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ARTICLE I

A ZONING ORDINANCE

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

AUTHORITY AND PURPOSE

SECTION 2.0 AUTHORITY: The City of Fairview, 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 Fairview, Kentucky and shall be known, referred to, and recited to as the "ZONING ORDINANCE OF THE CITY OF FAIRVIEW, KENTUCKY".
ARTICLE IV

INTERPRETATION

SECTION 4.0 GREATER RESTRICTION: The provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, and general welfare. Where this ordinance imposes a greater restriction upon the buildings, structures, or premises, upon heights of buildings or structures, or requires larger open spaces than are imposed or required by any other ordinances, rules, codes, permits or regulations, or by easements, covenants, deed restrictions, or agreements, the provisions of this ordinance shall govern.

SECTION 4.1 PERMIT OR LICENSE IN VIOLATION: If any permit or license is issued in violation of any provision of this ordinance, or purports to authorize the doing of any act not permitted by any provision of the ordinance, said permit or license shall be void.
ARTICLE V

CONFLICT

SECTION 5.0 CONFLICT: All ordinances and parts of ordinances of the city in conflict herewith are hereby repealed, providing, however, that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any such ordinances and parts thereof hereby repealed prior to the effective date of this ordinance.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

SEVERABILITY CLAUSE

SECTION 6.0     SEVERABILITY CLAUSE: That should any article, section, subsection, sentence, clause, or phrase of this ordinance, for any reason, be held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions hereof. It is the intent of the city of Fairview, Kentucky, to enact each section, and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.
ARTICLE VII

DEFINITIONS

SECTION 7.0   WORDS AND PHRASES: For the purposes of this ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows:

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

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

a. Is subordinate to and serves the principal building or principal use;
b. Is subordinate in area, extent, or purpose to the principal building or principal use served;
c. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
d. Is located on the same lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot with the building or use served.

ACCESS POINT: An access point is:

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

AGRICULTURE: "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.
AIR RIGHTS: The ownership or control of that area of space at and above a horizontal plane over the ground surface of land. This horizontal plane shall be at a height above the existing or proposed development (depending on the individual property in question) which is reasonably necessary or legally required for the full and free use of the ground surface.

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

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

APARTMENT HOUSE: See DWELLINGS, MULTI - FAMILY.

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

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

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

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

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

BOARD OF ADJUSTMENTS: Board of Adjustments of the legislative body.
BUFFER AREA: Areas so planned and/or zoned which act as a buffering or separation area between two (2) or more uses or structures not compatible, due to design, function, use, or operation.

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

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

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

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

BUILDING, DETACHED: A building surrounded by open space on the same lot or tract of land.

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

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

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

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

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

BUILDING SITE: One contiguous piece of land that meets all of the provisions of the legislative body's ordinances, regulations, and codes for building on said site.
CAMPING/VACATION MOBILE UNIT: Any coach, cabin, house trailer, house car or other vehicle or structure intended for, designed for, and used for temporary human habitation or sleeping purposes, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle.

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

CARPORT: See GARAGE, PRIVATE.

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

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

CHILD DAY CARE CENTER: See NURSERY SCHOOL.

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.

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.

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.

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".

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

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

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

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

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

DWELLING, TRAILER: See MOBILE HOME.

DWELLING, TWO-FAMILY: A residential building designed, arranged, or used exclusively by two (2) families, living independently of each other.

DWELLING, MULTI-FAMILY: A residential building having three (3) or more dwelling units, as separate housekeeping units.

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

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

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

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, 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.

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

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

FILLING STATION: See SERVICE STATION.

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

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

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

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.
FLOODWAY ENCRYCHMENT LINES: The lines marking the limits of floodways on the official zoning map.

FLOOR AREA, GROSS: The sum of the gross horizontal area of the several floors of a dwelling unit or units exclusive of porches, balconies, and garages, measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating dwelling units.

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

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

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

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

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

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

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

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

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

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

HOUSE TRAILER: See MOBILE HOME.

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

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

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

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

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

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

LEGISLATIVE BODY: The City Commission, City of Fairview, Kentucky.

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

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

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

LOT AREA: The total area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by rights-of-way, the waters of any lake or river, and shall be in one (1) zone only.

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

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

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

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

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

LOT LINE, REAR: The boundary line of a lot which is most nearly opposite the front lot line of such lot. In the case of a triangular or wedge shaped lot, for measurement purposes only, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line. In the case of a corner lot, providing that all requirements for yard space are complied with, the owner may choose either side not abutting a street as the rear lot line, even though it is not opposite the front lot line. Once the choice has been made, it cannot be changed unless all requirements for yard space can be complied with.

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

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

LOT WIDTH: The width of the lot as measured along the building front setback line.

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

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

MOBILE HOME: Any coach, cabin, mobile home or other mobile structure in a single unit which is intended, designed, and used for the fixed residence of a person, family, or a household, mounted upon wheels or supports, or supported and/or capable of being moved or transported by another vehicle. For the purpose of this ordinance, the removal of wheels and/or the attachment of a foundation to said mobile structure shall not change its classification. Double width mobile structures, which are fabricated on individual chassis with wheels and are designed to be joined, shall be considered a mobile home for purposes of this ordinance.

MOBILE HOME PARK: Any lot, parcel, or premises, subdivided, designed, maintained, intended, and/or used to accommodate ten (10) or more mobile homes, and meets the requirements as specified in this ordinance. For the purpose of this ordinance, any lot or premises used for the wholesale or retail sale of mobile homes shall not be included within this definition.

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.

PDS: Planning and Development Services of Kenton County.

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

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

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.

PLANNED UNIT DEVELOPMENT (PUD): A large scale, unified land development which permits a mixture of land uses, clustering of residential units of varying types, and common recreation/open spaces, through flexible regulations which encourage creative design to preserve the natural features and foliage of the site.

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.

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

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

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

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

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

SEPARATE (LIGHTING OR ILLUMINATION): A prohibition on separate illumination for a sign does not prohibit indirect, incidental illumination that spills over from a light serving another lawful purpose.
SERVICE FACILITIES, PUBLIC UTILITIES: Service facilities include all facilities of public utilities operating under the jurisdiction of the Public Service Commission, or the Department of Motor Transportation, or Federal Power Commission, and common carriers by rail, other than office space, garage and warehouse space and include office space, garage space and warehouse space when such place is incidental to a service facility.

SERVICE STATION: Any building, structure, or land, used for the dispensing, sale, or offering for sale, at retail, of any automobile fuels, oils, or accessories and in connection with which is performed general automotive servicing other than body work.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STREET, COLLECTOR: Public thoroughfares which serve to collect and distribute traffic, primarily from local to arterial streets.

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

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

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

STREET, LOCAL: Roadways which are designed to be used primarily for direct access to abutting properties and feeding into the collector street system.
STRUCTURAL ALTERATION (SIGNS): As it applies to signs, any change in supporting members of a building or structure, such as foundation, bearing walls, columns, beams or girders. For a sign, any change in or replacement of supporting members of a sign structure, such as foundation, columns, beams or girders shall be considered a structural alteration.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including such as: buildings, mobile homes, signs, fences, etc.

SUBDIVISION: The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context shall relate to the process of subdivision or to the land subdivided.

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

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

a. Private: when consisting of an accessory structure appurtenant to a one-family or a two-family dwelling and used only as such by persons residing on the same lot and their private guests.

b. Semi-public: when consisting of an accessory structure appurtenant to a multiple dwelling, hotel, motel, church, school, club, etc., and used only as such by persons who reside or are housed on the same lot or who are regular members of such organizations.

c. Public: a swimming pool operated by a unit of government for the general public.

d. Commercial: a swimming pool operated for profit, open to the public upon payment of a fee.
TAVERN: Any establishment selling alcoholic and nonalcoholic beverages by the drink for consumption on the premises.

TRAILER: See CAMPING/VACATION MOBILE UNIT.

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

VARIANCE, DIMENSIONAL: A departure from the terms of this ordinance, as approved by the board of adjustment, pertaining to the height or width of structures and size of yards and open spaces (but no population density) where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape, or topography, and not as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.

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

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 legislative body for which the provisions of this ordinance are applicable. (Synonymous with the word "DISTRICT".)

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

ESTABLISHMENT OF ZONES

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

A-1  AGRICULTURAL ONE ZONE
R-1C  RESIDENTIAL ONE - C ZONE
RC   RURAL COMMERCIAL ZONE

SECTION 8.1 OFFICIAL ZONING MAP: The zones are bounded and defined as shown on the map entitled "OFFICIAL ZONING MAP OF FAIRVIEW, KENTUCKY" and shall so remain on file in the offices of Planning and Development Services of Kenton County. A copy shall also be on file in the office as designated by the legislative body.

SECTION 8.2 CHANGES ON ZONING MAP: Where changes are made in zone boundaries in accordance with the provisions of this ordinance and Kentucky Revised Statutes, such changes shall be made on the Official Zoning Map promptly after the amendment to this ordinance has been approved by the legislative body. PDS shall be provided a certified copy of the amendment to this ordinance in order that the Official Zoning Map may be changed.

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

SECTION 8.3 REPLACEMENT OF OFFICIAL ZONING MAP: In the event that the Official Zoning Map becomes damaged, destroyed, lost, or is deemed necessary to be replaced due to the age of the map or major corrections in location of rights-of-way or subdivisions, the legislative body may cause to have prepared and adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Zoning Map or any subsequent amendment thereto.

SECTION 8.4 RULES FOR INTERPRETATION OF ZONE BOUNDARIES: Rules for interpretation of zone boundaries shown on the Official Zoning Map are as follows:

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

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following political boundary lines shall be construed as following such boundary lines.

D. Boundaries indicated as approximately following the rights-of-ways of railroad lines shall be construed as following such lines.

E. Boundaries indicated as approximately following the centerlines of streets, streams, rivers, ditches, gullies, ravines, or other bodies of water, shall be construed to follow such centerlines.

F. Boundaries indicated as approximately following a topographic elevation, determined by the scale of the map, shall be construed as following such ground elevation lines.

G. Boundaries indicated as approximately parallel to features indicated in Rules A through F of this section, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map, if an accurate legal description cannot be determined.

SECTION 8.5 AREAS NOT INCLUDED WITHIN ZONES: When an area is annexed to or otherwise becomes a part of the legislative body, 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 for the area, the legislative body shall subsequently initiate reviews, 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 shall apply to all districts.

SECTION 9.1 REDUCTION IN BUILDING SITE AREA: Except as herein provided, no lot, in any zone, may be reduced in area below the minimum lot area as specified herein for the zone within which said lot is located, except where such reduction has been brought about by the expansion or acquiring of rights-of-way for a street. If, however, by some means (e.g., misinterpretation of law, erroneous lot descriptions, etc.) the lot area is reduced below the minimum required lot area as specified herein for the zone, all of the uses and structures contained on the remaining portion of the area shall be subject to compliance with all other provisions of this ordinance. In the event that the uses and structures cannot comply in such circumstances, the property owner shall seek relief from the board of adjustment, as provided for in Section 18.5 of this ordinance.

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

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

SECTION 9.4 FRONTAGE ON CORNER LOTS AND DOUBLE FRONTAGE LOTS: On lots having frontage on more than one street, the minimum front yard depth shall be provided on at least one street frontage, with the other frontage having a minimum of one-half the required minimum front yard depth, except that when such lots abut an arterial street, as herein defined, the minimum front yard depth shall be provided for each street.

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

A. Such facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the element is a part.
B. A building or structure, except an enclosing fence, shall be set back at least fifty (50) feet from any property line.

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

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

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

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

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

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

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

B. The building inspector may issue the required permit after determining that the resulting change in grade, or removal of trees and other vegetation, in the affected area will be in conformance with all applicable provisions of this ordinance. The provisions of this section shall not be construed to prohibit normal excavation or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this ordinance.

C. Erosion and Sedimentation Control: Erosion and sedimentation controls for excavation, movement of soil, and tree removal, shall be planned and applied according to the following:
1. The smallest practical area of land shall be exposed at any one time during development.

2. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.

3. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.

4. Sediment basins (debris basins or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.

5. Provisions shall be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development.

6. Permanent final vegetation and structures shall be installed as soon as practical in the development.

7. The development shall be fitted to the topography and soils so as to create the least erosion potential.

8. Wherever feasible, natural vegetation shall be retained and protected.

SECTION 9.8  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 and an approved permanent planting screen may be required as regulated by Section 9.17 of this ordinance.

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

SECTION 9.10  APPLICATION OF ZONING REGULATIONS

A. Except as herein provided, no part of any yard, or other open space, or off-street parking or loading and/or unloading space about or in connection with any building, structure, or use permitted by this ordinance shall be considered to be
part of a required yard, or other open space, or off-street parking or loading and/or unloading space for any other building, structure, or use.

B. Except as herein provided, every structure hereafter erected shall be located on a lot, as herein defined, and in no case shall there be more than one (1) principal building and permitted accessory structure on one (1) lot, nor shall any building be erected on any lot which does not abut a public right-of-way.

C. Except as herein provided, accessory structures and uses shall not be permitted within any required minimum front yard or side yard (on each side of the lot) in any zone. Accessory structures and uses may be permitted to extend into the minimum rear yard areas, as defined herein, in all zones, provided that such structures are set back from the rear lot line a minimum of ten (10) feet, and required minimum side yard clearances are maintained. Location of off-street parking, loading and/or unloading areas, fences, and signs, are governed by their respective sections, as provided herein.

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

1. In All Minimum Required Yards - Driveways, providing they are not closer than one (1) foot to the property line to which they run approximately parallel to, except that in the event that a common driveway will be used to serve two (2) or more lots, then driveways may be permitted to abut the property line; steps, four (4) feet or less above grade, projecting not more than four (4) feet into the minimum required yards which are necessary for access to a lot from a street or alley; fire escapes and chimneys, projecting not more than thirty (30) inches into the minimum required yards; arbors and trellises; flag poles; bird baths; trees; plants; shrubbery; ornaments; utility poles and wires; and outdoor furniture, fences and walls, and off-street parking as provided for in Article XI of this ordinance.

2. In Minimum Front Yard Depths - Bay windows, projecting three (3) feet or less into the minimum required yard; overhanging eaves and gutters, projecting not more than three (3) feet into the minimum required front yard; air conditioning equipment; and awnings and canopies, extending not more than six (6) feet into the minimum required front yard.

3. In Minimum Rear Yard Depths - Bay windows, overhanging eaves and gutters, and air conditioning equipment, projecting not more than six (6) feet into the minimum required rear yard; awning and canopies, provided they not extend more than ten (10) feet into the minimum required rear yards.
4. In Minimum Side Yard Width - Air conditioning equipment, excluding compressor for central air conditioning unit; and overhanging eaves and gutters, awnings and canopies, projecting not more than thirty (30) inches into the minimum required side yard; awning and canopies, providing that they extend not more than three (3) feet into the minimum required side yard.

SECTION 9.11  SPECIAL REQUIREMENTS GOVERNING HOME OCCUPATIONS:
Home occupations shall include the use of the premises for services rendered other than by direct contact with customers at that location (for example, where the bulk of the business is by telephone - actual work is performed in home and customer is contacted in other than that location). The following requirements shall apply to home occupations when permitted herein and shall be a part of the occupational license:

A. No persons other than members of the family residing in the premises shall be engaged in such operation.

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

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

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

E. There shall be no commodity sold upon the premises in connection with such home occupation.

F. No traffic shall be generated by such home occupation in greater volumes or than would normally be expected in a residential neighborhood.

G. No equipment or process which creates noise, vibration, glare, fumes, odors, or electrical interference, detectable to the normal senses off the lot, shall be used in such home occupation. In the case of electrical interference, no equipment or process which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises, shall be used.
SECTION 9.12 NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE, AND NONCONFORMING SIGNS

A. NONCONFORMING LOTS OF RECORD:

1. Any lot of record which does not meet the requirements of this ordinance shall be considered a nonconforming lot of record.

2. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area, as established by this ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold which does not meet the lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

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

B. NONCONFORMING USES

1. CONTINUANCE: Except as herein provided, the lawful use of any structure or land existing at the time of the adoption of this ordinance may be continued although such use does not conform to the provisions of this ordinance -- it shall become a legal nonconforming use. However, no nonconforming use or structure may be enlarged or extended beyond its area of use at the time it becomes a legal nonconforming use, unless and until the use is brought into conformance with all provisions of this ordinance.
2. **CHANGE FROM ONE NONCONFORMING USE TO ANOTHER:** As regulated by Article XV, Section 15.5, D. of this ordinance.

3. **TERMINATION:** In all cases, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 15.1 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming use based on any of the following conditions, and if the decision is to do so, the board shall state its bases, in writing, for such determination.

   a. Nonoperative, nonused, or abandoned for a period of twelve (12) consecutive months, providing that the board of adjustment may allow the continuation of such nonconforming use if it is determined that reasons for such nonuse were beyond the owners' operators' control.

   b. Whenever the structure, in which the nonconforming use is operated, is damaged in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the market value of such structure in which the nonconforming use is operated and a determination is made by the board of adjustment that this structure should not be reconstructed.

   c. Whenever the structure, in which the nonconforming use is operated, becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such structure as of the date of the official order under the applicable ordinance and a determination is made by the board of adjustment that this structure should not be reconstructed.

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

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

C. **NONCONFORMING STRUCTURES**

   1. **CONTINUANCE:** Except as herein provided, any lawful nonconforming structure, existing at the time of adoption of this ordinance, may be occupied, operated, and maintained in a state of good repair, but no
nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this ordinance.

2. TERMINATION: In all cases, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 15.1 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming structure based on any of the following conditions, and if the decision is to do so, the board shall state its bases, in writing, for such determination.

a. Whenever the nonconforming structure is damaged in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the market value of such structure and a determination is made by the board of adjustment that the structure should not be reconstructed.

b. Whenever the nonconforming structure becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such nonconforming structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such nonconforming structure as of the date of the official order under the applicable ordinance and a determination is made by the board of adjustment that the structure should not be reconstructed.

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

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

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

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

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

2. TERMINATION: In all cases, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 15.1 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming sign based on any of the following conditions and, if the decision is to do so, the board shall state its bases, in writing, for such determination.
   a. Not meeting the requirements for sign regulations, as regulated in Article XIV of this ordinance.
   b. Nonuse or abandonment of said nonconforming sign for a period of twelve (12) consecutive months.

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

SECTION 9.13 EXCEPTIONS AND MODIFICATIONS

A. EXCEPTIONS TO HEIGHT LIMITS

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

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

C. FRONT YARD VARIANCE

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

2. In any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within the same block, when fifty-one (51) percent or more of lots within that block are improved with residential buildings, provided that in no case shall a front yard depth be less than twelve (12) feet.

D. EXCEPTION TO AREA AND YARD REGULATIONS

1. Where existing or proposed developments within the multi-family (R-2 and R-3) and commercial (NC, PO, SC, and LHS) 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 that 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.

   d. 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, D., 1., b.

SECTION 9.14 CONDITIONAL USES

A. DETERMINATION: Subject to the requirements of Section 15.6, the board of adjustment may authorize a conditional use to be located within any zone in
which such conditional use is permitted, if the evidence presented by the applicant is such as to establish, beyond any reasonable doubt:

1. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community; and

2. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

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

1. The board of adjustment may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, a certificate of Land Use Restriction shall be filed pursuant to Section 9.31 of this ordinance. The board shall have the power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have the right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

2. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this ordinance, the building code, housing code, and other regulations of the city.

3. In any case, where a conditional use permit has not been exercised within the limit set by the board, or within twelve (12) consecutive calendar months from date of issuance, such conditional use permit shall not revert to its original designation, unless there has been a public hearing. Exercised as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement has been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not a part of the use, exercised shall
mean that the use is in operation in compliance with the conditions as set forth in the permit.

4. The zoning administrator shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permits.

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

The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the board of adjustments finds that the facts alleged in the report of the zoning administrator are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the zoning administrator to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

5. Once the board of adjustment has completed a conditional use permit, and all the conditions required are of such type that they can be completely and permanently satisfied, the zoning administrator, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the county clerk, as required in KRS 100.344. Thereafter said use, if it continues to meet the other requirements of this ordinance, will be treated as a permitted use.

SECTION 9.15 BUILDING REGULATIONS AND WATER AND SANITARY SEWER SERVICE

A. BUILDING REGULATIONS: All structures shall be designed, erected, or altered in accordance with the legislative body's housing and building codes.
B. Those areas within the Rural Focus Area as identified by the Kenton County Comprehensive Plan, may be permitted to utilize on-site subsurface disposal systems, provided that said lots and systems are designed and constructed and approved in accordance with the Kenton County Subdivision Regulations and other applicable state and local regulations, and the following conditions:

1. Each such building site shall be developed in accordance with the area and height requirements of the A-1 Zone.

2. Each such building site shall contain two separate or interlaced alternating drain field systems that can be alternated so that one can "rest" periodically, while the other filters effluent approved by the Northern Kentucky District Health Department.

3. Each such building site shall be provided with an on-site system (septic tank) in accordance with the Department of Human Resources, Division of Plumbing Regulations.

4. A copy of the approved on-site subsurface sewerage disposal permit shall be submitted to the legislative body's zoning administrator/building official prior to issuance of a building permit.

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

C. Individual on-site sewage disposal systems within the Urban/Suburban Focus Area (as provided for within the Kenton County Comprehensive Plan) may be permitted only within those areas which are not currently served by a centralized sanitary sewer system. Individual on-site sewage disposal systems may be permitted only under the following conditions:

1. On-site systems shall be permitted to be located only on lots which abut existing streets. Where new street rights-of-way are created, or new streets constructed within an existing right-of-way, all existing lots or newly subdivided lots shall be required to connect to a centralized sewerage system.

2. The lot shall comply with the Area and Height Regulations for Permitted Uses, as established in the A-1 Zone.

3. On-site subsurface sewerage systems shall be provided with an aerobic type (aerator) treatment plant which will be built in accordance with the regulations of the applicable state and local agencies and shall remain in operation until a connection is made to a centralized sewer system.
4. In those areas where on-site disposal systems are permitted, a connection to the applicable water agency's supply shall not be required.

B. Except for areas in the Rural Focus Area, as provided in Section 9.15, B., where existing or proposed development is presently not served by a public sanitary sewer system and is located within a reasonable distance or an existing or newly extended sanitary sewer line, as determined by the legislative body and/or the Northern Kentucky District Board of Health, said development shall be required to connect with the public sanitary sewer system and the private sewage disposal system shall be discontinued.

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 all applicable agencies.

D. FEES

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

2. No person, corporation, or company shall transport, move, or set any building, structure, or improvement in the legislative body, until and unless such person, corporation, or company shall post with the building inspector a good and sufficient indemnity bond in the amount of five thousand dollars ($5,000.00) in favor of the legislative body. Such bond shall be made by a surety corporation authorized to do business in the state of Kentucky.

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

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

1. Where vegetative and/or topographic conditions that provide a natural
screening and buffer exist prior to development of properties in question,
every effort shall be made to retain such conditions. In such cases,
additional screening may not be required, provided that provision is made
for maintenance of such areas.

2. Whenever screening is required, it shall be provided as follows:
   a. All screening shall be provided by the construction of a solid fence
      and/or evergreen trees;
   b. All trees shall be a minimum of ten (10) feet in height measured
      from ground level when planted, however, smaller trees (a
      minimum of five feet in height from ground level) may be utilized in
      combination with berms (e.g., earthen mounds) to provide the
      minimum 10-foot height requirement; berms must be covered with
      suitable vegetation, such as grass, ivy, and shrubs, to preclude
      erosion of the berm;
   c. Trees which are intended to provide screening to separate multi-
      family development from single-family development, shall not be
      planted further than 15 feet apart; parking facilities which are
      located adjacent to the single-family areas shall be additionally
      screened to a minimum height of three (3) feet (via an earth berm,
      depressed parking, solid fence, etc.) to reduce automobile
      headlight glare onto adjacent property;
   d. Trees which are intended to separate commercial and industrial
devolution from residential development (single-family and multi-
devolution) shall not be planted further than ten (10) feet apart; parking
facilities which are located adjacent to residential areas shall be
additionally screened to a minimum height of three (3) feet (via an
earth berm, depressed parking, solid fence, etc.) to reduce automobile
headlight glare onto adjacent property.

3. All trees, shrubs and other planting materials shall be living plants (not
artificial) and shall be suitable to the Northern Kentucky Area and the
specific conditions of the site in question, such as, but not limited to, soil
conditions, slopes, reduction of noise pollution, maintenance necessary,
and the type of screening needed.
4. Screening areas shall be provided in such a manner as to obscure the view into the development from adjacent properties. In those cases where property is adjacent to property within another governmental jurisdiction, screening shall be provided in the same manner as would be required if the adjacent area was within the jurisdiction of this legislative body.

5. In the case where a zoning map change occurs, resulting in adjacency to a different zoning district than was previously the case, and where development has already occurred on property in the unchanged district, required additional setbacks and screening requirements (as required in each district's regulations) shall be provided for the property in the district where the zone change has occurred.

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

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

SECTION 9.18 OUTDOOR SWIMMING POOLS

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

1. Except as herein provided, no swimming pool or associated equipment shall be permitted within any required yards, nor within any public utility right-of-way easement.

2. Swimming pools which are constructed in-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or the property on which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than seven (7) feet in height. Such fences or walls shall be constructed in such a manner that a small child may not reach the pool from the street or any property without climbing the fence or wall or opening the gate or door.
3. Swimming pools which are located above-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or property upon which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than seven (7) feet in height. Such fence or wall shall be constructed in such a manner that a small child may not reach the pool from the street or any adjacent property without scaling a fence or wall or opening the gate or door. Said wall may be the wall of the above-ground pool, providing that said wall is at least four (4) feet in height above the surrounding ground level.

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

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

5. All swimming pools and associated equipment shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the legislative body. Water used in the swimming pool, which is obtained from other than a public source, shall be approved by the Northern Kentucky District Health Department.

6. All swimming pools existing at the time of adoption of this ordinance, which are unprotected by a surrounding fence or wall, including gates or doors, as regulated herein, shall be required to comply with the provisions of this ordinance section within sixty (60) days after its adoption.

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

1. Except as herein provided, no swimming pool and associated equipment shall be permitted within any required yards or within the limits of any public utility right-of-way easement.

2. The swimming pool, or the property on which the pool is located, shall be surrounded by a fence or wall, including a self-closing and self-locking door or gate. Such fence or wall shall be at least five (5) feet in height, but not exceeding the height as permitted herein, and of such construction that a small child may not reach the pool from the street or from adjacent property without climbing the wall or fence or opening a gate or door.
3. Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.

4. All swimming pools and associated equipment of the swimming pool shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the city (county). Water used in the operation of the swimming pool, which is obtained from other than a public source, shall be approved by the Northern Kentucky District Health Department.

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

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

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

SECTION 9.20 PLAN REQUIREMENTS - STAGES I, II, AND RECORD PLAT:
A. STAGE I -- PLAN REQUIREMENTS: The Stage I Plan shall identify and provide the following information:

1. Plan(s) of the subject property, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet showing:
   a. The total area in the project;
   b. The present zoning of the subject property and all adjacent properties;
   c. All public and private rights-of-way and easement lines located on or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned;
   d. Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed five (5) feet;
   e. Delineation of all existing and proposed residential areas in the project with a statement indicating net density of the total project:
      (1) Detached housing - location and approximate number of lots, including a typical section(s) identifying approximate lot sizes and dimensions, and setback and height of buildings;
      (2) Attached housing - location and description of the various housing types (i.e., townhouse, fourplex, garden apartment, etc.) including approximate heights of typical structures, and the approximate number of units by housing type;
   f. Delineation of all existing and proposed nonresidential uses in the project:
      (1) Commercial uses - location and type of all uses including approximate number of acres, gross floor area and heights of buildings;
      (2) Open Space/Recreation - the approximate amount of area proposed for common open space, including the location of recreational facilities, and identification of unique natural features to be retained;
(3) Other public and semi-public uses - location and type of all uses, including approximate number of acreage, and height of buildings;

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

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

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

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

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

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

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

   (1) Residential area, in order of priority, by type of dwelling unit;

   (2) Streets, utilities, and other public facility improvements, in order of priority;

   (3) Dedication of land to public use or set aside for common ownership; 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. A separate plan or drawing for each element is not necessary, but may be provided at the option of the applicant.

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

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

   b. All housing units on the subject property:

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

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

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

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

   e. Landscaping features, including identification of planting areas and the location, type, and height of walls and fences;

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

   g. All utility lines and easements:

      (1) Water distribution systems, including line sizes, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;

      (2) Sanitary sewer system, including pipe sizes, width of easements, gradients, type of pipes, invert elevations,
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location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances;

(3) Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of retention and/or sedimentation basins, and data indicating the quantity of storm water entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of storm water generated by development of the subject area, and the quantity of storm water to be discharged at various points to areas outside the subject property;

(4) Other utilities (e.g., electric, telephone, etc.) including the type of service and the width of easements;

h. Location of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking and loading and/or unloading spaces;

i. Circulation System:

(1) Pedestrian walkways, including alignment, grades, type of surfacing, and width;

(2) Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details, and typical cross sections;

j. Provisions for control of erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction;

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

(1) Residential area, in order of priority, by type of dwelling unit;

(2) Streets, utilities, and other public facility improvements, in order of priority;
(3) Dedication of land to public use or set aside for common ownership; and

(4) Non-residential buildings and uses, in order of priority.

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

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

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

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

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

A. No vehicle which is abandoned, nonfunctional, in a state of disrepair, or lacking a valid license, shall be stored in excess of seventy-two (72) hours in any zone, unless it is in a completely enclosed building.

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

C. The outside storage in excess of seventy-two (72) hours, of any trailer, recreational vehicle, camper, boat, or similar type equipment, shall be restricted to the rear yard of all lots within the jurisdiction of the legislative body, except as herein provided, and in cases where, due to unique conditions, topographic or other, which do not allow use of the rear yard, the board of adjustment may permit such storage to be located in the side yard of the lot following review and
approval by said board. The board may impose certain requirements (such as provided in Section 9.17 of this ordinance) to insure that said vehicle and related equipment is properly screened from view of adjacent property. In no case shall more than one of the aforementioned vehicles or similar type equipment be permitted outside of an enclosed building on any lot or parcel of land.

D. It shall be unlawful to park or to keep any truck of in excess of six thousand (6,000) pounds gross vehicle weight, at any place located within a residential district zone, except in a completely enclosed garage.

E. Any property which does not comply with the provisions of Section 9.23, A., at the time of adoption of this ordinance, shall be given a period of sixty (60) days from the date of adoption of this ordinance to comply with all of the provisions of this section. Further, any property which does not comply with the provisions of Section 9.23, C., and 9.23, D., of this ordinance at the time of its adoption shall be given a period of six (6) months from the date of adoption of this ordinance to comply with all of the provisions of these sections.

SECTION 9.24 HILLSIDE DEVELOPMENT CONTROLS

A. This section is designed to ensure, when development is proposed in those areas of the community which have physical characteristics limiting development (hillside slopes of 20 percent or greater), that said development shall occur in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and other natural hazards.

B. Areas of land on which development is physically restricted due to excessive hillside slopes shall be limited according to the following requirements:

1. Development proposed on land areas identified on the Comprehensive Plan as "Developmentally Sensitive Areas", and any other areas which have slopes of 20 percent or greater, shall require approval before development may occur. In those areas which are identified in the Comprehensive Plan as "Developmentally Sensitive Areas" and containing slopes less than 20 percent, the requirements contained herein may be waived; if, after review of the proposed site plan by the engineer, it is determined that said development will not result in any significant hillside slippage or soil erosion.

2. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures of any nature within the area identified as a Developmentally Sensitive Area in (1) above, may occur until plans and specifications for such work have been submitted in the form of a site plan as regulated by Section 9.19 of this ordinance. In addition to site plan requirements, the following shall also be submitted:
a. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion, sedimentation basins, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area.

b. Information defining results of subsurface investigation of the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis. Such investigation shall be made by a qualified, registered civil engineer and a geologist, indicating that any structural or physical changes proposed in the area will be completed in a manner which will minimize hillside slippage and/or soil erosion.

3. The site plan and other information required in this Section shall be reviewed by the city engineer and the engineer of Planning and Development Services of Kenton County staff, who will recommend to the city's zoning administrator, what effect the proposed development will have on hillside slippage and/or soil erosion.

After consideration of the recommendations, the city's zoning administrator 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 city's zoning administrator, determines that said proposed plans will not minimize hillside slippage, the zoning administrator shall deny a permit for the development of said land.

SECTION 9.25 FLOOD PROTECTION DEVELOPMENT CONTROLS

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

1. To permit only that development of flood prone areas which: (a) is appropriate in light of the probability of flood damage and the need to reduce flood losses; (b) is an acceptable social and economic use of the land in relation to the hazards involved; and (c) does not increase the danger to human life; and

2. To prohibit all other development in flood prone areas not identified in Subsection A., 1., above, including non-essential or improper installation of public utilities and public facilities.
B. Areas of land adjacent to streams, rivers, or bodies of water which have a high degree of susceptibility to flooding shall be limited to development according to the following regulations, notwithstanding any other section of this ordinance or any other ordinance adopted by the city.

1. The limits of the floodplain (areas subject to flooding during the occurrence of a 100-year flood) and floodway, are identified as Flood Protection Control Areas, on the zoning map.

2. Areas designated as susceptible to flooding during the occurrence of a 100-year flood shall be controlled by both the zoning district in which the area is located and the requirements of this section of the ordinance.

Flood data within this section identify the elevation of the 100-year flood level and the width of the floodway as follows:

**TABLE A - Decoursey Creek**

In the case of any proposed activity located along other tributaries or bodies of water not covered in these tables, and located in those areas which are identified as being susceptible to flooding, according to the report prepared by the U.S. Department of Agriculture, Soil Conservation Service, "Soil Survey of Boone, Campbell and Kenton Counties, Kentucky", August, 1973, a survey shall be made by a qualified, registered civil engineer establishing the elevation of the 100-year flood and floodway for said areas prior to the issuance of any zoning and building permits.

3. No person, city, county, or other political subdivision of the state shall commence filling of any area with earth, debris, or any other material or raise the level of any area in any manner, or place a building, barrier, or obstruction of any sort on any area, including making any alteration or relocation of a waterway, located within the floodway which would result in any increase in flood levels during the occurrence of a 100-year flood discharge. In those cases where a watercourse is to be altered or relocated, the flood carrying capacity of said portion of the waterway affected must be maintained. Plans and specifications for such work shall be submitted to the city engineer and Planning and Development Services of Kenton County for review to determine if said encroachment will meet the requirements of this Ordinance. Said plans shall also be submitted to the Kentucky Department of Natural Resources and Environmental Protection, Division of Water Resources, and other applicable agencies, for their review and approval. Mobile homes shall be prohibited from being placed within the floodway.
4. All land outside the floodway of the bodies of water identified in Paragraph 2, but located within the floodplain, may be used for any purpose for which it is zoned, provided that: any new residential construction, including any expansion or substantial improvements of existing residential structures as herein defined, within said floodplain, shall have the lowest floor which is used for living quarters elevated to or above the level of the 100-year flood; and any new non-residential structures, including any expansion or substantial improvements of non-residential structures, within the floodplain area shall have the lowest floor elevated to or above the level of the 100-year flood with attendant utility and sanitary facilities shall be designed and floodproofed so that below the 100-year flood level the structure is water tight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effects of frequency certified by a professional engineer or architect.

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

6. All utilities constructed to serve structures which are to be located within the floodplain shall be flood protected at a minimum to the elevation of the 100-year flood level.

7. All construction or modification of buildings and structures, including flood-proofing measures and techniques in the flood plain area, as required within this section of the ordinance, shall be in accordance with the applicable design standards of the U.S. Army, Corps of Engineers' publication, entitled "Flood Proofing Regulations", June, 1972 GPO 19730-505-026 Edition, or as amended, and the following requirements:

   a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

   b. All new construction and substantial improvements shall be constructed with materials and mechanical and utility equipment resistant to flood damage.

   c. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
d. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

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

f. On-site waste disposal systems, where permitted, shall be located to avoid impairment to them or contamination from them during flooding.

8. Any existing structure or use which is located within the floodplain and which does not conform to the requirements herein shall be nonconforming and subject to the requirements of Section 9.12 of this ordinance, providing, however, any existing permitted use and structure may be modified, altered, or repaired to incorporate flood proofing measures, where such measures do not raise the level of the 100-year flood.

9. All land designated "Flood Protection Control Area" on the Official Zoning Map, but determined to be above the elevation of the 100-year flood level may be used for any purpose for which it is zoned without further flood protection controls.

10. A survey of the site in question will be required prior to the issuance of any building permit or construction activity that would alter the site in any manner, to establish the existing elevation of the land.

11. After completion of the first floor elevation, as provided in Subsection (4) of this section, a certified copy of said lowest elevation shall be provided to and maintained in the offices of the Zoning Administrator - Building Official.

12. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any land below the elevation of the 100-year flood level.
### TABLE A
**DE COURSEY CREEK**

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<th>Distance River Mile¹</th>
<th>Station Point²</th>
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1. As measured upstream from the Licking River, in feet  
2. Coincides with river cross sections identified on the zoning map  
3. Elevation computed with consideration of backwater from the Licking River  
4. Measured in feet
SECTION 9.26 GENERAL MOBILE HOME REGULATIONS: Mobile homes shall not be permitted in the city of Fairview.

SECTION 9.27 LAND USED SOLELY FOR AGRICULTURAL PURPOSES: Pursuant to KRS 100, any land which is used solely for agricultural, farming, dairying, stock raising, or similar purposes (exclusive of land and building used for residences, except as herein provided) shall have no regulations imposed as to building permits, certificates of occupancy, height, yard location, or courts' requirements for agricultural buildings, including and limited to one mobile home used as a dwelling unit, 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 flood plain or which tend to increase flood heights or obstruct the flow of flood waters shall be in accordance with this ordinance.

SECTION 9.28 REGULATIONS OF SEXUALLY ORIENTED BUSINESSES

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

B. The City of Fairview, 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 Bellanica, 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 Fairview 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 Fairview to balance the Constitutional rights of businesses that present sexually oriented entertainment with the City of Fairview 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 Fairview 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:

5. “Effects on Surrounding Area of Adult Entertainment Businesses in Saint Paul,” June 1978, City of Saint Paul Division of Planning, Department of
Planning and Management; and Community Crime Prevention Project, Minnesota Crime Control Planning Board.


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

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

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

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

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

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

Y. City of Fairview currently has no sexually oriented businesses in the community.

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

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

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

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

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

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

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

AG. City of Fairview acknowledges that it can re-evaluate these findings if, in the future, there is a substantial change in the character of the community and the potential for suitable sites for sexually oriented businesses within the community.
AH. City of Fairview therefore finds that there are no suitable locations for sexually oriented businesses in the City of Fairview and such businesses should therefore be prohibited.

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

AJ. DEFINITIONS:

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

2. CUSTOMER — any person who:

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

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

4. DISPLAY PUBLICLY — the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others or from any portion of the
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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.
AK. PROHIBITED USES: The following uses are prohibited in the City of Fairview and county-wide under Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. No Zoning Permit shall be issued for the following prohibited businesses:

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

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

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

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

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

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

ZONES

SECTION 10.0 A-1 (AGRICULTURAL ONE) ZONE

A. PERMITTED USES

1. Agricultural uses
2. Single-family residential dwellings (detached)
3. Sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any road or highway
4. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises
5. Stables and riding academies
6. Commercial uses existing at the time of adoption of this ordinance (subject to the requirements of Section 10.1)

B. ACCESSORY USES

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

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 15.6 of this ordinance:

1. Automobile junk yards, as provided for in Section 9.9 of this ordinance, provided all such storage is entirely within an enclosed fence or wall, or properly screened according to the requirements of Section 9.17
2. Cemeteries
3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
4. Contractors’ offices and storage of machinery and equipment only provided all such storage is entirely within an enclosed fence or wall, or properly screened according to the requirements of Section 9.17
5. Fire and police stations, providing they are located adjacent to an arterial street
6. Funeral homes, provided they are located adjacent to an arterial street
7. Governmental offices
8. Nursery schools
9. Public and parochial schools
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries
11. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Country clubs
   b. Fishing lakes
   c. Golf courses
   d. Gun clubs and ranges
   e. Swimming pools
   f. Tennis courts/clubs

12. Veterinarians' offices for large and small animals, including outside runs

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES
1. Minimum lot area - One (1) acre
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front yard depth - Forty (40) feet
4. Minimum side yard width - Total: Thirty-eight (38) feet; One side: Twelve (12) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width 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 shall be provided in accordance with Article XI.
2. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
SECTION 10.1 R-1C (RESIDENTIAL ONE - C) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)

B. ACCESSORY USES

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

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 15.6 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, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street
5. Governmental offices
6. Institutions for higher education, providing they are located adjacent to an arterial street
7. 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
8. Nursery schools
9. Public and parochial schools
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries
11. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Golf courses
   b. Country clubs
   c. Swimming pools

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

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

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 shall be provided in accordance with Articles XI.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
SECTION 10.2 RC (RURAL COMMERCIAL) ZONE

A. PERMITTED USES

1. Auto repair shops and sale of new and used auto parts
2. Bakeries
3. Banks
4. Barber and beauty shops
5. Contractors' offices and storage areas
6. Drug stores
7. Farm equipment - sales and service
8. Food stores and supermarkets
9. Grain, feed and seed stores, including sale of fertilizers, garden supplies, etc.
10. Hardware stores
11. Lumber companies
12. Offices
13. Paint and wallpaper stores
14. Plumbing and heating and air conditioning offices and sale of fixtures
15. Police and fire stations
16. Post offices
17. Restaurants, excluding drive-ins
18. Service stations
19. Tobacco warehouses
20. Veterinarian offices, including small and large animal clinics

B. ACCESSORY USES

1. Customary accessory uses
2. Fences and walls
3. Signs, as regulated by Article XII

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 - Ten thousand (10,000) square feet
2. Minimum lot width at building setback line - Seventy (70) feet
3. Minimum front yard depth - Fifty (50) feet
4. Minimum side yard width - No restrictions except when adjacent to a street or other deeded right-of-way, then the required width shall be the same as required for a minimum front yard depth in this zone. 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

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking shall be provided in accordance with Articles XI of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any dedicated street, or into any residential zone.
4. Where any yard of any use permitted within 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 activity, including storage of materials, permitted in this zone shall be conducted either within a completely enclosed building or within an area screened from view in accordance with Section 9.17 of this ordinance, with the exception of off-street parking areas, and display of equipment for sale.
7. A site plan, as regulated by Section 9.19 of this ordinance shall be required for any use in this zone.
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 - (A-1, A-2, R-RE, R-1A, R-1B, R-1C, R-1D, R-1DD, R-1E, R-1EE, R-1F, R-1G): Off-street parking may be permitted in driveways in the front, side, and rear yards of permitted uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking located in the rear yard shall be set back a minimum of ten (10) feet from the rear lot line. No off-street parking area, located in the front yard in a single-family residential zone, may exceed four hundred (400) square feet (two parking spaces) except, however, the zoning administrator may allow additional off-street parking spaces to be located thereon, provided that the additional parking spaces will

   b. Multi-Family Residential Zones - (R-2, R-3): Off-street parking may
be permitted in side or rear yards of permitted uses in these zones, provided that off-street parking facilities shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in required front yards, only if approved according to an approved development plan.

c. Special Development Zones - (RCD, PUD, MHP) Off-street parking shall be located as designated on the approved plan.

d. Commercial and Industrial Zones –

(1) Except as herein provided, off-street parking may be permitted in minimum required front, side, and rear yards of these zones, provided that all off-street parking facilities shall be set back a minimum of five (5) feet from any street right-of-way lines.

(2) IP Zone: Off-street parking may be permitted in the side and rear yards, provided that all off-street parking facilities shall be set back a minimum of ten (10) feet from the rear lot line, and shall not be permitted in the minimum required side yards. Off-street parking may be permitted in front yards, provided that all minimum front and side yard requirements are maintained.

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 and industrial zones may supply off-street parking within three hundred (300) feet from such lot served, upon approval of the zoning administrator, provided that such off-street parking facilities are unable to be provided on the same lot, or contiguous to the same lot, as the building being served. In addition, said off-street parking shall be located in the same zone as the use being served.

b. Existing single, two, or multi-family dwellings, which are permitted uses herein and occupy a lot of such size that off-street parking could not be provided on the same lot as the use being served, said off-street parking may be permitted to locate within 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.

E. 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.

F. 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.

G. 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.

H. 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, OR INDUSTRIAL ZONES:** All such parking areas shall have a protective wall and/or
bumper blocks around the perimeter of said parking area and shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic. All parking shall be effectively screened on each side adjoining or fronting on any property situated in a zone permitting single-family residential development, by a solid wall, fence, or densely planted compact hedge, as regulated by Section 9.17 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

E. LIGHTING: Any lighting used to illuminate off-street parking areas shall not glare upon any right-of-way or adjacent property.

F. PAVING OF NEW OFF-STREET PARKING 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 Appendix A.
SECTION 11.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS: The amount of off-street parking space required for uses, buildings, or additions, and changes in intensity of uses thereto, shall be determined according to the following requirements, and the space, so required, shall be stated in the application for a zoning and building permit and shall be reserved for such use. Where more than one 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</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>
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<td>and bus terminal</td>
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<tr>
<td>B. Automobile laundries</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>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>Five (5) 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>
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<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>
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<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
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<tr>
<td><strong>H. Convalescent homes, nursing homes, rest homes, homes for the aged, and orphanages</strong></td>
<td>One (1) parking space for each two (2) beds, plus one (1) parking space for each two (2) employees or staff members, including nurses, on shift of largest employment, plus one (1) parking space per doctor.</td>
</tr>
<tr>
<td><strong>I. Dance halls, pool and billiard halls, and exhibition halls without fixed seats</strong></td>
<td>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.</td>
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<tr>
<td><strong>J. Dormitories, Fraternities, Sorority Houses, and other group housing</strong></td>
<td>One (1) parking space per each two (2) residents, plus one (1) parking space per owner or operator, plus one (1) parking space per employee, or one (1) parking space for each two (2) seats for membership meetings, whichever is greater, based on design capacity.</td>
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<tr>
<td><strong>K. Dwellings: One-Family</strong></td>
<td>Two (2) sparking spaces.</td>
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<tr>
<td>i. Two-Family</td>
<td>Four (4) parking spaces, with individual access for each dwelling unit, or a joint access in which no parking is permitted on the access drive.</td>
</tr>
<tr>
<td><strong>L. Dwellings: Multi-Family</strong></td>
<td>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.</td>
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<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
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<td><strong>M. Establishments for sale and consumptions on the premises of alcoholic beverages, food, refreshments, or for take home food service</strong></td>
<td>One (1) parking space for each two (2) employees on shift of largest employment plus one parking space for each:</td>
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<td>A. Thirty (30) square feet of gross floor area in a drive-in restaurant;</td>
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<td>B. One hundred forty (140) square feet of gross floor area in a carry-out restaurant:</td>
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<td>C. Forty (40) square feet of gross floor area or two (2) seating accommodations, based on maximum seating capacity, whichever is greater, in a combination restaurant:</td>
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<td></td>
<td>D. Two (2) seating accommodations, based on maximum seating capacity, in a sit-down restaurant.</td>
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<td><strong>N. Fire stations</strong></td>
<td>One (1) parking space for each person on duty on largest shift.</td>
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<tr>
<td><strong>O. Hospitals</strong></td>
<td>One (1) parking space for each two (2) beds, plus one (1) parking space for each two (2) employees or staff members, including nurses, on shift of largest employment, plus one (1) parking space per doctor.</td>
</tr>
<tr>
<td><strong>P. Laundromats</strong></td>
<td>One (1) parking space for each two (2) washing machines, plus one (1) parking space for each employee.</td>
</tr>
<tr>
<td><strong>Q. Libraries, museums, and art galleries</strong></td>
<td>One (1) parking space for each four (4) seats in rooms for public assembly or one (1) parking space for each fifty (50) square feet of gross floor area for use by the public, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
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### TYPES OF USES

<table>
<thead>
<tr>
<th>TYPES OF USES</th>
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<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 (200) square feet of gross floor area in the building, plus one (1) parking space for each two (2) employees, whichever is greater.</td>
</tr>
<tr>
<td>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 (200) square feet of gross floor 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>
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<tr>
<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
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<tr>
<td>V. Private clubs, boarding houses, and lodge halls</td>
<td>One (1) parking space for each guest sleeping room, or one (1) parking space for each four (4) fixed seats in the main assembly area, whichever is greater, plus one (1) parking space for each two (2) employees, or in the case of no fixed seats, one (1) parking space for each two (2) employees.</td>
</tr>
<tr>
<td>W. Retail and personal service stores</td>
<td>Five and one-half (5-1/2) spaces per one thousand (1,000) square feet of gross leasable area.</td>
</tr>
<tr>
<td>X. Schools – elementary, junior high, and equivalent, private or parochial schools</td>
<td>One (1) parking space per teacher and administrator or one (1) space for each four (4) seats in the auditorium, stadium, and other places of assembly or facilities available to the public, based on maximum seating capacity, whichever is greater.</td>
</tr>
<tr>
<td>Y. Schools – senior high, trade and vocational, colleges and universities, and equivalent, private or parochial</td>
<td>Six (6) parking spaces for each room to be used for class instruction or administrative offices, or one (1) parking space for each four (4) seats in the auditorium, stadium, and other places of assembly or facilities available to the public, based on maximum seating capacity, whichever is greater.</td>
</tr>
<tr>
<td>Z. Shopping centers</td>
<td>Five and one-half (5-1/2) 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>
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</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, or multi-family residential uses, access points from adjacent properties onto frontage roads, shall be no less than one hundred (100) feet, measured from point of curb return to point of curb return, from intersections of the frontage road with local or collector streets.

c. Where the frontage of a tract is greater than five hundred (500) feet an additional access point may be permitted. However, the type of access will depend on the spacing requirements in F., 1., a.
(1) If the frontage of the tract is large enough, then at least one (1) of the access points may have direct access onto the arterial street, provided the spacing between the adjacent access points meet the requirements of Section F., 1., a., and all other requirements of this section of the ordinance. In the case where the frontage allows only one (1) point of direct access, due to spacing restrictions as provided herein, the second access point will be via a frontage road, or an intersecting local street, or share a common driveway that meets the spacing restrictions, as provided along the arterial street.

d. If a tract of land has no means of access that would meet the requirements of this section of the ordinance, one (1) access point shall be provided. However, all such access points shall be considered a temporary right-of-way and may be terminated, reduced, limited to certain turning movements, or caused to be relocated by the zoning administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road, or an intersecting local street, or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as temporary, such designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

2. Collector Streets

a. On two-lane roadways, one (1) access point per existing tract will be allowed. However, if the frontage is 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
Article XI  Off-Street Parking And Access Control Regulations

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 11.2. No access point plans shall be approved, or permits issued, for construction by the zoning administrator, until said access point plans have been approved by the Kentucky Department of Transportation.
Table 1A
SIGHT DISTANCE FOR VEHICLES EXITING FROM ACCESS POINTS ONTO ADJACENT ROADS
see Figure 1A

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>20 MPH</th>
<th>30 MPH</th>
<th>40 MPH</th>
<th>50 MPH</th>
<th>60 MPH</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 lane</td>
<td>4 or 6 lane</td>
<td>2 lane</td>
<td>4 or 6 lane</td>
<td>2 lane</td>
</tr>
<tr>
<td></td>
<td>DL</td>
<td>DR</td>
<td>DL</td>
<td>DR</td>
<td>DL</td>
</tr>
<tr>
<td>Passenger Car</td>
<td>150</td>
<td>130</td>
<td>130</td>
<td>130</td>
<td>360</td>
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<td>500</td>
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<td>1600</td>
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<td>2500</td>
<td>2500</td>
<td>2500</td>
<td>2500</td>
<td>2500</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</th>
<th>30 MPH</th>
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<th>50 MPH</th>
<th>60 MPH</th>
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<td></td>
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<tr>
<td>Passenger Car</td>
<td>150</td>
<td>160</td>
<td>170</td>
<td>230</td>
<td>250</td>
</tr>
<tr>
<td>Truck</td>
<td>260</td>
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<td>400</td>
<td>400</td>
</tr>
<tr>
<td></td>
<td>700</td>
<td>740</td>
<td>780</td>
<td>1000</td>
<td>1100</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

SIGN REGULATIONS

SECTION 12.1 SHORT TITLE: This Article shall be known as the Sign Article of the City of Fairview.

SECTION 12.2 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 Fairview. 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 Fairview, 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 Fairview;
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 Fairview;
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 12.3 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 12.4 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 Fairview, on land that is either private land or public land over which the City of Fairview 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 Fairview, except as otherwise provided herein. All signs displayed in the City of Fairview shall comply with all requirements of this Article and all other applicable law. Permits shall be required for all signs in the City of Fairview, 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 Fairview, 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
Article XII  Sign Regulations

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 Fairview; 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 Fairview, 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 Fairview, 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 12.8 and 12.9;

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 12.6, 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 12.5 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 12.6, 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 12.6 INSTALLATION, DESIGN AND CONSTRUCTION STANDARDS
Article XII  Sign Regulations

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 Fairview 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 Fairview 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 12.7 SIGNS ALLOWED IN CONSERVATION, AGRICULTURAL AND RURAL DISTRICTS (A-1 Zone)

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
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(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,
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Section 12.8   Signs allowed in single-family and two-family residential districts (R-1C Zone)

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 separately illuminated.
2. For permitted uses other than single-family residences, one wall sign per use not more than two (2) square feet in area is allowed, provided that such sign contains no commercial message and is not illuminated.

B. DETACHED SIGNS

1. Each occupied lot in a residential district shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The permanent sign shall not contain a commercial message, and no more than two (2) signs on a lot in a residential district at any one time, including all wall signs, detached signs, temporary signs, and others, may contain commercial messages. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

2. Signs related to the sale of personal property shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. INCIDENTAL SIGNS

1. Additional detached signs, permanent or temporary, of not more than two (2) square feet in area and four (4) feet in height are allowed, provided that such signs contain no commercial message and are not illuminated. The intent of this regulation is to provide for signs that provide messages like “no parking”, “no dumping”, “beware of dog”, “rest rooms”, but such signs may bear any message that is not a commercial message.

D. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not
be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the earlier of the following:

a. Installation of a permanent neighborhood identification sign;
b. Sale of more than ninety percent (90%) of the lots in the subdivision; or
c. A period of two (2) years from the date of installation.

E. PERMANENT ENTRANCE SIGNS

1. Permanent neighborhood, multi-family or mobile home park monument signs, either illuminated or non-illuminated, are allowed. Such signs may include a masonry wall, landscaping or other similar materials or features. Such signs shall only be located at the principal entrance(s) to the neighborhood from a street classified on the comprehensive plan as an arterial or collector street. There shall be a maximum total sign area of fifty (50) square feet which may be used in a single sign or may be divided between a maximum of two (2) signs located on opposite sides of the same entrance. Such sign(s) shall not exceed six (6) feet in height.

F. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may
be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

G. TRAFFIC CONTROL SIGNS

1. Signs conforming with the Manual of Uniform Traffic Control Devices and containing no commercial message are allowed in required off-street parking areas.

SECTION 12.9 SIGNS ALLOWED IN GENERAL BUSINESS AND COMMERCIAL DISTRICTS

A. WINDOW AND WALL SIGNS

1. RC 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>Maximum size</th>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 percent of widow area on that building wall</td>
<td>See total</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
<td></td>
</tr>
<tr>
<td>Area limit only</td>
<td>One per building street frontage</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>No separate illumination</td>
<td>Illumination from a concealed source only</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Not allowed</td>
<td>Not allowed</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

B. POLE OF GROUND SIGNS

1. RC Zoning Districts
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a. Pole of principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
<td>One per vehicle entrance in NSC district; not allowed in NC district</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>20 feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest right-of-way</td>
<td>5 feet</td>
<td>25 feet</td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>Five feet from any other property lines; 50 feet from nearest single-family residential district</td>
<td>Five feet from any other property line; 15 feet from nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

C. 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.

D. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.
2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.

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 12.10 MASTER SIGNAGE PLANS

A. PURPOSE AND INTENT

1. It is the purpose of the City of Fairview 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 Fairview 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 Fairview 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 Fairview 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 Fairview, 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;
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(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 12.14. 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 Fairview 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 Fairview 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 12.14, A., 11.

SECTION 12.11 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
Article XII  Sign Regulations

12-21

(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 subcontractors.

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 nuisance and a violation of the zoning ordinance, and may be abated in the same manner as any public nuisance or zoning ordinance violation.
SECTION 12.12 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 12.13  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 12.14  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 Fairview 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 Fairview 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 Fairview, 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 Fairview 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 Fairview affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this Article. The City of Fairview 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 Fairview 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 authorize

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 12.14, 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
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 12.5 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 12.14, A., 11., b.

d. Severability of Prohibition on Off-premise Signs

(1) If any part section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article and/or an other provisions of this Article or other provisions of Zoning Ordinance or this Code are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the limitations on off-premise signs as contained herein.
ARTICLE XIII

ADMINISTRATION

SECTION 13.0 ENFORCING OFFICER: A zoning administrator (official or officials appointed by the legislative body for carrying out the provisions and enforcement of this ordinance) shall administer and enforce this ordinance. He may be provided with assistance of such other persons as the legislative body directs.

If the zoning administrator finds that any of the provisions of this ordinance are being violated, he shall take such action as is permitted by law.

In addition to the foregoing, the zoning administrator shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences, or additions, alterations, or structural changes thereto, discontinuance of any illegal work being done.

All questions of interpretation and enforcement shall be first presented to the zoning administrator, and that such questions shall be presented to the board of adjustment only on appeal from the decision of the zoning administrator, and that recourse from the decisions of the board of adjustment shall be to the courts, as provided by the Kentucky Revised Statutes.

It shall be illegal for any person or entity to interfere with the zoning administrator's performance of his duties, as defined herein.

SECTION 13.1 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.

C. ISSUANCE OF ZONING PERMIT: The zoning administrator shall either approve or disapprove the application (when required by this ordinance -- e.g., Development Plan submitted required -- the planning commission, or its duly authorized representative, approval or disapproval shall also be required). If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the zoning administrator's signature. The other copy, similarly marked, shall be retained by the zoning administrator.
If approved, one (1) copy of the submitted plans shall be returned to the applicant, marked "Approved". Such approval shall be attested by the zoning administrator's signature. The other copy, similarly marked, shall be retained by the zoning administrator. The zoning administrator shall also issue a zoning permit to the applicant at this time and shall retain a duplicate copy for his records.

D. FAILURE TO COMPLY: Failure to obtain a zoning permit shall be a violation of this ordinance and punishable under Section 16.9 of this ordinance.

E. EXPIRATION OF ZONING PERMIT: If a building permit, as required herein, has not been obtained within ninety (90) consecutive calendar days from the date of issuance of zoning permit, said zoning permit shall expire and be canceled by the zoning administrator and a building permit shall not be obtainable until a new zoning permit has been obtained.

SECTION 13.2 BUILDING PERMITS: Building permits shall be issued in accordance with the following provisions:

A. BUILDING PERMITS REQUIRED: No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the building inspector. No building permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the board of adjustment.

B. APPLICATION FOR BUILDING PERMITS: All applications for building permits shall be accompanied by:

1. A completed application form, provided by the building inspector.

2. An approved zoning permit.

3. The required fee for a building permit, as provided for in Section 19.0 of this ordinance.

4. An approved Development Plan or Site Plan, if required by this ordinance: or

5. Plans in duplicate approved by the zoning administrator and including any additional information required by the building code and/or building inspector, as may be necessary to determine conformance with, and provide for the enforcement of, the building code and the Kentucky Revised Statutes.
C. ISSUANCE OF BUILDING PERMIT: The building inspector shall either approve or disapprove the application. If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the building inspector's signature. The other copy, similarly marked, shall be retained by the building inspector.

If approved, one (1) copy of the submitted plans shall be returned to the applicant marked "Approved". Such approval shall be attested by the building inspector's signature. The other copy, similarly marked, shall be retained by the building inspector. The building inspector shall also issue a building permit to the applicant at this time and shall retain a duplicate copy for his records.

D. COMPLIANCE: It shall be unlawful to issue a building permit, or occupancy permit, to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this ordinance.

E. BUILDING PERMITS ISSUED PRIOR TO THE ADOPTION OF THIS ORDINANCE: Building permits issued in conformance with the building code of the legislative body prior to the date of adoption of this ordinance, whether consistent or inconsistent with this ordinance, shall be valid for a period of one hundred eighty (180) consecutive calendar days from time of issuance of the permit. If construction in connection with such a permit has not been started within such a one hundred eighty (180) consecutive calendar day period, the permit shall be void and a new permit, consistent with all provisions of this ordinance and the building code, shall be required. For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation.

F. EXPIRATION OF BUILDING PERMIT: If the work described in any building permit has not begun within ninety (90) consecutive calendar days from the date of issuance thereof, said permit shall expire and be canceled by the building inspector and no construction shall be permitted until a new building permit has been obtained, except, an extension may be permitted if sufficient evidence can be demonstrated why the work described in the building permit was not begun.

For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation. If after the work described in the building permit has been started, the building permit shall expire after a period of eighteen (18) months, providing that an extension may be permitted if sufficient
evidence can be demonstrated why the work described in the building permit was not completed as herein specified.

G. CONSTRUCTION AND USE: To be as provided in applications, plans, permits, zoning permits and building permits, issued on the basis of plans and applications, approved by the zoning administrator and/or building inspector, authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed in violation of this ordinance and punishable as provided in Section 13.9 of this ordinance.

SECTION 13.3 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 13.4 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 13.5 CERTIFICATE OF OCCUPANCY FOR LAWFUL NONCONFORMING USES AND STRUCTURES: A certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created by this ordinance. A fee, as provided for in Section 19.0 of this ordinance, shall be charged for said certificate.

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

It shall be the duty of the building inspector to issue a certificate of occupancy for lawful nonconforming uses upon application and such certificate shall identify the extent to which the nonconforming use exists at the time of issuance of such certificate.
SECTION 13.6 DENIAL OF CERTIFICATE OF OCCUPANCY: Except as herein stated, a certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance and to plans for which the building permit was issued.

SECTION 13.7 CERTIFICATE OF OCCUPANCY RECORDS: A record of all certificates of occupancy shall be kept on file in the offices of the building inspector and copies shall be furnished, on request, to any person having a proprietary building affected by such certificate of occupancy.

SECTION 13.8 COMPLAINTS REGARDING VIOLATIONS: Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and bases thereof, shall be filed with the zoning administrator. The zoning administrator shall record properly such complaint, immediately investigate, and take action thereon, as provided by this ordinance and the Kentucky Revised Statutes.

SECTION 13.9 PENALTIES: Any person or entity who violates any of the provisions of this ordinance, shall, upon conviction be fined not less than ten (10) dollars but no more than five hundred (500) dollars for each conviction. Each day of violation shall constitute a separate offense.

SECTION 13.10 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS: It is the intent of this ordinance that:

A. Where investigation can be made by the zoning administrator, or other designated employee, using equipment normally available to the legislative body, such investigation shall be so made before notice of violation is issued.

B. Where technical complexity, nonavailability of equipment, or extraordinary expense makes it unreasonable, in the opinion of the zoning administrator, for the legislative body to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be established for:

1. Causing corrections in apparent violations of performance standards;

2. For protecting individuals from arbitrary, capricious and unreasonable administration and enforcement of performance standard regulations; and

3. For protecting the general public from unnecessary costs for administration and enforcement.
C. If the zoning administrator finds, after investigations have been made by qualified experts, that there is a violation of the performance standards, he shall take, or cause to be taken, lawful action to cause correction to, within limits set by such performance standards.

SECTION 13.11 DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE STANDARDS: If, in the judgment of the zoning administrator, there is probable violation of the performance standards as set forth, the following procedures shall be followed:

A. The zoning administrator shall give written notice, by registered mail or certified mail, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the zoning administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation, to the satisfaction of the zoning administrator, within thirty (30) consecutive calendar days of receipt of such notification. The notice shall state that failure to reply or to correct the alleged violation, to the satisfaction of the zoning administrator within thirty (30) consecutive calendar days of receipt of said notice, constitutes admission of violation of the terms of this ordinance.

B. The notice shall further state that, upon request of those to whom said notice is directed, a technical investigation will be made by a qualified expert or experts and that, if violations as alleged are found, costs of such investigations shall be charged against those responsible for the violations, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the investigation will be paid by the legislative body.

C. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice, but the alleged violation is corrected to the satisfaction of the zoning administrator, he shall note "violation corrected" on his copy of the notice, and shall retain it among his official records, taking such other action as may be warranted.

D. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice and the alleged violation is not corrected to the satisfaction of the zoning administrator within the established time limit, he shall proceed to take, or cause to be taken, such action as is warranted by continuation of a violation after notice to cease.
E. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the zoning administrator, but requesting additional time, the zoning administrator may grant an extension if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.

F. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice requesting technical determination as provided in this ordinance, and if the alleged violations continue, the zoning administrator shall call in properly qualified experts to investigate and determine whether violations exist.

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

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

SECTION 14.0 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.

B. PLANNING COMMISSION REVIEW REQUIRED: A proposal for an amendment to this ordinance may originate with the planning commission, the legislative body, or with the owner of the property in question. 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: 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.

D. OTHER HEARING REQUIREMENTS, ZONING MAP AMENDMENT: In addition to the public hearing notice required in Section 14.0, 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.

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: Following the public hearing held by the planning commission on a proposed amendment, the commission shall, within sixty (60) calendar days from the date of its receipt, advise the legislative body whether it approved or disapproved of the amendment to the zoning regulation, 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 14.0, E., above.

H. LEGISLATIVE BODY DISPOSITION: Within a reasonable time after receipt of the planning commission's recommendations and findings concerning the application the legislative body shall act on such application. A majority of the entire legislative body shall be required to override the recommendations of the planning commission.

I. SUBMISSION OF DEVELOPMENT PLAN AS CONDITION TO COMMERCIAL, MULTI-FAMILY RESIDENTIAL, OR INDUSTRIAL ZONING MAP AMENDMENT: Any request for a zoning map amendment, excluding those submitted by the legislative body (other than for a zone change for land under city ownership that the city intends to develop) and the planning commission, to any commercial (i.e., NC, SC, HC, etc.) multi-family residential zone (i.e., R-2, R-3, etc.), or industrial zone (i.e., IP, I-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 14.0, 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 9.20, A. 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 14.1 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 14.2 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 XV

BOARD OF ADJUSTMENT

SECTION 15.0 BOARD OF ADJUSTMENT: All actions requiring Board of Adjustment review shall be under the jurisdiction of the Kenton County Board of Adjustment, pursuant to the joint planning agreement between Kenton County and participating Kenton County cities.

SECTION 15.1 PROCEDURE FOR ALL APPEALS TO BOARD: Appeals to the board of adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the zoning administrator. Such appeal shall be taken within thirty (30) calendar days after the appellant or his agent receives notice of the action of the official to be appealed from, by filing with said zoning administrator and with the board, a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. A fee, as required by Section 19.0 of this ordinance, shall also be given to the zoning administrator at this time. Said zoning administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the board, an interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

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

SECTION 15.2 APPEALS FROM PLANNING COMMISSION OR BOARD OF ADJUSTMENT: Any appeal from planning commission or board of adjustment action may be taken in the following manner:

A. Any person or entity claiming to be injured or aggrieved by any final action of the planning commission or board of adjustment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the action of the board of adjustment, lies. Such appeal shall be taken within thirty (30) consecutive calendar days after the final action of the planning commission or board of adjustment. Final action shall not include the planning commission's recommendations made to other governmental bodies.
B. All appeals shall be taken in the appropriate circuit court within thirty (30) consecutive calendar days after the action or decision of the planning commission or board of adjustment and all decisions, which have not been appealed within thirty (30) consecutive calendar days shall become final. After the appeal is taken, the procedure shall be governed by the rules of civil procedure. When an appeal has been filed, the clerk of the circuit court shall issue a summons to all parties, including the planning commission in all cases, and shall cause it to be delivered for service as in any other law action.

SECTION 15.3 STAY OF PROCEEDINGS: An appeal stays all proceedings in furtherance of the action appealed from, unless the zoning administrator from whom the appeal is taken, certifies to the board of adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and/or property. In such case, proceedings shall not be stayed other than by a court of record on application, or on notice to the zoning administrator from whom the appeal is taken and on due cause shown.

SECTION 15.4 POWERS OF BOARD OF ADJUSTMENT: Upon appeals, The board of adjustment shall have the following powers:

A. To hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusual shape of the site on the effective date of this ordinance, or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density) of the zoning ordinance would deprive the applicant of reasonable capacity to make use of the land.

B. To hear and decide appeals, where it is alleged, by the appellant, that there is an error in any order, requirement, decision, grant, or refusal made by a zoning administrator in the enforcement of this ordinance. Such appeal shall be taken within sixty (60) consecutive calendar days.

C. To hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein, which may be suitable only in specific locations in the zone only if certain conditions are met, as specified in Section 9.14 of this ordinance.

D. To hear and decide, in accordance with the provisions of this ordinance, requests for interpretation of the official zoning map or for decisions upon other special questions upon which said board is authorized to act upon.

E. To hear and decide, in accordance with the provisions of this ordinance and the
adopted comprehensive plan, requests for the change from one nonconforming use to another.

SECTION 15.5 DIMENSIONAL VARIANCES; CHANGE FROM ONE NONCONFORMING USE TO ANOTHER; CONDITIONS GOVERNING APPLICATIONS; PROCEDURES

A. DIMENSIONAL VARIANCES: Before any dimensional variance is granted, the board of adjustment must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the variance. Such variance shall not be granted by the board of adjustment unless and until:

1. A written application for a variance (including the required fee as per separate ordinance) and a site plan, subject to the applicable requirements of section 9.19, are submitted demonstrating:
   a. That specific conditions and circumstances exist which are unique to the applicant's land and do not exist on other land in the same zone;
   b. That the manner in which the strict application of the provisions of this ordinance would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other land owners in the same zone;
   c. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequently to the adoption of this ordinance;
   d. Reasons that the dimensional variance will preserve, not harm, the public safety and welfare, and will not alter the essential character of the neighborhood; and
   e. That granting the dimensional variance requested will not confer on the applicant any special privilege that is not conferred by this ordinance to other lands, structure, or buildings in the same zone. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a dimensional variance.

2. Notice of public hearing shall be given in accordance with Section 15.2 of this ordinance.
3. The public hearing shall be held. Any person may appear in person, or by agent, or by attorney.

4. Prior to granting a variance:
   a. The board of adjustment shall make findings that the requirements of this section have been met by the applicant for a dimensional variance.
   b. The board of adjustment shall further make a finding that reasons set forth in the application justify the granting of a dimensional variance and that the dimensional variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
   c. The board of adjustment shall further make a finding that the granting of the dimensional variance will be in harmony with the general purpose and intent of this ordinance as well as the adopted comprehensive plan, and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare.

5. In granting any dimensional variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 13.9 of this ordinance.

B. DIMENSIONAL VARIANCE CANNOT CONTRADICT ZONING REGULATION: The board of adjustment shall not possess the power to grant a dimensional variance to permit a use of any land, building, or structure which is not permitted by this ordinance in the zone in question, or to alter the density of dwelling unit requirements in the zone in question.

C. DIMENSIONAL VARIANCE RUNS WITH LAND: A dimensional variance applies to the property for which it is granted and not to the individual who applied for it. A dimensional variance runs with the land and is transferable to any future owner of land, but it cannot be transferred by the applicant to a different site.

D. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: A nonconforming use shall not be changed to another nonconforming use without the specific approval of the board of adjustment, as provided herein.
1. The board of adjustment shall have the power to hear and decide on applications to convert or change an existing nonconforming use to another nonconforming use, subject to the following:

   a. A written application for a change from one nonconforming use to another (including the required fee as per separate ordinance) and a Site Plan, if applicable, subject to the applicable requirements of Section 9.19, shall be submitted to the board.

   b. Notice of public hearing shall be given in accordance with Section 15.1 of this ordinance

   c. The public hearing shall be held. Any person may appear in person, by agent, or by attorney

   d. Prior to granting a change from one nonconforming use to another, the board of adjustment shall find that the new nonconforming use is in the same or more restrictive classification of use as the prior nonconforming use. In the determination of the same or more restrictive classification of use, the applicant shall establish and the board of adjustment shall find:

      (1) That the new nonconforming use shall generate less vehicular traffic (automobile and truck) than the prior nonconforming use;

      (2) That the new nonconforming use is of a nature which will emit less noise and air pollution than the prior nonconforming use;

      (3) That the new nonconforming use will be more in character with the existing neighborhood than the prior nonconforming use, in that it is more in conformance with the adopted comprehensive plan, and also, more in conformance with the uses permitted in the zone in which the use is located, than the prior nonconforming use.

   e. Any change of nonconforming use granted by the board of adjustment shall conform to the requirements of this ordinance, including, but not limited to, parking requirements, sign regulations and yard requirements, and all other pertinent ordinances of the legislative body.
f. The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at which time its use became nonconforming.

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

h. The change of nonconforming use, as may be granted by the board of adjustment, applies to the property for which it is granted and not to the individual who applied and, therefore, cannot be transferred by the applicant to a different property.

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

SECTION 15.6 CONDITIONAL USE PERMITS: Conditional use permits shall not be issued without the specific approval of the board of adjustment, as provided herein.

A. The board of adjustment shall have the power to hear and decide on applications for conditional use permits, subject to the following:

1. A written application for a conditional use permit (including the required fee, as per separate ordinance) and a Site Plan subject to the applicable requirements of Section 9.19, shall be submitted to the board.

2. Notice of public hearing shall be given in accordance with Sections 15.1 of this ordinance.

3. The public hearing shall be held. Any person may appear in person, or by agent, or by attorney.

4. Prior to granting a conditional use permit, the board of adjustment shall find that the application for a conditional use permit meets the requirements of this ordinance and Section 9.14.

SECTION 15.7 DECISIONS OF THE BOARD OF ADJUSTMENT

A. In exercising the aforementioned powers, the board of adjustment may, so long
as such action is in conformity with the provisions of this ordinance, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as made by the zoning administrator, from whom the appeal is taken.

B. A simple majority of board members present and voting shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, so long as such action is in conformity with the provisions of this ordinance, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

C. The details of the decision of the board shall be forwarded to the zoning administrator.

SECTION 15.8 ACTIONS OF BOARD OF ADJUSTMENT TO BE FURNISHED TO PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY: Pursuant to KRS 147.705, the board of adjustment shall, after final approval of any dimensional variance, change from one nonconforming use to another, conditional use permit, and other appeal, furnish, or cause to be furnished, within sixty (60) days after approval, a copy of same to Planning and Development Services of Kenton County.
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>
</tr>
</thead>
<tbody>
<tr>
<td>1-1/4</td>
<td>5 + 1</td>
</tr>
<tr>
<td>3/4, 1</td>
<td>6 + 1</td>
</tr>
<tr>
<td>3/8, 1/2</td>
<td>7-1/2 + 1</td>
</tr>
</tbody>
</table>

3. **Construction Procedures**
Appendix A Specifications For Paving

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>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SURFACE KDOT (1) (SEC. 401, 402) TYPE B (INCH)</td>
<td>BASE KDOT (1) (SEC. 401, 403) TYPE B (INCH)</td>
<td>GRANULAR SUBBASE KDOT (1) (SEC. 303) INCH</td>
</tr>
<tr>
<td>Auto Parking Facilities</td>
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<td>4</td>
<td>1-1/4</td>
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<td></td>
<td>1-1/2</td>
<td>6-1/2</td>
<td>1-1/2</td>
</tr>
<tr>
<td>Truck Parking Facilities</td>
<td>1-1/2</td>
<td>2-1/2</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>1-1/2</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>1-1/2</td>
<td>1-1/2</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>1-1/2</td>
<td>2</td>
<td>N.A.</td>
</tr>
<tr>
<td></td>
<td>1-1/2</td>
<td>10</td>
<td>N.A.</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

**ALTERNATE EXPANSION JOINT**

**TRANSVERSE CONTRACTION**
(SAWED OR PREMOLDED STRIP)

**EXPANSION JOINT**
(PLANNED - COINCIDE WITH CONTRACTION JOINT)

**LONGITUDINAL CONSTRUCTION JOINT KEYWAY**

**TIED TRANSVERSE CONSTRUCTION JOINT**
(EMERGENCY - NOY COINCIDE WITH CONTRACTION JOINT)
APPENDIX B

ZONES AS REGULATED BY THE KENTON COUNTY ZONING ORDINANCE

SECTION 10.1 A-1 (AGRICULTURAL-ONE) ZONE

A. PERMITTED USES:

1. Agricultural uses;
2. Single-family residential dwellings (detached);
3. Mobile homes, subject to the requirements of Section 9.26 of this ordinance;
4. Sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any road or highway;
5. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises;
6. Stables and riding academies.
7. Bed and breakfast establishments

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 and uses, subject to the approval by the board of adjustments, 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. Governmental offices;
4. Nursery schools;
5. Police and fire stations, provided they are located adjacent to an arterial or collector street;
6. Public and parochial schools;
7. Veterinarians' offices for large and small animals, including outside runs;
8. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
9. Recreational uses, other than those publicly owned and/or operated, as follows:
   a. Golf courses;
   b. Country clubs;
   c. Swimming pools;
   d. Tennis courts/clubs;
   e. Fishing lakes;
   f. Gun clubs and ranges;
10. Sanitary landfills, as regulated by Section 9.27 of this ordinance;
11. Funeral homes, providing they are located adjacent to an arterial street.

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

1. Minimum Lot Area - One (1) acre.
2. Minimum Lot Width at Building Setback Line - One hundred (100) feet.
3. Minimum Front Yard Depth - Forty (40) feet.
4. Minimum Side Yard Width - Total: Thirty-eight (38) feet; One Side: Twelve (12) feet.
5. Minimum Rear Yard Depth - Twenty-five (25) feet.
6. Maximum Building Height - Thirty-five (35) feet.

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

1. Minimum Lot Area - Twenty-two thousand five hundred (22,500) square feet.
2. Minimum Lot Width 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. The following shall apply to bed and breakfast establishments:
   a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   b. Food service may be provided for resident guests only.
   c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
   d. Interior alterations should maintain the unique characteristics of the structure, if possible.
   e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
   f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.