleries and studios

Animal sales and grooming

Auto supply / accessory sales *(CO-1 only)*

Brewpub *(CO-1, CO-2, CO-3 only)*

Building maintenance services

Business support services

Entertainment

Financial services

Lodging

Medical services

Micro-brewery *(CO-1, CO-2, CO-3 only)*

Micro-distillery *(CO-1, CO-2, CO-3 only)*

Personal improvement service

Professional office

Repair or laundry service, consumer

Retail sales and service

Sit-down restaurants

Tavern *(CO-1, CO-2, CO-3 only)*

Veterinary hospital

**Residential Use Group**

Multi-family *(ground floor units must be located 50 feet from the sidewalk edge)*

**Public and Civic Use Group**

Day care, Type I

Day care, Type II

Clubs *(lodge or private club)*

h. Conditional Uses

**CO-1**

Gasoline service stations

Minor auto repair

**UR-1**

Tavern

Brewpub

Micro-brewery

Micro-distillery
2. Live-Work Buildings

Above: Live-work buildings offer residents the opportunity to operate small businesses on the premises of where they reside. Live-work buildings can look like flex-use buildings, but are typically smaller scale. Access to the upper floors can be directly from the commercial space below.

Above: Live-work buildings can also have separate entrances to the living space on the top floors. Here, the buildings are set farther back to accommodate a limited amount of off-street parking.

a. Maximum Building Width
CO-3, UR-1
250’ along the sidewalk

b. Maximum Building Height
CO-3, UR-1 – 35’

c. Setbacks
75% of the front façade of the primary structure must be within the allowable setback range

CO-3
Front (Min/Max) – 0’ / 75’
Side – Attached: 0’ internal, 5’ external
   Detached: 5’
Rear – 0’, 10’ when adjacent to a residential use or zone

UR-1
Front – 10’
Side – Attached: 0’ internal, 5’ external
   Detached: 5’
Rear – 5’, 10’ when adjacent to a residential use or zone

d. Off-Street Parking
CO-3, UR-1
A minimum of two off-street parking spaces shall be required for each live-work unit, which consists of both a residential and commercial use.

Any live-work unit in which the commercial space is greater than 750 square feet, the required number of off-street parking spaces shall be applicable with an allowable reduction up to 25%

e. Transparency
CO-3 - Minimum along public ROW shall be 35% on the ground floor and 20% on any upper floors
UR-1 - Minimum along public ROW shall be 20% on the ground floor

f. Other Development Controls
CO-3, UR-1

Dwelling units located on the ground floor shall be in the rear portion of the building.

No outdoor storage of materials related to the business activity shall be allowed

Temporary outdoor displays of products shall be permitted
g. Permitted Uses

Commercial Use Group
Artists / craftsmen galleries and studios
Business support services
Financial services
Personal improvement service
Professional office
Bed and breakfast

Residential Use Group
Attached single-family
Detached single-family
3. Multi-Family Buildings

Above: Multi-family buildings can range from moderate to very high density.

Above: A wide range of architecture is allowed for multi-family buildings to accommodate different styles and densities of development.

a. Maximum Building Width

CO-2, UR-1
250’ along the sidewalk

b. Maximum Building Height

CO-2, UR-1 – 50’

CO-2
Front (Min/Max) – 0’ / 75’
Side – 0’, 5’ when adjacent to a residential use or zone
Rear – 0’, 10’ when adjacent to a residential use or zone

UR-1
Front – 10’
Side – 5’
Rear – 5’

c. Setbacks

75% of the front façade of the primary structure must be within the allowable setback range

CO-2
Front (Min/Max) – 0’ / 75’
Side – 0’, 5’ when adjacent to a residential use or zone
Rear – 0’, 10’ when adjacent to a residential use or zone

UR-1
Front – 10’
Side – 5’
Rear – 5’

d. Building Types

CO-2, UR-1
Duplex
Triplex
Quadplex
Multi-Family

e. Off-Street Parking

CO-2, UR-1
A maximum allowable reduction of 25% shall be permitted

f. Permitted Uses

Residential Use Group
Two-Family
Multi-family

Above: A wide range of architecture is allowed for multi-family buildings to accommodate different styles and densities of development.
4. Single-Family Buildings

Above: New single-family dwellings should be developed at the same or higher density than currently exists.

Above: Attached single-family dwellings can take on many different architectural styles.

a. Maximum Building Width
CO-3, UR-1
250’ along the sidewalk (when attached)

b. Maximum Building Height
CO-3, UR-1 – 35’

c. Setbacks
Attached Single-Family
CO-3, UR-1
Front – 10’
Side – 0’ internal, 5’ external
Rear – 5’

d. Off-Street Parking
CO-3, UR-1
There shall be no allowable reduction in the off-street parking requirements

e. Maximum Building Height
CO-3, UR-1 – 35’

f. Permitted Uses
Residential Use Group
Attached single-family

Public and Civic Use Group
Babysitting service
Family day care home
5. Public and Civic Buildings

a. Maximum Building Footprint
   CO-1, CO-2 – 15,000 square feet
   CO-3 – 8,000 square feet
   UR-1 – 7,000 square feet

b. Maximum Building Height
   CO-1, CO-2, CO-3, UR-1 – 50’

c. Setbacks
   CO-1, CO-2, CO-3
   75% of the front façade of the primary structure must be within the allowable setback range

   Front (Min/Max) – 0’ / 75’
   Side – 10’, 35’ when adjacent to a residential use or zone
   Rear – 10’, 35’ when adjacent to a residential use or zone

   UR-1
   Front – 35’
   Side – 35’
   Rear – 35’

d. Off-Street Parking
   CO-1, CO-2, CO-3, UR-1 – A maximum allowable reduction of 10% shall be permitted.

e. Permitted Uses

Public and Civic Use Group
   Day care, Type 1
   Day care, Type 2
   Cultural exhibits and libraries
   Religious assembly

Above: Smaller scale public and civic uses are allowed but should not dominate the character, form, and function of the Commonwealth Station area.

Above: Public and civic uses provide a venue for cultural amenities, social interaction, and are the foundation of a quality community.
SECTION 10.26, D.

ARCHITECTURAL STANDARDS

1. Flex-Use, Live-Work Buildings
1. Flex-Use, Live-Work Buildings

a. Primary Building Materials
CO-1, CO-2, CO-3, UR-1
Brick, architectural grade CMU, stone, tile, EIFS/stucco, glass or concrete which is formed to have a masonry unit appearance may be used.

Materials for any pitched roof shall be architectural grade, three dimensional shingles or tiles, slate, or standing seam metal.

b. Secondary Building Materials
CO-1, CO-2, CO-3, UR-1
Architectural grade metals, plain faced CMU, wood or cement board siding, glass block, vinyl siding, hardiplank, and precast concrete may be used for trim, detailing, and incidental or secondary wall areas.

Secondary materials may not exceed 50% of each building or tenant façade. Only architectural grade materials shall be used.

c. Prohibited Building Materials
CO-1, CO-2, CO-3, UR-1
Flimsy or synthetic appearing exterior wall materials, such as ribbed, industrial style metal siding, T-111, or other hard board type materials are not permitted.

d. Public Entry Articulation
CO-1, CO-2, CO-3, UR-1
The main public building entrances shall be placed along the adjoining public street frontages or private access drives which function as “streets.” When a building feature both types of frontage the public entry articulation is required along the private access drive.
The main public entrances shall be emphasized in the façade design by methods such as recessing the entrance behind the exterior facade, providing an over-scaled entrance feature which projects outward from or above the exterior facade, placing the doorway within a three dimensional archway, providing an awning or roof awning/canopy, and/or changing the building materials, detailing, or color around the entrance opening.

Secondary public entrances may be located on other frontages as well.

e. **Roof Shapes**

**CO-1, CO-2, CO-3, UR-1**

Flat roof designs are permitted. All flat roofs shall utilize a parapet at least three feet higher than the roof line (*live-work units shall be exempt from this requirement*). Parapet designs which have a defined cornice line and pitched roofs are permitted.

Pitched roof forms shall be complete and span the entire building massing on which they are placed.

Stage set roof designs are permitted, provided they incorporate vertical articulation in the form of parapets and towers in order to break up continuous roof facades.

Mansard roof types are prohibited.
SECTION 10.26, E.

SIGNAGE STANDARDS

1. Introduction
2. Flex-Use, Live-Work Buildings
3. Residential Buildings
4. Public and Civic Buildings
1. Introduction
These sign regulations apply in addition to the sign regulations set forth in Article XIV.

2. Flex-Use, Live-Work Buildings

a. Ground Signs

i. Maximum Number
CO-1 - One per street frontage along a public ROW as well as along a private drive or street within a development which functions as a public ROW.
CO-2, CO-3, UR-1 - One per street frontage along a public ROW.

ii. Maximum Size
CO-1, CO-2, CO-3, UR-1 – 60 square feet
UR-1 – 30 square feet for a building with commercial uses only, 60 square feet for a building containing a mixture of commercial and residential land uses

iii. Maximum Height
CO-1, CO-2, CO-3 – 20’
UR-1 – 10’, for a building with commercial uses only, 20’ feet for a building containing a mixture of commercial and residential land uses

iv. Setbacks
CO-1, CO-2, CO-3, UR-1 - 5’, 35’ feet from the nearest single-family zone

v. Illumination
CO-1, CO-2, CO-3, UR-1 – External or internal, direct, exposed or concealed

vi. Changeable Copy
CO-1, CO-2, CO-3, UR-1 – Manual or automatic permitted, up to 25% of sign face.

vii. Development Controls
Ground signs are not permitted for any live-work building form.

b. Directional Ground Signs

i. Maximum Number
CO-1, CO-2, CO-3, UR-1 – One per vehicle entrance

ii. Maximum Size
CO-1, CO-2, CO-3, UR-1 – 12 square feet

iii. Maximum Height
CO-1, CO-2, CO-3, UR-1 – 6’

iv. Setbacks
CO-1, CO-2, CO-3, UR-1 – 5’

v. Illumination
CO-1, CO-2, CO-3, UR-1 – Internal or concealed only

vi. Changeable Copy
CO-1, CO-2, CO-3, UR-1 – None
vii. Development Controls
Directional ground signs are not permitted for any live-work building form.

C. Wall Signs

Above: This wall sign utilizes exterior lighting featuring cutoff light fixtures to reduce glare.

Above: Wall signs are used to identify individual, tenants, increase business visibility and are usually placed above main entrances.

i. Maximum Number
CO-1 - One per business per street frontage along a public ROW as well as along a private drive or street within a development which functions as a public ROW.
CO-2, CO-3, UR-1 - One per business per street frontage along a public ROW.

ii. Maximum Size
CO-1, CO-2, CO-3, UR-1 – 2 square feet of sign area per lineal foot of building width on the side of the building on which the sign is located.

iii. Illumination
CO-1, CO-2, CO-3, UR-1 – External or internal, direct, exposed or concealed.

iv. Changeable Copy
CO-1, CO-2, CO-3, UR-1 – Manual and automatic permitted, up to 25% of sign face.

v. Development Controls
CO-1, CO-2, CO-3, UR-1 - Wall signs permitted for non-residential uses only. No wall sign shall extend above the roof of the building, including parapets and architectural extensions.

Above: Wall signs are used to identify individual, tenants, increase business visibility and are usually placed above main entrances.

Above: Wall signs are used to identify individual, tenants, increase business visibility and are usually placed above main entrances.

d. Projecting Signs

Above: Projecting signs are a form of business identification oriented towards pedestrians.

i. Maximum Number
CO-1, CO-2, CO-3, UR-1 - One per business establishment with a ground floor entrance.

ii. Maximum Size
CO-1, CO-2, CO-3, UR-1 – 36 square feet

iii. Height at Bottom of Sign
CO-1, CO-2, CO-3, UR-1 – 7’ minimum, 10’ maximum

iv. Height at Top of Sign
CO-1, CO-2, CO-3, UR-1 – 16’

v. Illumination
CO-1, CO-2, CO-3, UR-1 – External or internal, direct, exposed or concealed.
vi. **Changeable Copy**
CO-1, CO-2, CO-3, UR-1 – Manual and automatic permitted, up to 25% of sign face.

vii. **Projection from Building Face**
CO-1, CO-2, CO-3, UR-1 – 6’ maximum

e. **Sidewalk Signs**

i. **Maximum Number**
CO-1, CO-2, CO-3, UR-1 - One per business establishment with a ground floor entrance.

ii. **Maximum Size**
CO-1, CO-2, CO-3, UR-1 – 10 square feet

iii. **Maximum Height**
CO-1, CO-2, CO-3, UR-1 – 5’

iv. **Setbacks**
CO-1, CO-2, CO-3, UR-1 - None

v. **Illumination**
CO-1, CO-2, CO-3, UR-1 – None permitted

vi. **Changeable Copy**
CO-1, CO-2, CO-3, UR-1 – Manual or automatic permitted

vii. **Other Development Controls**
CO-1, CO-2, CO-3, UR-1
Sign shall be in front of the establishment.

Sign shall be an A-frame or other self-supporting design, without separate structural members.

Sign shall be placed so that it does not block any public entrance or required emergency exit from a building and so that there is a clear passage of at least six feet.

Sign may be placed on the sidewalk only during hours when the establishment to which it pertains is open for business; a sidewalk sign located in front of a business that is not open shall be considered an abandoned sign and may be removed by City of Erlanger without notice and without liability for its value.

A sidewalk sign may bear any noncommercial message or a commercial message related to goods or services available in the premises that fronts on the sidewalk.

f. **Incidental Signs**

i. **Maximum Number**
CO-1, CO-2, CO-3, UR-1 – As needed

ii. **Maximum Size**
CO-1, CO-2, CO-3, UR-1 – 4 square feet

iii. **Maximum Height**
CO-1, CO-2, CO-3, UR-1 – 6’

vi. **Setbacks**
CO-1, CO-2, CO-3, UR-1 - None
v. Illumination  
CO-1, CO-2, CO-3, UR-1 – None permitted

vi. Changeable Copy  
CO-1, CO-2, CO-3, UR-1 – None

vii. Development Controls  
CO-1, CO-2, CO-3, UR-1  
No incidental sign shall bear a commercial message. The intent is to provide for signs such as “no parking” or “no dumping,” etc.

Traffic Control Signs

Above: Traffic control signs aid in the safe and effective movement of vehicular traffic and pedestrians.

i. Development Controls  
CO-1, CO-2, CO-3, UR-1  
Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.
2. Residential Buildings

a. Permanent Development

   Entrance Signs

   - i. Maximum Number
     CO-2, UR-1 – 2 per entrance

   - ii. Maximum Size
     CO-2, UR-1 – 25 square feet per sign

   - iii. Maximum Height
     CO-2, UR-1 – 6’

   - iv. Setbacks
     CO-2, UR-1 – 5’ from all property lines

   - v. Illumination
     CO-2, UR-1 - External or internal, direct, exposed or concealed

   - vi. Changeable Copy
     CO-2, UR-1 – None

   - vii. Development Controls
     CO-2, UR-1
     Permanent entrance signs shall only be permitted for neighborhoods or multi-family developments.

b. Directional Ground Sign

   - i. Maximum Number
     CO-2, UR-1 – One per vehicle entrance

   - ii. Maximum Size
     CO-2, UR-1 – 12 square feet

   - iii. Maximum Height
     CO-2, UR-1 – 6 feet

   - iv. Setbacks
     CO-2, UR-1 – 5’

   - vi. Illumination
     CO-2, UR-1 – Internal or concealed only

   - vii. Changeable Copy
     CO-2, UR-1 – None

c. Ground Signs

   Above: Ground signs can be to identify special events, personal viewpoints, and lawfully permitted commercial activity occurring on the premises.
**Article X   Zones**

**i. Maximum Number**
CO-2, UR-1
4 total: 1 permanent, 3 temporary

**i. Maximum Size**
CO-2, UR-1 – 6 square feet

**iii. Maximum Height**
CO-2, UR-1 – 6’

**iv. Setbacks**
CO-2, UR-1 - None

**v. Illumination**
CO-2, UR-1 - None

**vi. Development Controls**
CO-2, UR-1
Any permanent sign shall not contain a commercial message

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.

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 a special event, such sign shall be removed within seven (7) days following the conclusion of such event.

**e. Wall Signs**

Above: Wall signs are used to identify a lawfully operating business located on a residential premises

**i. Maximum Number**
CO-2, UR-1 – 1 per dwelling unit

**ii. Maximum Size**
CO-2, UR-1 – 4 square feet

**iii. Maximum Height**
CO-2, UR-1 – None

**iv. Illumination**
CO-2, UR-1 - None

**v. Development Controls**
CO-2, UR-1
Sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a home occupation.

For permitted uses other than residential, one wall sign per use not more than two (2) square feet in area is allowed, provided that such sign contains no commercial message.

**f. Incidental Signs**

Above: Incidental signs are used to convey minor information about a site or off-street parking area which is noncommercial in nature.
Article X  Zones

i. Maximum Number
CO-2, UR-1 – As needed

ii. Maximum Size
CO-2, UR-1 – 4 square feet

iii. Maximum Height
CO-2, UR-1 – 6’

iv. Setbacks
CO-2, UR-1 - None

v. Illumination
CO-2, UR-1 – None permitted

vi. Changeable Copy
CO-2, UR-1 – None

vii. Development Controls
CO-2, UR-1
The intent of these signs is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”.

No incidental sign may not bear any commercial message.

f. Traffic Control Signs

Above: Traffic control signs aid in the safe and effective movement of vehicular traffic and pedestrians.

i. Development Controls
CO-2, UR-1
Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.
3. Public and Civic Buildings

a. Ground Signs

i. Maximum Number
CO-1 - 1 per street frontage along a public ROW as well as along a private drive or street within a development which functions as a public ROW.
CO-2, CO-3, UR-1 – 1 per street frontage along a public ROW.

ii. Maximum Size
CO-1, CO-2, CO-3, UR-1
50 square feet

iii. Maximum Height
CO-1, CO-2, CO-3, UR-1 - 10'

iv. Setbacks
CO-1, CO-2, CO-3, UR-1 - 5' from all property lines

v. Illumination
CO-1, CO-2, CO-3, UR-1 - External or internal, direct, exposed or concealed

vi. Changeable Copy
CO-1, CO-2, CO-3, UR-1
Manual and automatic permitted, up to 30% of sign face.

b. Directional Ground Signs

i. Maximum Number
CO-1, CO-2, CO-3, UR-1 – One per vehicle entrance

ii. Maximum Size
CO-1, CO-2, CO-3, UR-1 – 12 square feet

iii. Maximum Height
CO-1, CO-2, CO-3, UR-1 - 4 feet

iv. Setbacks
CO-1, CO-2, CO-3, UR-1 – 5'

v. Illumination
CO-1, CO-2, CO-3, UR-1 – Internal or concealed only

vi. Changeable Copy
CO-1, CO-2, CO-3, UR-1 – None

b. Wall Signs

i. Maximum Number
CO-1 - 1 per street frontage along a public row
ROW as well as along a private drive or street within a development which functions as a public ROW.

**CO-2, CO-3, UR-1** – 1 per street frontage along a public ROW.

**ii. Maximum Size**

**CO-1, CO-2, CO-3, UR-1** – 1 square foot of sign area per lineal foot of building width on the side of the building on which the sign is located.

**v. Illumination**

**CO-1, CO-2, CO-3, UR-1** – Internal and concealed source only

**vi. Changeable Copy**

**CO-1, CO-2, CO-3, UR-1** – Manual and automatic permitted, up to 25% of sign face.

**vii. Development Controls**

**CO-1, CO-2, CO-3, UR-1** - No wall sign shall extend above the roof of the building, including parapets and architectural extensions

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**d. Incidental Signs**

**i. Maximum Number**

**CO-1, CO-2, CO-3, UR-1** – As needed

**ii. Maximum Size**

**CO-1, CO-2, CO-3, UR-1** – 4 square feet

**iii. Maximum Height**

**CO-1, CO-2, CO-3, UR-1** – 6’

**iv. Setbacks**

**CO-1, CO-2, CO-3, UR-1** – None

**v. Illumination**

**CO-1, CO-2, CO-3, UR-1** – None permitted

**vi. Changeable Copy**

**CO-1, CO-2, CO-3, UR-1** – None

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**vii. Development Controls**

**CO-1, CO-2, CO-3, UR-1**

The intent of these signs is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”.

No incidental sign may bear any commercial message.

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**e. Traffic Control Signs**

**i. Development Controls**

**CO-2, UR-1**

Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

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**Above: Incidental signs are used to convey minor information about a site or off-street parking area which is noncommercial in nature.**

**i. Development Controls**

**CO-2, UR-1**

Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

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**Above: Traffic control signs aid in the safe and effective movement of vehicular traffic and pedestrians.**
SECTION 10.26, F.

GENERAL REGULATIONS

1. Accessory Uses
2. Mechanical Equipment Screening
3. Loading/Unloading/Service Areas
4. Trash Enclosures
5. Outdoor Storage
6. Lighting
7. Screening and Landscaping
8. Other Development Controls
1. Accessory Uses
CO-1, CO-2, CO-3, UR-1
a. Customary accessory buildings and uses typically associated with the principal building form shall be permitted. Said uses shall be regulated according to the standards set forth within Article IX of this ordinance.

b. Home Occupations shall be regulated according to the standards set forth within Article IX of this ordinance.

c. Fences and walls shall be regulated according to the standards set forth within Article XIII of this ordinance.

d. Signs shall be regulated by Article XIV and Section 10.26, F.

e. Outdoor dining areas shall be permitted subject to the following standards:

   Such area shall not exceed 25% of the maximum seating capacity of the indoor seating area

   Entertainment, music, and sound amplifying systems shall be permitted within the outdoor seating areas no later than 11 p.m., Sunday thru Thursday and no later than midnight on Friday and Saturday.

2. Mechanical Equipment Screening
CO-1, CO-2, CO-3, UR-1
a. All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street.

   This does not include equipment that is required by a public utility company (i.e. electric/gas meters, etc.).

b. Ground mounted equipment shall be screened either with landscaping, enclosed within a structure which uses the same materials, colors, or design detailing as the principal building, or by some other means which screens it from a public street frontage or a private access drive which functions as a street.

c. If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an integral part of the overall building.

   For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.

d. Mechanical equipment screening shall not be required for single-family residential building forms.

3. Loading / Unloading / & Service Areas
CO-1, CO-2, CO-3, UR-1
Loading/unloading areas may be located in an adjacent public right-of-way, within an off-street parking area, or any other designated area. Such areas shall not be used in a manner which is detrimental to vehicular traffic, adjacent businesses, nor create a nuisance to general public.

4. Trash Enclosures
CO-1, CO-2, CO-3, UR-1
a. Garbage storage areas shall be placed in the side or rear yard only, excluding corner side yards and along access drives which function as streets.

b. Garbage storage areas shall be enclosed on at least three (3) sides.

c. Garbage storage areas shall be screened by either landscaping or an enclosure structure constructed of brick or masonry walls and/or wooden fences which are a minimum of five (5) feet tall or one foot higher than the trash container to be screened, whichever is greater. Chain link fences with slats are not acceptable enclosure materials.

   If provided, the gates or doors of the garbage collection area or dumpster enclosure shall be kept completely closed except at times when the area or dumpster is being serviced.
Additionally, the required enclosure structure shall be constructed with the same materials, colors, or design detailing as the principal building.

d. Trash enclosure regulations shall not be applicable to single-family residential building forms.

5. Outdoor Storage
No outdoor storage of any material or product, either useable or waste, shall be permitted within this zone, except within enclosed areas. Outdoor play areas used in connection with a daycare are permitted.

e. Lighting located on the building wall shall be fully shielded to direct the light downward.

f. Neon or LED accent lighting is permitted on buildings and structures.

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

6. Lighting
CO-1, CO-2, CO-3, UR-1
a. Light poles shall be consistent in design with the overall architectural theme of each development proposal. All light poles in off-street parking and pedestrian areas shall be black in color.

b. Pedestrian-oriented lighting should be at smaller scales to light walkways and plazas while lighting in parking areas should be at larger scales to light parking areas and vehicular circulation routes.

c. All non-decorative lighting shall be fully shielded lights so that they do not emit light rays at angles above the horizontal plane.

d. Decorative, pedestrian-scale lights are encouraged in areas of pedestrian activity. All decorative lights over ten (10) feet in height shall be fully shielded to avoid light spillage on adjacent property and road rights-of-way.

e. Lighting located on the building wall shall be fully shielded to direct the light downward.

f. Neon or LED accent lighting is permitted on buildings and structures.

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

7. Screening and Landscaping
a. Interior landscaping for vehicular use areas must be provided in accordance with Section 9.17.,H, of this zoning ordinance.

b. Any commercial or multi-family use building that is adjacent to a single family zoning district shall provide a buffer yard in accordance with Section 9.17., Table 2, Buffer Yard A.

8. Other Development Controls
a. No use shall produce objectionable odors, noise or dust.

b. All new utilities installed by a developer must be underground when a new development occurs.
SECTION 10.26, G.

DEFINITIONS AND PROHIBITED USES

1. Definitions
2. Prohibited Uses
3. General Definitions
1. Definitions

The definitions in this section shall prevail within the CS Zone. For definitions not contained within the CS Zone, the definitions contained in the City of Erlanger Zoning Ordinance shall prevail.

Definitions contained within this section shall supersede those contained within Article VII of this zoning ordinance.

a. Residential Use Group

Attached Single-Family – A single dwelling unit located on its own lot that shares one or more common or adjacent walls with one or more dwelling units. An attached house does not share common floor/ceilings with other dwelling units.

Multi-Family – A residential building, designed, arranged, or used exclusively by three (3) or more families, living independently of each other.

Two-Family – A residential building designed, arranged, or used exclusively by two (2) families, living independently of each other.

b. Public & Civic Use Group

Day Care or Day Care Center – Uses providing care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day. There are 4 types of Day Care uses:

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

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

iii. Day Care, Type 1
   A facility that is licensed by the state to care for 13 or more children or adults.

iv. Day Care, Type 2
   A facility that is licensed by the state to care for 7 to 12 children or adults.

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

Lodge or Private Club – An association of persons for some common objective, usually jointly supported and meeting periodically.

Religious Assembly – Religious services involving public assembly such as customarily occurs in synagogues, temples, mosques, and churches.

c. Commercial Use Group

Animal Sales and Grooming – Sales and grooming of dogs, cats, and similar small animals.

Artists/Craftsman Galleries and Studios – Studio for artists, designers, photographers, musicians, sculptors, potters, wood and leather craftsman, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry that will be displayed or sold on premises.

Auto Supply/Accessory Sales – Businesses involved in the sale, lease, or rental of new or used automobile...
supplies or accessories to the general public.

Bed and Breakfast - A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.

Building Maintenance Services – Provision of maintenance and custodial services to commercial and industrial establishments.

Business Support Services – Provision of clerical, employment, protective, or minor processing services to firms rather than individuals. Storage of goods other than samples is prohibited. Typical uses include but are not limited to employment agencies, secretarial services, telephone answering services, and blueprint services. Also includes business or trade schools that do not involve any outdoor storage or manufacturing processes.

Repair or Laundry Service, Consumer – Provision of repair, dry cleaning or laundry services to individuals and households, but not to firms. Typical uses include but are not limited to laundry/dry cleaning drop-off stations, hand laundries, appliance repair shops, locksmiths, shoe and apparel repair, and musical instrument repair. This definition does not include laundromats or self-service washing and drying facilities.

Sit-Down Restaurants – Establishments primarily engaged in the retail sale of prepared food for consumption on the premises.

Microbrewery – Establishments engaged in on-site brewing of beer and sales of beer by the glass for on-premise consumption. These establishments are primarily used for the production of beer and ale and may include retail and food service as an accessory use. The brewing operation processes the ingredients to make beer and ale by mashing, cooking, and fermenting. The brewing operation does not include the production of any other alcoholic beverage.

Tavern – Establishments primarily engaged in the retail sale of alcoholic drinks such as beer, ale, wine, and liquor for consumption on the premises. Such establishments may sell or serve food.

Brewpub – Establishments primarily engaged in the retail sale of prepared food for consumption, which includes the brewing of beer as an accessory use. The brewing operation processes the ingredients to make beer and ale by mashing, cooking, and fermenting. The brewing operation does not include the production of any other alcoholic beverage.

Micro-distillery – Establishments primarily engaged in on-site distillation of spirits and may include retail and food service as an accessory use. The distillery operation processes the ingredients to make spirits by mashing, cooking, and fermenting. The micro-distillery operation does not include the production of any other alcoholic beverage.

Entertainment – Provision of cultural, entertainment, athletic, and other events to spectators with a capacity of fewer than 500 persons.

Financial Services – Financial or securities brokerage services.

Funeral and Internment Services – Provision of services involving the care, preparation, or disposition of human
dead. Typical uses include funeral homes, crematory services, mortuaries, and cemeteries.

Gasoline Stations – Retail sales to the public of fuels, oils, and accessories for motor vehicles, where repair service and automobile washing is incidental, where no storage or parking space is offered for rent, and where no motor vehicles or boats are offered for sale or rent.

Lodging – A building or buildings to be used for the temporary abiding place for travelers and transient guests with incidental food, drink, and other sales and services intended for the convenience of guests.

Medical Service – Personal health services, including prevention, diagnosis, and treatment, rehabilitation services provided by physicians, dentists, nurses, and other health personnel and medical testing and analysis services.

Minor Vehicle Repair – A vehicle repair establishment that provides replacement of any passenger vehicle part or repair of any passenger vehicle part that does not involve body work or painting or require removal of the engine head or pan, engine transmission or differential.

Professional Office – Professional, governmental, executive, management, or administrative offices of private organizations or government agencies.

Personal Improvement Service – Informational, instructional, personal improvement, and similar services of a nonprofessional nature. A massage establishment operated by a licensed massage therapist is also included with in the “personal improvement service” use category.

Retail Sales and Service – Businesses involved in the sale, lease, or rental of new or used products or merchandise to the general public. Typical uses include drug stores, grocery stores, department stores, and apparel stores.

Veterinary Hospitals – Pet clinics, dog and cat hospitals, and animal hospitals.

2. Prohibited Uses
In order to provide for an area conducive to pedestrian activity, several uses have been determined to be not appropriate in the CS Zone. The following rationale was used to determine if a use should be prohibited:

a. Uses are automobile oriented
b. Uses are associated with negative secondary effects (crime, loitering, graffiti, traffic, etc.)

The following uses are prohibited in the CS Zone:

Laundromats and self-service washing and drying – A self-service laundry facility with coin-operated washing machines, dryers, and sometimes ironing or pressing machines, open to the public for washing clothing and household cloth items.

Bingo Hall – A facility used exclusively or primarily for conducting bingo and other similar games that are open to the public.

Billiard/Pool Hall – A place where people get together for playing cue sports such as pool, snooker or carom billiards.

Currency Exchange (Check Cashing Facility) – A person or business that for compensation engages, in whole or in part, in the business of cashing checks,
warrants, drafts, money orders, or other commercial paper serving the same purpose.

Payday Loan – An establishment that engages in the business of offering payday loans. A “payday loan” is a loan transaction where a post-dated check or other check that the parties agree will be held for a period of time before presentment for payment or deposit is accepted as collateral for the loan.

Pawn Shop – An establishment or person (pawnbroker) engaged in the business of receiving property in pledge or as security for money or other things advanced to the pawner or pledger.

Body-Art Services – Provision of any of the following procedures: body piercing, tattooing, cosmetic tattooing, branding, and scarification.

Fortune Telling Service – An establishment engaged in or that professes to foretell future or past events or that is engaged in the practice of palmistry (the art or practice of reading a person’s character or future from the lines on the palms of hands).

Flea Market – An occasional or periodic market usually held in an open area, but which may be held indoors, where individual stalls or spaces are provided on a short-term basis for vendors to display, buy, sell, exchange, or deal in new or used goods.

Car Wash – A building or site containing facilities for washing automobiles. It may use automatic production line methods—a chain conveyor, blower, steam-cleaning device, or other mechanical device—or it may provide space, water, and equipment for hand washing, cleaning, or detailing of automobiles, whether by the customer or the operator.

Major Vehicle Repair – Repair or servicing of commercial vehicles or heavy equipment or body work, painting, or major repairs to passenger vehicles.

New or Used Vehicle/Equipment Sales – Sales of new or used autos, noncommercial trucks, motorcycles, trailers, and boats, together with incidental maintenance.

Animal Kennels and Shelters – Animal shelters and kennel services for dogs, cats, and small animals.

Internet or Sweepstakes Parlor or Café – An establishment that gives away chances to win prizes with the purchase of a service or product, typically internet access or telephone

Drive through / Drive In establishment – A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building

3. General Definitions

Façade - That portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.
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. Off-street parking facilities shall be located as follows:

   a. Single-Family Residential Zones - (R-2, R-1B, R-1C, R-1D, R-1E, 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. Multi-Family Residential Zones - See R-3 Zone.

c. Special Development Zones - (RCD, PUD, AP) Off-street parking shall be located as designated on the approved plan.

d. Commercial, Institutional, Industrial, and Recreation Zones - 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 five (5) feet from any street right-of-way lines.

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 multi-family, industrial, commercial, and recreational zones may supply off-street parking on contiguous lots upon approval of the zoning administrator, provided the off-street parking is in compliance with Section 11.0, E. In addition, said off-street parking shall be located in the same zone as the use being served.

b. Existing single, two, or multi-family dwellings, which are permitted uses herein and occupy a lot of such size that off-street parking could not be provided on the same lot as the use being served, said off-street parking may be permitted to locate within 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 a conditional use, may be permitted to locate on another lot 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 under Shared Parking Provision, Section 11.0, E. Such parking shall not be across an arterial or collector street.

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
number of minimum required parking spaces shall be computed by multiplying
the minimum number of parking spaces normally required for each land use by
the appropriate percentage, as shown in the following shared parking credit
table, for each of the five (5) time periods 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 Recreational Establishment</td>
<td>40%</td>
</tr>
</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-two (22) feet (either one or two way circulation)
2. Sixty (60) degree (angle) parking -- Fifteen (15) feet (one way circulation only)
3. Forty-five (45) degree (angle) parking -- Twelve (12) 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. In addition, a two (2) foot overhang may be permitted on the external sides of a parking area.

If the width of the parking space is increased over nine (9) feet, the drive aisle width can be decreased proportionally (two (2) foot width in drive aisle per one (1) foot increase in space width) except that a drive aisle for two-way traffic may not be decreased below twenty (20) feet in width and a drive aisle for one-way traffic may not be decreased below eleven (11) feet in width.

C. ACCESS TO OFF-STREET PARKING SPACES: Each required 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 MULTI-FAMILY, COMMERCIAL, INDUSTRIAL, OR RECREATION 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. Except for parking in a Recreation Zone, which adjoins or fronts on any property being used as a publicly owned and/or operated park and/or recreation area. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

E. LIGHTING: Any lighting used to illuminate off-street parking areas shall not glare upon any right-of-way or adjacent property.

F. PAVING OF NEW OFF-STREET PARKING AREAS: 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 the Kenton County Subdivision Regulations.

G. Nobody shall cause, permit, promote, encourage, allow, assist, or engage in any use of land or construction thereon authorized in this ordinance, or any amendment thereof, which involves or is intended for the transaction of any business between a motor vehicle occupant and a person or machine within a building, unless a paved area, large enough to accommodate at least five (5) motor vehicles at one time, is provided for each outside location designated for the transaction of such business, and restricted to the use of motor vehicles waiting to approach such designated locations.
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 use is located in the same building, each individual use shall be in accordance with the off-street parking requirements of this section of the ordinance.

<table>
<thead>
<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Airport, railroad passenger stations and bus terminal</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 the facility.</td>
</tr>
<tr>
<td>C. Automobile Service stations</td>
<td>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.</td>
</tr>
<tr>
<td>D. Beauty parlor and/or barber shops</td>
<td>Two (2) parking spaces per barber and/or beauty shop operator.</td>
</tr>
<tr>
<td>E. Bowling establishments</td>
<td>Four (4) parking spaces for each lane, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
</tr>
<tr>
<td>F. City and/or county government</td>
<td>One (1) parking space for each two hundred (200) square feet of gross floor area.</td>
</tr>
<tr>
<td>G. Commercial or trade schools</td>
<td>One (1) parking space for each two (2) students, based on design capacity of the school, plus one (1) parking space for each employee.</td>
</tr>
</tbody>
</table>
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.

J. Dormitories, Fraternities, Sorority Houses, and other group housing

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.

K. Dwellings: One-Family

Two (2) parking spaces.

Two-Family

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.

L. Dwellings: Multi-Family

One and one-half (1-1/2) parking spaces for every one (1) bedroom dwelling unit and two (2) parking spaces for every dwelling unit with two (2) or more bedrooms. Plus one (1) parking space for every five (5) dwelling units for adequate guest parking.

<table>
<thead>
<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article XI Off-Street Parking And Access Control Regulations</td>
<td>Erlanger Zoning Ordinance August 2007 PDS</td>
</tr>
</tbody>
</table>
M. Establishments for sale and consumption on the premises of alcoholic beverages, food, refreshments, or for take home food service

One (1) parking space for each two (2) employees on shift of largest employment plus one parking space for each:

A. Thirty (30) square feet of gross floor area in a drive-in restaurant;
B. One hundred forty (140) square feet of gross floor area in a carry-out restaurant;
C. Sixty-five (65) square feet of gross floor area or two (2) seating accommodations, based on maximum seating capacity, whichever is greater, in a combination restaurant:
D. Two (2) seating accommodations, based on maximum seating capacity, in a sit-down restaurant or tavern.

N. Fire stations

One (1) parking space for each person on duty on largest shift.

O. Hospitals

One (1) parking space for each two (2) beds, plus one (1) parking space for each two (2) employees or staff members, including nurses, on shift of largest employment, plus one (1) parking space per doctor.

P. Laundromats

One (1) parking space for each two (2) washing machines, plus one (1) parking space for each employee.

Q. Libraries, museums, and art galleries

One (1) parking space for each four (4) seats in rooms for public assembly or one (1) parking space for each fifty (50) square feet of gross floor area for use by the public, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.
<table>
<thead>
<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>R. Medical offices and/or clinics</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 fifty (250) 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>S. Mortuaries or funeral homes</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>T. Offices for professional, business, and financial, real estate, and business purposes, other than medical offices and/or clinics</td>
<td>One (1) parking space for each two hundred fifty (250) square feet of gross leasable area.</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>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
</tr>
<tr>
<td>--------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>W. Retail and personal service stores</td>
<td>Four (4) spaces per one thousand (1,000) square feet of gross leasable area, excluding storage areas.</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>Four (4) parking spaces per one thousand (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>
<tr>
<td>BB. Theaters, auditoriums, churches, and places of assembly with fixed seats</td>
<td>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.</td>
</tr>
<tr>
<td>CC. Theaters, auditoriums, churches, and places of assembly without fixed seats</td>
<td>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.</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>DD.</td>
<td>Tourist homes, cabins, motels or hotels, excluding areas used for meeting rooms and places of assembly</td>
</tr>
<tr>
<td>EE.</td>
<td>Industrial establishments, including manufacturing, research, and testing laboratories</td>
</tr>
<tr>
<td>FF.</td>
<td>Wholesale establishments, warehouses, and storage buildings</td>
</tr>
<tr>
<td>GG.</td>
<td>Housing for the elderly</td>
</tr>
<tr>
<td>HH.</td>
<td>All other uses not listed herein</td>
</tr>
</tbody>
</table>
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, multi-family residential, or recreation 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 greater than five hundred (500) 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 11.2, A. - G., may be varied, provided that a traffic engineering report is prepared by a qualified traffic engineer, establishing that the special treatment will have no adverse effects on the roadway safety and capacity.

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 for all access points, and modifications thereto (including plans to use existing access points where a change of use for any tract of land would generate more traffic than the previous use, thus producing an adverse effect on the adjacent roadway), shall be submitted to the zoning administrator and Planning and Development Services of Kenton County staff, at a scale not less than 1 inch = 100 feet. No action of approving or rejecting these plans by the zoning administrator shall be taken until a review and recommendation of said plans has been made by Planning and Development Services of Kenton County staff. 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 11.3. 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>2 lane</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 or 6 lane</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DL DR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DL DR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passenger Car</td>
<td>150</td>
<td>130</td>
<td>130</td>
<td>360</td>
<td>260</td>
</tr>
<tr>
<td>Truck</td>
<td>300</td>
<td>260</td>
<td>200</td>
<td>200</td>
<td>500</td>
</tr>
</tbody>
</table>

Notes:

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 1B

LEFT TURN SIGHT DISTANCE FOR VEHICLES ENTERING ACCESS POINTS

see Figure 1B

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>20 MPH Lane</th>
<th>30 MPH Lane</th>
<th>40 MPH Lane</th>
<th>50 MPH Lane</th>
<th>60 MPH Lane</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passenger Car</td>
<td>150</td>
<td>160</td>
<td>170</td>
<td>230</td>
<td>250</td>
</tr>
<tr>
<td></td>
<td>270</td>
<td>370</td>
<td>390</td>
<td>420</td>
<td>520</td>
</tr>
<tr>
<td>Truck</td>
<td>260</td>
<td>260</td>
<td>300</td>
<td>400</td>
<td>480</td>
</tr>
<tr>
<td></td>
<td>570</td>
<td>620</td>
<td>670</td>
<td>810</td>
<td>880</td>
</tr>
</tbody>
</table>

Notes:

S = Sight distance along major route to safely turn left into access point.

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.
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

SECTION 12.0 GENERAL REQUIREMENTS

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.

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. **PAVING OF OFF-STREET LOADING AND/OR UNLOADING AREAS:** All off-street loading and/or unloading areas, including spaces, maneuvering, and storage areas for truck parking shall be paved with asphalt concrete or portland cement concrete and shall be designed and constructed in accordance with Appendix A.

D. **LIGHTING:** Any lighting used to illuminate off-street loading and/or unloading areas shall not glare upon any right-of-way or adjacent property.

E. **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, or 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 or wood) (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 GENERAL REGULATIONS

A. CORNER LOTS: Except as herein provided, fences may extend to the minimum side yard setback, on the side street side, or to the corner of the building, whichever is closer.

B. DOUBLE FRONTAGE LOTS: Except as herein provided, a fence of class 1, 2, 3, 4, 5, and 6 may extend only to the minimum front yard setback, for that zone.

SECTION 13.3 CONSERVATION ZONE

A. Fences and/or walls within the conservation zone shall conform to the following requirements:
   1. Side and rear yard, class 1, 2, 3, 4, 5, 6 fences and/or walls may be erected up to a minimum height of ninety-six (96) inches.
2. Class 8 walls shall be permitted but shall conform to requirements of the Corps of Engineers and/or engineer, whichever is applicable.

SECTION 13.4 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.

2. The location, height, and type of all fences and/or walls within any area zoned with a PUD, RCD Overlay shall be as approved in the development plan.

3. For all non-residential uses conditionally permitted in any residential zone herein, the requirements are as follows:

   a. Classes 1, 2, 3, 4, 5, 6 fences and/or walls may be erected in side or rear yards, 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, 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 or 4 only may be erected, as regulated by the applicable provisions of this section.

4. For all permitted and conditionally permitted uses in any residential zone herein, a class 2 fence may be permitted within the front yard according to the following requirements:

   a. May only be located parallel to, and along, the side lot line.
   b. May not exceed four (4) feet in height.

5. For all permitted uses in all single family residential zones herein, Class 2, 3, or 4 fences may be conditionally permitted within the front yard on corner lots according to the following requirements:
a. Shall not exceed four (4) feet in height
b. Shall not be located closer to the front property line than half the minimum front yard setback distance
c. Shall comply with Section 13.0 for vision clearance at corners
d. Shall only be located on the side street of the residence

SECTION 13.5 MIXED USE ZONES: In any zone where both residential and nonresidential uses are allowed, the fence, wall, and obstruction to view regulation and responsibilities applicable to any particular parcel or land use shall be determined as follows: (1) if specific fence, wall, and obstruction to view regulations are provided in the zoning district, those regulations shall be applied; or (2) if no fence, wall, and obstruction to view 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.

SECTION 13.6 COMMERCIAL, INSTITUTIONAL, INDUSTRIAL, AND RECREATION ZONES: Fences and/or walls within all commercial, institutional, industrial, and recreation 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, institutional, and recreation 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.

   1. No fence shall be permitted within the minimum front yard, except those fences required by Section 9.18 of this ordinance.

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 within the BP-1 and IP-2 Zones.

SECTION 13.7 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 13.8  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 13.9  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 13.10  ELECTRIFIED FENCES: No fence carrying an electrical charge shall be permitted in any zone.

SECTION 13.11  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 13.12  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.
ARTICLE XIV

SIGN REGULATIONS

SECTION 14.1 SHORT TITLE: This Article shall be known as the Sign Article of the City of Erlanger.

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 Erlanger. These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts. More specifically, it is the purpose of this Article to:

1. Implement the plans and planning policies of the City of Erlanger, together with any subsequent adopted amendments;
2. Provide liberally for the free expression of ideas through signs in residential and other areas;
3. Encourage the effective use of signs as a means of communication and to facilitate way-finding in the area planned and regulated by the City of Erlanger;
4. Balance the desire and need of individuals to express their creativity in signs with the desire to maintain a pleasing visual environment for residents and the many visitors who come to the area each year;
5. Protect and enhance the value of properties and to have signage appropriate to the planned character and development of each area in the City of Erlanger;
6. Balance the need for information for motorists and pedestrians with the need for traffic safety by limiting signs or characteristics of signs that may be particularly distracting to drivers;
7. Provide clear and objective sign standards;
8. Provide a clear and efficient review procedure for sign applications; and
9. Enable fair and consistent enforcement of the regulations set forth in this Article.

SECTION 14.3 TEMPORARY SIGNS

A. One temporary sign will be permitted on each lot in a non-residential zone, subject to the following standards and conditions:

1. It shall not exceed twelve (12) square feet in area;
2. It shall be attached at all four corners or otherwise firmly affixed to a wall of the principal building or it may be freestanding;
3. If it is freestanding, it shall be supported by one or more posts or similar devices in the ground and shall not exceed six (6) feet in height;
4. In no case shall such a sign be affixed to a tree or other natural feature, a fence, a utility pole, or a fixture or structure on the property other than the principal building;
5. If freestanding, it shall be set back a minimum of ten (10) feet from any property line;
6. It shall not be separately illuminated;
7. If the message relates to an event, such sign shall be removed within seven (7) days following the conclusion of the event;
8. Such a sign may bear any noncommercial message or a commercial message related to a commercial activity lawfully conducted on the lot where the sign is located; the sale or lease of the premises shall be considered a lawfull use of any premises for purposes of this regulation.

SECTION 14.4 SCOPE, AUTHORITY AND APPLICABILITY

A. SCOPE: This Article is adopted pursuant to KRS 100.

B. AUTHORITY: This Article regulates signs, as defined herein, when mounted, located, or displayed on property located within the incorporated limits of the City of Erlanger, on land that is either private land or public land over which the City of Erlanger 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 Erlanger, except as otherwise provided herein. All signs displayed in the City of Erlanger shall comply with all requirements of this Article and all other applicable law. Permits shall be required for all signs in the City of Erlanger, 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 Erlanger, 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 Erlanger; and
4. Signs on vehicles and watercraft which are regularly used in the operation of a business; signs on vehicles which are parked for long periods of time, which are not operational and/or which are not regularly used in the operation of a business at the same location where the vehicle is most frequently parked shall be considered detached signs and subject to regulation under this Article. For purposes of this subsection, a “long period of time” shall be a continuous period of 30 days or separate periods that total 40 days or more out of any 60-day period.

F. SIGNS SUBJECT TO OTHER STANDARDS: Signs listed in this Section shall be exempt from the permit requirements of this Article; but, shall, to the maximum extent allowed by law, be subject to the other standards of this Article. Where a sign is erected pursuant to a statute or a court order, the sign may exceed the size standards of this Article or otherwise deviate from the standards set forth in this Article to the extent that the statute or court order expressly required the larger size or other deviation. In all other respects, such signs shall conform to the standards of this Article. This subsection shall apply to the following types of signs:

1. Signs conforming to the Manual of Uniform Traffic Control Devices and bearing no commercial message;
2. Signs bearing no commercial message and installed by employees or officials of the City of Erlanger, Kenton County, a state or federal agency in the course of their governmental duties;
3. Signs required by a state or federal statute;
4. Signs required by an order of a court of competent jurisdiction;
5. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the use; and
6. Signs installed by a transit company with a franchise or other right to operate in the City of Erlanger, where such signs are installed along its routes and relate to schedules or other information about the transit route.
G. SIGNS ALLOWED WITHOUT A PERMIT: The following signs or sign-like devices are allowed in all zoning districts without a sign permit and are not to be included in determination of the allowable numbers, type and area of a sign that requires a sign permit. If a sign otherwise falling under this Section is electrified, it will require an electrical permit. Signs subject to this Section shall conform to the requirements specified:

1. Address Numbers used for the purpose of identifying the address of any building shall not be counted toward allowed sign area;
2. Detached signs smaller than four square feet in area and less than four feet in height, and containing no commercial message (e.g., “Enter” or “Exit” signs);
3. Detached signs smaller than seven square feet, allowed in residential zoning districts in accordance with Sections 14.8 and 14.9;
4. Temporary signs not greater than twelve (12) square feet, allowed in non-residential zones;
5. Wall signs containing no commercial message and not larger than four square feet in area;
6. Cultural decorations or displays of noncommercial nature, mounted on private residential property, which pertain to cultural observances;
7. Cornerstones, foundation stones and memorial signs or tablets displaying the names of buildings and date of erection, when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material, provided that no such sign shall exceed six square feet in area nor shall any such sign be separately illuminated;
8. Symbols that do not bear or include any commercial message and that are integrated into the architecture of a building;
9. Gravestones not containing a commercial message, when erected in a lawful cemetery or graveyard; and
10. Graphic images which are visible only from aircraft flying above.

H. OTHER ACTIONS ALLOWED WITHOUT A PERMIT: The following signs and actions related to signs shall be exempt from the permit requirements of this Article but shall be subject to all other standards of this Article.
1. Changing of the advertising copy or message on an existing painted or printed sign, marquee, changeable copy sign or a similar compliant sign, whether electrical, illuminated, electronic message center or non-illuminated painted message, provided that the copy on an electronic message board shall not change more frequently than allowed under Section 14.6, D.;
2. Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural alterations;
3. Installation of permanent signs smaller than four square feet where such signs are allowed by this Article, contain no commercial message and involve no electrical installation; and
4. Installation of temporary signs not larger than four square feet, where such signs are allowed by this Article and conform with this Article in all respects.

I. PRODUCT DISPLAYS, SALES DEVICES, MENU BOARDS

1. Nothing in this Article shall prohibit or limit the outdoor display of products where allowed under the zoning ordinance, although a particular product may be a thing which would be prohibited by this Article if used as a sign and although one or more such products may have on them permanent labels that might otherwise fall under this Article. This Article shall, however, apply to any sign, banner, pennant, or other attention-attracting device affixed to a product displayed outdoors. For example, the label “Chevrolet” on an automobile or “John Deere” on a tractor shall not be considered a sign for purposes of this Article, but a separate sign attached to such a product shall be considered a sign and subject to regulation.
2. Signs on gasoline pumps, vending machines, news racks and similar machines and devices used for the sale or dispensing of products shall be allowed without a sign permit if they do not flash and if they are either not legible from any public right-of-way, public property or private property other than the site on which the sign is located; or they consist entirely of letters, numerals or symbols that are less than four inches in height. All other signs on vending machines, gas pumps, news racks and similar machines and devices shall be considered “signs” and shall be subject to all of the regulations of this Article.
3. In districts where drive-through and drive-up facilities are allowed, menu boards or other instructional or informational devices related to the drive-through or drive-up facilities shall be allowed without a sign permit, provided that such device is less than 12 square feet in size, and that the only words, numerals, symbols or pictures on such device that are legible from any location other than the site on which it is located shall include no commercial message but shall simply identify the device as a “menu,” “directory,” “instructions,” “information” or something similar. If such a
menu board or other device is larger than four square feet or if it is electrified, it shall require a permit.

SECTION 14.5 PROHIBITED SIGN TYPES

A. Unless specifically authorized by another section of this Article, or by other law, the following sign types are prohibited at all times and in all zones.

1. New billboards;
2. Portable signs, including folding portable signs and flashing portable signs;
3. Pennants, banners, streamers, balloons, and similar devices;
4. Animated, projecting, revolving, and moving signs, including those which create the appearance of animation, projection, revolving or other movement, or utilize flashing or intermittent lights, or lights of changing degrees of intensity; automatic changeable copy signs that conform with section 14.6, D. are not subject to this limitation;
5. Signs which are not traffic, control or safety signals, but by their shape, color, or manner of mounting or display, appear to be traffic, control or safety signals, and thus create confusion for drivers and pedestrians, as well as signs which create or constitute traffic hazards;
6. Signs on vacant lots bearing commercial messages other than those messages related to the sale or lease of the property;
7. Signs for which a separate structure is mounted on a roof or parapet; this provision does not prevent signs which are integral to the building; and
8. Signs using sounds, music, sound effects, noises, or other sound or noise-making or transmitting device or instruments.

SECTION 14.6 INSTALLATION, DESIGN AND CONSTRUCTION STANDARDS

A. LOCATION

1. No sign shall be located closer than five feet to any property line.
2. No sign shall be located so that it obstructs access to or from a doorway, fire escape or required escape window.
3. No sign shall be located so that it blocks the free air flow through windows in residential units.
4. No sign located within a clear sight triangle shall obstruct the vision of motorists or pedestrians between a height of 30 inches and 108 inches off the ground.
5. No sign shall be located within eight vertical feet or four horizontal feet of overhead electrical or other wires.

B. NO PROJECTIONS OVER STREETS OR ALLEYS: Projecting signs are allowed in some zoning districts. No sign shall project over a public right-of-way unless the sign owner has obtained an encroachment permit for such sign. No sign shall project over any portion of a right-of-way used as a street, alley or other way for vehicular travel; encroachment permits are limited to allowing projecting signs to extend over sidewalks.

C. SIGN MAINTENANCE

1. The sign owner shall be liable to maintain such sign, including its illumination sources, in neat and orderly condition and good working order at all times and to prevent the development of any deterioration in the safety of such sign.
2. Nothing in this Article shall prohibit the routine maintenance of any nonconforming sign or the changing of the copy or content of any nonconforming sign, except where such maintenance or change in copy would increase the degree of its nonconformity.

D. FLASHING SIGNS, MOVING SIGNS, AND CHANGEABLE COPY SIGNS

1. General Rule: Signs that move, flash or simulate movement are prohibited except as allowed under this section. A changeable copy sign is considered a different classification of sign under this Article; conversion of an existing sign to a changeable copy sign or to add changeable copy elements to it is allowed only if the modified sign will conform with all standards in this Section and with all other applicable standards related to the location, height, size and other characteristics of the sign.
2. Rules for Changeable Copy Signs Allowed under this Article: Automatic changeable copy signs shall be allowed only in those districts in which "changeable copy sign, automatic" is listed as a permitted sign type and shall be subject to the following additional restrictions:
   a. Such technology shall be programmed so that the message or image on the sign changes no more often than every eight seconds.
   b. There shall be no effects of movement, flashing, scintillation, or similar effects in the individual images.
c. Changes of image shall be substantially instantaneous as seen by the human eye and shall not use fading, rolling, window shading, dissolving or similar effects as part of the change.

d. Video technology in signs shall use automatic level controls to reduce light levels at night and under cloudy or other darkened conditions, in accordance with the following standards.

(1) All electronic or digital display unit message boards shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the electronic board based on ambient light conditions.

(2) Maximum brightness levels for electronic or digital display boards shall not exceed 5,000 nits when measured from the billboard’s face at its maximum brightness, during daylight hours and 500 nits when measured from the board face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset.

e. Any sign using electronic or electro-mechanical technology for changeable copy message boards, which malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing therein motion, movement, flashing or any other similar effects, shall be repaired or disconnected within 48 hours by the owner or operator of such billboard.

f. The area of a sign consisting of electronic or electro-mechanical message board elements shall not constitute more than 200 square feet of a sign.

g. The following limitations shall apply to the location of signs using electronic or electro-mechanical technology for a message board:

(1) A sign on which the electronic or electro-mechanical message board includes 100 or more square feet of sign area shall not be erected within 500 feet of property falling in one of the City of Erlanger 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 Erlanger 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, RECREATION, AND RURAL DISTRICTS (CO and REC 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 occupied lot shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the sale of agricultural products, the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

2. Signs related to the sale of personal property (not including agricultural products) shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.
C. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like "no parking", "no dumping", "beware of dog", "rest rooms", but such signs may bear any message that is not a commercial message.

D. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:

   a. Installation of a permanent neighborhood identification sign;
   b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
   c. A period of two (2) years from the date of installation.

E. PERMANENT ENTRANCE SIGNS

1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include a masonry wall, landscaping or other similar materials or features. Such signs shall only be located at the principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.

F. INSTITUTIONAL SIGNS
1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs (manual or automatic), not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.8 SIGNS ALLOWED IN SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICTS (R-1B, R-1C, R-1D, R-1E, R-1F, R-1G, and R-1M (P) 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 occupied lot in a residential district shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The permanent sign shall not contain a commercial message, and no more than two (2) signs on a lot in a residential district at any one time, including all wall signs, detached signs, temporary signs, and others, may contain commercial messages. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the lawful, occasional sale of personal property
(such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

2. Signs related to the sale of personal property shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

D. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:

   a. Installation of a permanent neighborhood identification sign;
   b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
   c. A period of two (2) years from the date of installation.

E. PERMANENT ENTRANCE SIGNS

1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include a masonry wall, landscaping or other similar materials or
features. Such signs shall only be located at the principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.

F. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs (manual or automatic), not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.9 SIGNS ALLOWED IN MULTI-FAMILY RESIDENTIAL DISTRICTS (R-2 and R-3 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.

3. For any building containing three or more dwelling units sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance. Such sign shall bear no commercial message. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message.

B DETACHED SIGNS

1. Permanent detached signs are allowed in these zoning districts subject to the following limitations. The principal detached sign may contain a commercial message related to the rental, lease or occupancy of the premises. No other commercial message is allowed on the permanent signs allowed under this table.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Directory</th>
<th>Additional</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage per site</td>
<td>One per vehicle entrance</td>
<td>One per public entrance per building</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
<td>Six square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>6 feet</td>
<td>4 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</td>
<td>25 feet</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, direct or concealed source</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>
<td></td>
</tr>
</tbody>
</table>

2. In addition to these permanent detached signs, each separately owned or controlled lot in such a residential district shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The permanent sign shall not contain a commercial message, and no more than two (2) signs on a lot in a residential district at any one time, including all wall signs, detached signs, temporary signs, and others, may contain commercial messages. The only commercial messages allowed on such
signs are messages related to commercial activity lawfully conducted on the premises, including the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

3. Signs related to the sale of personal property shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms’, but such signs may bear any message that is not a commercial message.

D. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) dwelling units in a proposed development. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:

   a. Installation of a permanent neighborhood identification sign;
   b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
   c. A period of two (2) years from the date of installation.

E. PERMANENT ENTRANCE SIGNS

1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include
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a masonry wall, landscaping or other similar materials or features. Such signs shall only be located at the principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.

F. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign (manual or automatic), not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.10 SIGNS ALLOWED IN INSTITUTIONAL DISTRICTS (INST Zone)

A. WALL SIGNS

1. Each institutional use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

B. DETACHED SIGNS

1. Each institutional use may have one detached sign, not to exceed forty (40) square feet in area and eight (8) feet in height. This may include
changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

C. DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. To improve wayfinding on institutional sites with multiple buildings, the following detached signs are allowed in addition to those allowed under subsection B of this Section. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each three separate buildings or per vehicle entrance, whichever is more. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

D. BANNERS

1. Any institutional use on a site larger than five acres may erect banners on the site, subject to the following conditions:

   a. Such banners shall be anchored to a pole or building at the top and bottom, so that the end of the banner does not flap in the wind, like a flag or pennant;
   b. Such banners may be attached to poles serving another purpose, such as supporting parking lot or street lights, or to separate poles used only for the banners;
   c. If the banners are attached to separate poles, those poles shall not exceed 24 feet in height, and no two such poles shall be closer to one another than 75 feet, measured in a straight line;
   d. Such banners shall not exceed 16 square feet in area on one side;
   e. Each such banner may contain a message on each side. Messages on such banners may include messages related to the activities or services of the institution or other non-commercial messages. No such banner shall in any case include any commercial message unrelated to the institutional use;
   f. Such banners shall not be separately illuminated; and
   g. Such banners may be visible from the public right-of-way but shall not be legible from any location except the site used by the institution.

E. INCIDENTAL SIGNS
1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

F. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.11 SIGNS ALLOWED IN OFFICE DISTRICTS (PO and PO-1 Zones)

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>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>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>Indirect white light</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</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.

<table>
<thead>
<tr>
<th>Limitation</th>
<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>
<td>One per public entrance</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
<td>Six square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>8 feet</td>
<td>4 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</td>
<td>25 feet</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, direct or concealed source</td>
<td>Concealed source only</td>
<td>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</td>
<td>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. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

E. INSTITUTIONAL SIGNS
1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign (manual or automatic), not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

F. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.12 SIGNS ALLOWED IN GENERAL BUSINESS AND COMMERCIAL DISTRICTS

A. WINDOW AND WALL SIGNS

1. NC, NC-2, NSC, and BP-1 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>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>Illumination from a concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

   Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located.
2. HC, HC-2 and HC-3 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>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>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, NC-2, NSC, and BP-1 Zoning Districts
   a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>20 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest right-of-way</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>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

2. HC, HC-2 and HC-3 Zoning Districts

<table>
<thead>
<tr>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
</tr>
<tr>
<td>Maximum size</td>
<td>60 square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>20 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest right-of-way</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>
</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 percent of sign face</td>
</tr>
</tbody>
</table>
a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

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>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
</tr>
<tr>
<td>Maximum size</td>
<td>Two square feet per 1000 square feet of gross leasable area, not to exceed 300 square feet per sign</td>
</tr>
<tr>
<td>Maximum height</td>
<td>30 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest right-of-way</td>
<td>15 feet</td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>20 feet from any other property line; 50 feet from 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 percent of sign face allowed</td>
</tr>
</tbody>
</table>

C. DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. HC, HC-2 and HC-3 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 (manual or automatic), not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

F. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 14.13 SIGNS ALLOWED IN INDUSTRIAL DISTRICTS (IP-1, IP-2, IP-3, and IP-4 Zones)

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>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>Not allowed</td>
<td>Two (2) square</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>Principal</th>
<th>Directory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
</tr>
<tr>
<td>Maximum size</td>
<td>IP-1, IP-2, IP-3, and IP-4: 40 square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>IP-1, IP-2, IP-3, and IP-4: 10 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest right-of-way</td>
<td>15 feet</td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>20 feet from any other property line; 100 feet from nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</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>
</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. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like "no parking", "no dumping", "beware of dog", "rest rooms", but such signs may bear any message that is not a commercial message.

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign (manual or automatic), not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

F. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.
SECTION 14.14 MASTER SIGNAGE PLANS

A. PURPOSE AND INTENT

1. It is the purpose of the City of Erlanger 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 Erlanger 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 Erlanger 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 Erlanger 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 Erlanger, that, to the extent that it can guide the scope of review of a court considering an appeal, a court considering an appeal under this Section reverse or remand the decision of the 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:

a. If the site has not been improved, all information required by Section 9.20, B. for a Stage II Development Plan;

b. If the site has been improved, as-built conditions, showing all buildings and other improvements and all parking areas and vehicle entrances;

c. A proposed design plan showing signage design at a scale of ½” = 1 ft.

d. Computation of the maximum area for all signs, the height of signs and the number of detached signs allowed on the development site(s) included in the plan under this Article, including incentives authorized below;

e. For properties with multiple tenants or multiple occupants entitled to signs, an allocation of the allowed signage among the eligible tenants or users;

f. An accurate indication on the plot plan of the current or proposed location of each present and future sign of any type, whether requiring a permit or not, except that signs not requiring permits need not be shown;

g. The color schemes and design features (excluding specific messages) for proposed signs; and

h. The signatures of all owners or their authorized agents in such form as the legislative body may require.

E. AMENDMENTS
1. A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms to all requirements of this Section in effect at the time of submittal.

F. PROVISIONS FOR NONCONFORMING SIGNS

1. A Master Signage Plan for a property already containing signs on the date of submission of the application shall include a schedule for bringing all signs on the development site into conformance with the Master Signage Plan by a specified date. The conformance schedule included in such Master Signage Plan shall be considered a condition of approval of the Master Signage Plan.

G. CRITERIA FOR APPROVAL

1. A Master Signage Plan shall be approved if and only if the planning commission’s duly authorized representative finds that the proposed plan meets all of the standards set out in this Article. If the planning commission’s duly authorized representative finds that the proposed plan substantially meets such standards, it may approve the proposed plan subject to conditions that will cause it to meet these standards. Otherwise, the planning commission’s duly authorized representative shall deny the application for plan approval:

a. Each proposed sign conforms with all applicable standards of this Article;

b. The total amount of signage proposed for any building, wall, site, or portion of a site, conforms with all applicable standards of this Article;

c. The proposed plan contains all of the information required by subsection D of this Section

d. The proposed allocation of allowed signage among eligible tenants, which shall be proportional to one of or a combination of the following criteria:

   (1) The number of public entrances to space leased to or controlled by each tenant or occupant;
   
   (2) The linear feet of frontage of the space leased to or controlled by each tenant or occupant along the wall(s) containing public entrances; and/or
   
   (3) The façade area of the building elevation(s) containing the public entrances to the spaces leased to or controlled by each tenant or occupant.
e. All proposed signs shall be part of a common design scheme, meeting at least the following criteria:

(1) The materials and design of all wall signs shall follow one design scheme;
(2) The materials and design of freestanding signs bearing commercial messages shall follow one design scheme, which may or may not be the same as the design scheme for wall signs;
(3) Each design scheme shall require consistency among signs for at least three of the following criteria: lighting design; color schemes; materials; shape; proportion; and/or type faces;
(4) If the design schemes for the wall signs and freestanding signs are different, they shall have in common at least two of the following criteria: lighting design; color schemes; materials; proportion; and
(5) The design scheme for freestanding signs shall use building materials, colors and, where applicable, architectural design features consistent with the materials, colors and architectural design features of the principal building on the site.

H. EFFECT

1. After approval of a Master Signage Plan, no permit shall be issued for a sign on the site(s) subject to the Master Signage Plan except in accordance with such plan, and no sign shall be erected, placed, painted, or maintained, except in accordance with such plan, and such plan may be enforced in the same way as any provision of this Article. In case of any conflict between a provision of a Master Signage Plan and one or more provisions of this Article, this Article shall prevail.

I. SPECIAL SEVERABILITY PROVISIONS

1. The severability provisions of Section 14.18. 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 Erlanger 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 Erlanger 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 14.18, A., 11.

SECTION 14.15 PERMIT REQUIREMENTS AND PROCEDURES

A. Unless a particular sign is exempt from the permit requirement under an explicit provision of this Article or other applicable law, then a permit for such sign is required.

1. WHEN REQUIRED
   a. Replacements
      (1) If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location, subject to all requirements enumerated herein.
   b. Maintenance
      (1) If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.
   c. Relocation of Signs
      (1) If any sign is removed from one location and erected at a new location, a new permit shall be obtained.
   d. Alteration
      (1) Alteration or enlargement of any sign shall require a permit the same as for a new sign. Any change in technology for a sign shall be considered an alteration; this shall expressly apply but not be limited to the conversion of a sign to changeable copy technology of any type.

2. APPLICATION
   a. No permit shall be granted until and after an application has been filed with the designated administrative official, showing the plans and specifications, including application fees, dimensions, materials, and details of construction of the proposed structure and meeting all provisions of this Article.
3. APPLICATION FORM

a. The 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 location of existing buildings, signs and other structures on the same site as the proposed sign(s);
(4) If the plans and drawings require an engineer’s or architect’s seal, signature or certificate, such shall show current Kentucky registration or licensure;
(5) Any signs or other structures to be removed or relocated;
(6) Dimensions and heights of all existing and proposed sign(s);
(7) Information regarding electrification, trenching, demolition, plumbing, temporary street closure, or encroachment into the public right of way;
(8) Any known uncorrected violations of zoning laws on the site;
(9) Name, address and any licensing/bonding information for any sign contractors;
(10) Technical drawings, specifications, structural safety calculations for the sign structure;
(11) An expressed representation that the sign will not be used for the display of offsite commercial messages;
(12) The graphic design or proposed message of the sign is optional with the applicant;
(13) If the sign is subject to any of the safety codes (building, electrical, etc.), then all information required to determine compliance with such codes or to satisfy the requirements of such codes;
(14) The length of each occupant’s/tenant’s lineal wall frontage;
(15) Workers’ compensation and liability documents and occupational licenses for all contractor’s.

5. INITIAL REVIEW
   a. Unless a given sign is exempt from the permit requirement, all sign permit applications shall be reviewed by the 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 14.16 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 14.17 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 14.18 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 Erlanger 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 Erlanger 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 Erlanger, 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 Erlanger 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 Erlanger affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this Article. The City of Erlanger 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 Erlanger 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 14.18, 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 14.5 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 14.18, 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 any other provisions of this Article or other provisions of Zoning Ordinance or this Code are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the limitations on off-premise signs as contained herein.
ARTICLE 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 (IP-1, IP-2, IP-3, IP-4, and BP-1) 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.

SECTION 15.2 PERFORMANCE STANDARDS

A. BUILDING ENCLOSURES: Except as herein provided, every use permitted in the Industrial Zones shall be operated in its entirety within a completely enclosed building. In the IP-3 and IP-4 Zones, permitted uses shall be operated either within a completely enclosed building or within an area screened from view of the nearest lot line 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 zoning administrator. 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 poorly 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 type 1 or type 2 sound level meter shall be employed that conforms to specifications published by the American National Standards Institute ( specifications for Sound Level Meters S1.4 - 1971, 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. The sound pressure of noise radiated continuously from any activity shall not exceed the value given in Tables 1 and 2 of this section, at the location of any receiving land use. 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 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 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 BP-1 district, 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 BP-1 districts. No vibration is permitted which is discernible to the human sense of feeling for three minutes or more duration in any one hour. Vibration shall not produce, at any time, an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin No. 442, "Seismic Efforts of Quarry Blasting", on any structure. The methods and equations of said Bulletin No. 442, or any subsequent revision or amendment thereto, shall be used to compute all values for the enforcement of these provisions. Detailed plans for the elimination of vibrations may be required before the issuance of any building permit.
H. EMISSIONS AND OPEN BURNING: No emission of particulate matter, sulfur compound, carbon monoxide, hydrocarbon, nitrogen oxide, and open burning shall be allowed in 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: Except as herein provided, in the IP-1, IP-2, and BP-1 Zones, 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 IP-3 and IP-4 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 of the nearest lot line in accordance with Section 9.17 and Article XIV.

L. FIRE AND EXPLOSIVE HAZARDS: Storage, utilization, or manufacture of solid materials or products including free burning shall not be permitted in any zone nor shall the storage utilization, or manufacture of flammable or explosive vapors or gasses be permitted in any zone, unless written permission has been granted by the appropriate state and local agencies and the city Fire Department (i.e., the state fire marshall or his designee and the Erlanger Zoning Administrator and the Erlanger Fire Department Chief).

M. WASTE: Within the I-P zones, no waste material or refuse shall be dumped upon or permitted to remain upon any part of the property outside of the buildings constructed thereon. All sewage and industrial waste shall be treated and disposed of in such 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 BP-1 zone, 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 1

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

<table>
<thead>
<tr>
<th>RECEIVING LAND USE</th>
<th>7:00 A.M. - 10:00 P.M.</th>
<th>10:00 P.M. - 7:00 A.M.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>55</td>
<td>50</td>
</tr>
<tr>
<td>Commercial and Industrial Park</td>
<td>60</td>
<td>55</td>
</tr>
<tr>
<td>Industrial</td>
<td>65</td>
<td>65</td>
</tr>
</tbody>
</table>

TABLE 2

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

<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
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 any civil or criminal proceeding to enforce any provision of this ordinance, or any amendment thereof, any person in violation thereof shall be liable to the city, and the city shall recover therefrom any and all costs and expenses incurred therein, including, without limitation, court costs, fees of attorneys and experts, and the time and expense of all city employees involved therein, which shall be included in any judgment in regard thereto.

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.
2. The required fee for a zoning permit, as provided for by separate 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.
   
   m. Zoning administrator may waive any of the above requirements for items such as: fences; out building, etc.

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.

D. FAILURE TO COMPLY: Failure to obtain a zoning permit shall be a violation of this ordinance and punishable under Section 16.8 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. If the project, for which a zoning permit was obtained but a building permit is not required, has not started within ninety (90) consecutive calendar days from the date of issuance of the zoning permit or if the project is not completed within 365 consecutive calendar days from the date of issuance of the zoning permit, said zoning permit shall expire and be cancelled by the zoning administrator. A new zoning permit shall be received prior to the project restarting.

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 by separate 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

1. Building permits for the complete construction of any principal building for any use identified as a permitted use or conditional use in any zone described and identified as a Residential Three Zone (R-3), Planned Unit Development Overlay Zone (PUD), Residential Cluster Development Overlay Zone (RCD), Professional Office Building Zone (PO), Neighborhood Shopping Center Zone (NSC), Shopping Center Zone (SC), Neighborhood Commercial Zone (NC), Institutional Zone (INST), Industrial Park-One Zone (IP-1), Industrial Park-Two Zone (IP-2), Industrial Park-Three Zone (IP-3), Industrial Park-Four Zone (IP-4), Business Park One Zone (BP-1), and Area Protection Overlay Zone (AP) in Sections 10.10, 10.11, 10.12, 10.13,
10.14, 10.15, 10.16, 10.17, 10.18, 10.19, 10.20, 10.21, and 10.28 respectively, of the Erlanger Zoning Ordinance Numbered 1850, as amended, shall expire, terminate, and be canceled by the building inspector unless the foundation of the construction and work authorized thereby has been completed within ninety (90) consecutive calendar days after the date on which the permit was issued, and all of the construction and work authorized thereby has been completed within five hundred forty (540) consecutive calendar days after the date on which such permit was issued.

2. Building permits for the complete construction of any principal building for any use identified as a permitted use or conditional use in any zone described and identified as a Conservation Zone (CO), Residential One-B Zone (R-1B), Residential One-C Zone (R-1C), Residential One-D Zone (R-1D), Residential One-E Zone (R-1E), Residential One-F Zone (R-1F), Residential One-G Zone (R-1G), Residential Mobile Home Park (Phased) Zone (R-1M (P)), Residential Two Zone (R-2) described in Sections 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, and 10.9, respectively, of the Erlanger Zoning Ordinance Numbered 1850, as amended, or the construction of any additions to any principal buildings for any use identified as a permitted use in any zone described in Article X of the Erlanger Zoning Ordinance Numbered 1850, as amended, shall expire, terminate, and be canceled by the building inspector unless the foundation of the construction and work authorized thereby has been completed within ninety (90) consecutive calendar days after the date on which the permit was issued, and all of the construction and work authorized thereby has been completed within three hundred sixty-five (365) consecutive calendar days after the date on which such permit was issued.

3. Building permits for any construction other than the complete construction of any principal building for any use identified as a permitted use or conditional use in any zone described in Article X of the Erlanger Zoning Ordinance Numbered 1850, as amended, or any additions thereto, shall expire, terminate, and be canceled by the building inspector unless the construction and work authorized thereby is completed within one hundred eighty (180) consecutive calendar days after the date on which such permit was issued.

4. Any dates established hereby for the expiration, termination, and cancellation of any building permit may be extended by the zoning administrator for any circumstances beyond the control of the person to whom the permit was issued, in which event the permit shall expire, terminate, and be canceled by the zoning administrator at the end of such extended period of time.
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 16.8 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 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 16.6 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 16.7 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 16.8 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
Article XVI Administration

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more than five hundred (500) dollars for each conviction. Each day of violation shall constitute a separate offense.

A. A violation of this ordinance occurs upon any noncompliance with any provisions of this ordinance, by either act or omission; and each and every separate non-continuing occurrence thereof, and each and every day of any continuing occurrence thereof is a separate violation of this ordinance.

B. Each separate violation of this ordinance is hereby classified as a criminal offense and made a misdemeanor, for which there is hereby imposed a criminal fine, not to exceed the maximum of five hundred dollars ($500.00), as set forth in K.R.S. 534.050 (2), or a term of imprisonment not to exceed the maximum period of twelve (12) months, as set forth in K.R.S. 532.090 (1), or both.

C. Each separate violation of this ordinance is hereby classified as a civil offense, for which:

1. The maximum civil fine required by K.R.S. 65.8802 (2) (b) that may be imposed for each separate violation of this ordinance, is hereby established as five hundred dollars ($500.00); and

2. The specific civil fine required by K.R.S. 65.8808 (2) (c), that will be imposed for each separate offense and violation of this ordinance if the person who has committed the violation and offense does not contest a citation therefore, is hereby established as one hundred dollars ($100.00); and

3. An enforcement officer may, in lieu of immediately issuing a civil citation therefore, give notice that the violation of this ordinance shall be remedied within a specific period of time.

SECTION 16.9 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 16.10 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 with Planning and Development Services of Kenton County. Planning and Development Services of Kenton County staff shall immediately notify the city promptly forwarding the application to the local planning commission. A public hearing shall be scheduled to be held within forty-five (45) days of the date of receipt of the application by Planning and Development Services of Kenton County. The fee required for applying for such amendment shall be as provided for by the local planning commission and/or the legislative body.

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, INSTITUTIONAL, OR INDUSTRIAL ZONING MAP AMENDMENT: Any request for a zoning map amendment, excluding those submitted by the legislative body (other than for a zone change for land under city ownership that the city intends to develop) and the planning commission, to any commercial (i.e., NC, SC, HC, etc.) multi-family residential zone (i.e., R-2, R-3, etc.), institutional zone (i.e., INST), or industrial zone (i.e., IP, BP-1, I-2, etc.)
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 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 forty-five (45) 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 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.

1. Said Board shall be regulated by the provisions within the Kentucky
Revised Statutes, Chapter 100.
ARTICLE XIX

SCHEDULE OF FEES

SECTION 19.0: Fees shall be as provided by separate ordinance of 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 Erlanger 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 Erlanger 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 Erlanger 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 Erlanger 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 Erlanger 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 Erlanger 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.
SECTION6. 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, Sections 401, 403, except as noted herein.

b. Crushed Stone Base Course - 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, Section 303.

c. 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, Type B, State Highway Designation Section 401, 402.

d. 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, as per Section 407. Prime shall be applied to the surface of granular base course at a rate of 0.25 to 0.50 gallons per square yard, as directed by the legislative body's engineer or inspector.

(2) Tack Coat (SS-1h) shall meet the requirements of the Kentucky Department of Transportation, Bureau of Highways, as per Section 407. It shall be diluted with equal parts of water, when directed by the inspector. 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, at a rate of 0.10 gallons per square yard of the diluted SS-1h before the subsequent course is constructed.

B. CONCRETE PAVING FOR PARKING AND ACCESS DRIVE AREAS
1. General Requirements - Thickness of concrete parking and access drives shall be:

   a. A minimum of four (4) inches for driveways and parking areas serving single and two-family dwellings.

   b. A minimum of five (5) inches for passenger cars and panel or pickup trucks serving industrial, commercial, and multi-family areas.

   c. A minimum of six (6) inches for light trucks serving industrial, commercial, and multi-family residential areas.

   d. 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 - five (5) inches when using hand-finishing techniques, three (3) inches when using a mechanical finishing machine.

   e. Strength of Concrete - The concrete shall attain a minimum expected strength of concrete at 28 days of 3,500 pounds per square inch compressive strength and/or 550 pounds per square inch flexural strength "modulus of rupture".

   f. Air Entrainment

<table>
<thead>
<tr>
<th>Maximum Size Aggregate (inches)</th>
<th>Entrained Air (Percent)</th>
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<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>
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</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 15 feet and be designed in accordance with the joint details in Figure A-2.

c. Transverse joint spacings shall be at regular intervals of twenty (20) feet.

d. All transverse construction joints shall be designed in accordance with the joint details in Figure A-2.

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 at least fourteen (14) days or by the time it has attained a compressive strength of 3,500 pounds per square inch and/or 550 pounds per square inch flexural strength. This traffic restriction shall apply to the contractor's construction equipment and vehicles, as well as general traffic.
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>FULL DEPTH ASPHALT CONCRETE</th>
<th>ASPHALT CONCRETE WITH GRANULAR SUBBASE</th>
<th>ASPHALT CONCRETE WITH GRANULAR BASE</th>
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<tbody>
<tr>
<td></td>
<td>SURFACE KDOT (SEC. 401, 402)</td>
<td>BASE KDOT (SEC. 401, 403) TYPE B (INCH)</td>
<td>SURFACE KDOT (SEC. 401, 403) TYPE B (INCH)</td>
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<tr>
<td>Auto Parking Facilities</td>
<td>1-1/2</td>
<td>4</td>
<td>1-1/4</td>
</tr>
<tr>
<td>Truck Parking Facilities</td>
<td>1-1/2</td>
<td>6-1/2</td>
<td>1-1/2</td>
</tr>
</tbody>
</table>

(1) Refers to the Kentucky Department of Transportation (KDOT) Bureau of Highways, Standards and Specifications for Road and Bridge Construction (1976 Edition, or as amended).
### TABLE A-2

**JOINT DETAILS**

<table>
<thead>
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<th>Joint Type</th>
<th>Details</th>
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<tr>
<td><strong>Alternate Expansion Joint</strong></td>
<td>1/8&quot; radius, flush with surface, formed dummy groove or premolded strip</td>
</tr>
<tr>
<td><strong>Transverse Contraction Joint (Sawed or Premolded Strip)</strong></td>
<td>1/8&quot; - 1/4&quot;</td>
</tr>
<tr>
<td><strong>Expansion Joint</strong></td>
<td>3/4&quot; smooth dowel 18&quot; long @ 18&quot; on center</td>
</tr>
<tr>
<td><strong>Transverse Contraction Joint (Planned - Coincide with Contraction Joint)</strong></td>
<td>3/4&quot; smooth dowel 18&quot; long @ 18&quot; on center</td>
</tr>
<tr>
<td><strong>Longitudinal Construction Joint Keyway</strong></td>
<td>3/4&quot;</td>
</tr>
<tr>
<td><strong>Tied Transverse Construction Joint</strong></td>
<td>Deformed tie bars 1/2&quot;Ø, 24&quot; long @ 24&quot; on center</td>
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## APPENDIX B

### SUMMARY OF AMENDMENTS

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<td>2072</td>
<td>10-46 through 10-69</td>
<td>4/16/96</td>
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