OFFICIAL ZONING ORDINANCE

CITY OF
FORT MITCHELL,
KENTUCKY

Prepared by:
Planning and Development Services
of Kenton County

PDS
## APPENDIX C

### SUMMARY OF AMENDMENTS

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ARTICLE I

A ZONING ORDINANCE

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

AUTHORITY AND PURPOSE

SECTION 2.0 AUTHORITY: The City of Fort Mitchell, 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 Fort Mitchell, Kentucky and shall be known, referred to, and recited to as the "ZONING ORDINANCE OF THE CITY OF FORT MITCHELL, 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 Fort Mitchell, 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: The use of land for major agricultural purposes, including agriculture, dairying, farming, floriculture, horticulture, pasturage, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

AIR RIGHTS: 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 city.

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 city's building inspector authorizing the construction or alteration of a specific building, structure, sign, or fence.

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

BUILDING SITE: One contiguous piece of land that meets all of the provisions of the city's ordinances, regulations, and codes for 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.

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

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

COMPREHENSIVE (MASTER) PLAN: A guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. It shall contain, as a minimum, the following elements:

A. A statement of goals and objectives, principles, policies, and standards;
B. A land use plan element;
C. A transportation plan element;
D. A community facilities plan element;
E. May include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation 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".
DEVELOPMENT PLAN: Written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, and all other conditions agreed to by the applicant.

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

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

DRIVE-THRU FACILITY: A facility which, by its design (e.g., window, counter, microphone/speaker) allows people to receive goods and/or services while remaining in their automobile.

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, with or without drive-thru facilities. Drive-thru facilities, as defined herein, are prohibited unless expressly permitted, and as regulated, in a particular zone. Eating Establishments -- Restaurants shall include the following:

A. Carry-out -- A fast service restaurant primarily designed for consumption of food off the premises. Incidental indoor seating for consumption of food on the premises may be provided.

B. Drive-in -- A restaurant where consumption of food is encouraged in a vehicle on the premises, where food is provided by car-hop or self-service, with or without incidental sit-down and carry-out facilities.

C. Sit-Down -- A restaurant which provides indoor seating arrangements designed primarily for consumption of food on the premises with or without incidental carry-out service.

D. Combination -- Any restaurant which provides any combination of sit-down, carry-out, drive-in, or drive-thru services.

E. Dining Room-Cafeteria and/or Supper Club -- A restaurant which provides indoor sit-down seating arrangements as the principal use of the establishment, with or without incidental carry-out service.

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

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

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

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

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

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

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

GARAGE, PRIVATE: A building or portion of a principal building, designed, intended, and used for the storage of motor driven vehicles. This definition shall not include a public garage. A private garage is clearly accessory to the principal use permitted, and may contain additional rooms for storage, without plumbing facilities for the preparation of food, i.e., a kitchen.

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: A building or buildings to be used for the temporary abiding place for travelers and transient guests, not including extended stay facilities, where all access to sleeping accommodations is from the interior of the building and guests must pass through a lobby, which must be staffed 24 hours per day. The facility must include a business facility, gymnasium or work out facility, and include one of the following: (i) restaurant or lounge, which includes the service of breakfast; (ii) an indoor pool; or (iii) additional amenities as approved by the Zoning Administrator. Furthermore, the facility shall provide a covered entranceway permitting the loading or unloading of vehicles.

HOUSE TRAILER: See MOBILE HOME.

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

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

LABORATORY, MEDICAL OR DENTAL: A building or a portion of a building used for providing bacteriological, biological, medical, x-ray, pathological, and similar analytical or diagnostic services to doctors or dentists.
LAUNDROMAT: A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

LEASABLE AREA, GROSS: The floor area occupied exclusively by tenant, including finished basement and mezzanine areas and excluding such areas as elevators, stairways, corridors, and lobbies.

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 Council of the City of Fort Mitchell, 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.

MANUFACTURED HOME: A single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities, and which includes the plumbing, heating, air conditioning, and electrical systems contained therein and installed in accordance with KRS 227.570 by a Kentucky certified installer.

MICROBREWERY Establishments engaged in on-site brewing of beer and sales of beer by the glass for on-premise consumption. These establishments are primarily used for the production of beer and ale and may include retail and food service as an accessory use. The brewing operation processes the ingredients to make beer and ale by mashing, cooking, and fermenting. The brewing operation does not include the production of any other alcoholic beverage.

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

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.

MINOR ADJUSTMENT: A minor adjustment, as that term is utilized in the MBLU, MLU, and CPUD zones is a change to a Stage I or Stage II Development Plan, which does not materially alter the character, size, scope, or impact of any use, building, or infrastructure approved within any plan, and would include, without limitation, relocation of approved elements by minor distances such as moving a street or building foundation by a few feet, relocation of a sign affixed to a building by a few feet, and similar nonmaterial changes.

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

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

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

MOTEL: A building or buildings to be used for the temporary abiding place for travelers and transient guests, where there is a separate outside entrance to sleeping accommodations.

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.

NEW LUXURY CAR DEALERSHIP: shall mean a location that meets all of the following: (1) an established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing, and servicing new motor vehicles, (2) operated by a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles, (3) which is primarily engaged in the sales or leasing of vehicles that are in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer and (4) where such new motor vehicles have an average sticker price that exceeds the "Baseline Price." The Baseline Price for calendar year 2013 is established as $45,000. The Baseline Price will be adjusted as of January 1 of each calendar year thereafter, and will be set as the prior year's Baseline Price multiplied by the sum of 1 plus the prior year's percentage increase or decrease in the annual average Producer Price Index for New Car Dealers, as published by the Bureau of Labor Statistics.

NIT: A 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.

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.

OFFICE PARK: A development on a tract of land, containing two (2) or more office/business uses and buildings, along with support services, which is designed, planned, and constructed in a manner that permits, encourages, or necessitates interaction of the various users of the development. An office park is designed, constructed, managed, and maintained on an integrated basis with coordinated and/or common vehicular circulation, off-street parking facilities, storm water management, building design, signage, and landscaping.

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.

PDS: Planning and Development Services of Kenton County.

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

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

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

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

A. Is manufactured on or after July 15, 2002;
B. Is affixed to a permanent foundation as is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
C. Has a width of at least twenty (20) feet at its smallest width measurement or is two (2) stories in height and oriented on the lot or parcel so that its main entrance door faces the street;
D. Has a minimum total living area of nine hundred (900) square feet;
E. Is not located in a manufactured home land-lease community; and
F. Is compatible, in terms of assessed value, with existing housing located immediately adjacent to: (1) either side of the proposed site within the same block front; (2) adjacent to the rear; or (3) within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured home.

RAILROAD RIGHTS-OF-WAY: A strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

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: The definition of trailer shall also include any non-powered vehicle, designed to be attached to a motor vehicle, for the purpose of transporting persons, property, or animals.

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

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

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

WEEDS: The existence of thistles, burdock, Jimson weed, ragweeds, milkweeds, poison ivy, poison oak, iron weeds, and all other noxious weeds and rank vegetation of whatsoever kind of nature, on improved or unimproved real estate, occupied lots or vacant lots, to accumulate in piles, bundles, or heaps, or to grow or stand to a height in excess of ten (10) inches.

YARD DEPTH, FRONT: An area extending the full width of the lot or building site measured between a line parallel to the street right-of-way line intersecting the foremost
point of any building excluding steps and unenclosed porches and the front lot line, as defined herein.

YARD DEPTH, REAR: An area extending across the full width of the lot and measured between a line parallel to the rear lot line, as defined herein, which intersects the rearmost point of any building excluding steps and unenclosed porches and the rear lot line.

YARD WIDTH, SIDE: An area between any building and the side lot line, as defined herein, extending from the front to the rear yard, or on through lots or building sites from one front lot line to the other front lot line.

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

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

ESTABLISHMENT OF ZONES

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

- CO CONSERVATION ZONE
- R-RE RESIDENTIAL RURAL ESTATE ZONE
- R-1C RESIDENTIAL ONE - C ZONE
- R-1D RESIDENTIAL ONE - D ZONE
- R-1E RESIDENTIAL ONE - E ZONE
- R-1F RESIDENTIAL ONE - F ZONE
- R-1G RESIDENTIAL ONE - G ZONE
- R-2 RESIDENTIAL TWO ZONE
- R-3a RESIDENTIAL THREE A ZONE
- PUD PLANNED UNIT DEVELOPMENT OVERLAY ZONE
- RCD RESIDENTIAL CLUSTER DEVELOPMENT OVERLAY ZONE
- MHP MOBILE HOME PARK OVERLAY ZONE
- LHS LIMITED HIGHWAY SERVICES ZONE
- LSC LIMITED SERVICE COMMERCIAL ZONE
- NC NEIGHBORHOOD COMMERCIAL ZONE
- PO PROFESSIONAL OFFICE BUILDING ZONE
- SC SHOPPING CENTER
- CPUD COMMERCIAL PLANNED UNIT DEVELOPMENT OVERLAY ZONE
- MLU MIXED LAND USE ZONE
- MBLU MIXED BUSINESS LAND USE ZONE
- PO-1 PROFESSIONAL OFFICE ONE ZONE

SECTION 8.1  OFFICIAL ZONING MAP: The zones are bounded and defined as shown on the map entitled "OFFICIAL ZONING MAP OF THE CITY OF FORT MITCHELL, 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 or proposed to be annexed to or otherwise becomes a part of the jurisdiction of the legislative body, the zoning to be applied to the area shall meet the requirements of KRS 100.209 and KRS 81A.420 (1), as amended.
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 or have a depressing influence upon property values in the neighborhood. Salvage and junkyards shall be adequately enclosed with a solid fence or wall, as regulated by Article XIII, and an approved permanent planting screen may be required as regulated by Section 9.17 of this ordinance.

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

SECTION 9.10 APPLICATION OF ZONING REGULATIONS

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

B. Except as herein provided, every structure hereafter erected shall be located on a lot, as herein defined, and in no case shall there be more than one (1) principal building and permitted accessory structure on one (1) lot, nor shall any building be erected on any lot which does not abut a public right-of-way. In the case of a newly subdivided lot, the requirement to abut a public street is further regulated by the subdivision regulations for incorporated and unincorporated Kenton County.

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

1. A building for storage, not to exceed one hundred (100) square feet in gross floor area or more than ten (10) feet in height.
2. A private tennis court, including a shelter house.
3. A child's play house, not to exceed one hundred (100) square feet of gross floor area.
4. Barbecues and outdoor cooking structures.
5. Fall out shelters.
6. Any other customarily found use in conjunction with and required for full utilization and enjoyment of the principal use and which meets the definition of customary accessory building or use.
7. Gazebo.

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 - Except as herein provided, driveways, providing they are not closer than one (1) foot to the property line to which they run approximately parallel to. A common driveway may abut or extend over a property line to serve two (2) or more lots as provided for in
accordance with the subdivision regulations for incorporated and unincorporated Kenton County; steps, four (4) feet or less above grade, projecting not more than four (4) feet into the minimum required yards which are necessary for access to a lot from a street or alley; fire escapes and chimneys, projecting not more than eighteen (18) inches into the minimum required yards; arbors and trellises; flag poles; bird baths; trees; plants; shrubberies; ornaments; utility poles and wires; and outdoor furniture; fences and walls, subject to the requirements in Article XIII; and off-street parking as provided for in Article XI of this ordinance.

2. In Minimum Front Yard Depths - Bay windows, projecting three (3) feet or less into the minimum required yard; overhanging eaves and gutters, projecting not more than three (3) feet into the minimum required front yard; air conditioning equipment; and awnings and canopies, extending not more than four (4) feet into the minimum required front yard.

3. In Minimum Rear Yard Depths - Bay windows, overhanging eaves and gutters, and air conditioning equipment, projecting not more than three (3) feet into the minimum required rear yard; awning and canopies, provided they not extend more than ten (10) feet into the minimum required rear yards.

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

E. In each residential zone, the following customary accessory buildings or uses may be permitted to locate in the rear or side yards, provided that said uses are set back a minimum of twenty (20) feet from the rear lot line and the required side yard clearances are maintained:

1. For single family dwellings, private garages, carports, and recreational buildings, or any combination thereof, not to exceed six hundred (600) square feet in gross floor area or a maximum coverage of ten (10) percent of the available yard area in which said structure is to be located, whichever area is greater. In all cases, the floor area of such structure shall be less than the gross floor area of the principal structure.

2. For two-family and multi-family dwellings, private garages or carports not to exceed six hundred (600) square feet in gross floor area or a maximum coverage of ten (10) percent of the available yard area in which said structure is to be located, whichever area is greater. In all cases, the floor
area of such structure shall be less than the gross floor area of the principal structure.

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, employees, or independent contractors 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 type (e.g., trucks) than would normally be expected in a residential neighborhood.

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

SECTION 9.12 NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE, AND NONCONFORMING SIGNS
A. NONCONFORMING LOTS OF RECORD:

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

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

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

B. NONCONFORMING USES

1. CONTINUANCE: Except as herein provided, the lawful use of any structure or land existing at the time of the adoption of this ordinance may be continued although such use does not conform to the provisions of this ordinance -- it shall become a legal nonconforming use. However, no nonconforming use or structure may be enlarged or extended beyond its area of use at the time it becomes a legal nonconforming use, unless and until the use is brought into conformance with all provisions of this ordinance.

2. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: As regulated by Article XVIII, Section 18.6, D. of this ordinance.
3. **TERMINATION:** In all cases, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 18.2 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming use based on any of the following conditions, and if the decision is to do so, the board shall state its bases, in writing, for such determination.

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

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

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

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

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

C. **NONCONFORMING STRUCTURES**

1. **CONTINUANCE:** Except as herein provided, any lawful nonconforming structure, existing at the time of adoption of this ordinance, may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this ordinance.
2. TERMINATION: In all cases, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 18.2 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming structure based on any of the following conditions, and if the decision is to do so, the board shall state its bases, in writing, for such determination.

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

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

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

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

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

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

E. NONCONFORMING SIGNS

1. CONTINUANCE: Except as herein provided, any nonconforming sign, existing at the time of adoption of this ordinance, and becoming
nonconforming by reason of the adoption of this ordinance, may be continued or modified provided, however, that no such sign shall be changed beyond its height and area, as it existed at the time of passage or amendment of this ordinance which rendered it nonconforming.

2. TERMINATION: In all cases involving the termination of the right to operate a nonconforming sign, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 18.2 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming sign based on the following conditions and, if the decision is to do so, the board shall state its bases, in writing, for such determination.

   a. 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 nonconforming due to zone changes which take place thereafter.

SECTION 9.13 EXCEPTIONS AND MODIFICATIONS

A. EXCEPTIONS TO HEIGHT LIMITS

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

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

C. FRONT YARD VARIANCE

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

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

D. SIDE YARD VARIANCE FOR HORIZONTAL EXPANSIONS:
On a lot within any residential zone, where an existing principal structure that was lawfully placed when constructed but that does not comply with the minimum required side yard setback for that zone, additions to the principal structure may be made which have the same side yard setback as the existing structure, provided that the addition does not exceed (30) percent in length of the existing structure and that in no case shall a side yard depth be less than five (5) feet. If a proposed addition exceeds (30) percent in length of the existing principal structure or has a side yard depth less than (5) feet, the proposed addition will not be permitted without approval by the Fort Mitchell Board of Adjustment.

E. SIDE YARD VARIANCE FOR VERTICAL EXPANSIONS:
On a lot within any residential zone, an existing principal structure that was lawfully placed when constructed but that does not comply with the required side yard building setbacks may be expanded vertically, provided that the front yard setback requirement and all other requirements of this ordinance are met, and in no case shall a side yard depth be less than five (5) feet. If a proposed addition does not meet the front yard setback requirement or has a side yard depth less than (5) feet, the proposed addition will not be permitted without approval by the Fort Mitchell Board of Adjustment.

F. EXCEPTION TO AREA AND YARD REGULATIONS

1. Where existing or proposed developments within any multi-family (R-2 and R-3a) or commercial (NC, PO, SC, LHS, LSC and MLU) 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 18.7, the board of adjustment may authorize a conditional use to be located within any zone in which such conditional use is permitted, if the evidence presented by the applicant is such as to establish, beyond any reasonable doubt:

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

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

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

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

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

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

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

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

The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the board of 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. Thereafter said use, if it continues to meet the other requirements of this ordinance, will be treated as a permitted use.

6. When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, an owner of every parcel of property adjoining the property to which the application applies, and such other persons as this ordinance or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

7. When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, to certain public officials, as follows:

a. If the adjoining property is part of a planning unit, notice shall be given to that unit's commission; or

b. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.
SECTION 9.15 BUILDING REGULATIONS AND WATER AND SANITARY SEWER SERVICE

A. BUILDING REGULATIONS: All structures shall be designed, erected, or altered in accordance with the legislative body's housing and building codes.

B. WATER AND SANITARY SEWER SERVICE: No building may be constructed in any zone, except the R-RE Zone, unless such building is connected to a public water and central sanitary sewer system of adequate capacity and design, and approved by proper authorities. In the case of the R-RE Zone, private sewage disposal systems may be permitted, provided they are approved in accordance with the requirements of the Northern Kentucky District Board of Health.

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

SECTION 9.16 MOVE AND SET

A. REQUIREMENTS: No building, structure, or improvement shall be moved or set from or upon land located in any area or transported upon any public street, in the legislative body, until and unless both: (1) a building permit to move and set; and (2) a transport permit, have been obtained, and said building, structure, or improvement complies with the provisions of this section.

B. COMPLIANCE: All buildings, structures, and improvements shall comply with the legislative body's housing and building code, and all other applicable codes and regulations.

C. PROCEDURE-PERMITS: The applicant shall submit to the building inspector, the following:

1. An application for a building permit requesting an inspection of the building, structure, or improvement to be moved or set;

2. A plot plan, footing and foundation plan, and construction plans for any new construction;

3. A statement from the applicable legislative body(s) insuring that all past and current taxes have been paid.
4. Upon receipt of the foregoing items, the building inspector shall inspect said building, structure, or improvements, and the proposed location where same will be set within the legislative body and determine if the proposed development will comply with all applicable codes and regulations.

5. The move and set shall be referred to the zoning administrator for approval or denial of compliance with this ordinance.

6. Upon approval by the zoning administrator and building inspector, a building permit to move and set shall be issued. The legislative body's engineer shall then be notified of same and shall issue a transport permit. The legislative body's engineer or his agent will designate the route to be traveled. The transport permit is good only for the date specified on permit. The transport permit will not be issued if ninety (90) consecutive calendar days or more have lapsed from the date of inspection by the building inspector. The transport permit provided for in this section shall not be in lieu of any other permits which may be required by the legislative body.

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

D. FEES

1. There will be a building investigation fee, as established by the legislative body, to cover the costs of investigation and inspection for determining the structural soundness of buildings, structures, or improvements to be moved, the fee is payable in advance and must accompany the application provided for herein. 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 Class 1 or Class 5 fence, as regulated by Article XIII of this ordinance, 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. Commercial and industrial development shall be separated from residential development by fencing and screening. The fencing is to be Class 3 fence, with a minimum height of six (6) feet. Screening shall be provided by evergreen trees planted in a
staggered pattern at a maximum distance of eight (8) feet on center. The fence and screening are to be placed in an area between the property line and a ten (10) foot setback. The actual heights, placements, and requirements are to be determined by the zoning administrator, subject to topographic conditions, character of adjoining residential areas, and natural screening areas that may already exist. 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, (see Section 9.10, C.) 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 six (6) feet in height (only classes 1, 2, 3, or 5 fences are permitted, as regulated in Article XIII of this ordinance); such fences or walls shall be constructed in such a manner that a small child may not reach the pool from the street or any property without climbing the fence or wall or opening the gate or door.

3. Swimming pools which are located above-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or property upon which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than six (6) feet in height (only classes 1, 3, and 5 are permitted, as regulated by Article XIII of this ordinance). Such fence or wall shall be constructed in such a manner that a small child may not reach the pool from the street or any adjacent property without scaling a fence or wall or opening the gate or door. Said wall may be the wall of the above-ground pool, providing that said wall is at least four (4) feet in height above the surrounding ground level.

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

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

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

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

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

1. Except as herein provided, (see Section 9.10, C.) no swimming pool and associated equipment shall be permitted within any required yards or within the limits of any public utility right-of-way easement.

2. The swimming pool, or the property on which the pool is located, shall be surrounded by a fence or wall, including a self-closing and self-locking door or gate (only classes 1, 2, 3, and 5 fences are permitted, as regulated by Article XIII of this ordinance). Such fence or wall shall be at least four (4) 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.

In lieu of providing a fence or wall, as regulated herein, outdoor pools may be provided with a pool cover in compliance with the Kentucky Building Code.

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.

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.

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.

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

B. STAGE II -- PLAN REQUIREMENTS: The Stage II Plan shall conform to the following requirements:

1. Plan(s) of the subject property drawn to a scale of not smaller than one (1) inch equals one hundred (100) feet, that identifies and provides the following information:

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

b. All housing units on the subject property:

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

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

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

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

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

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

g. All utility lines and easements:

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

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

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

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

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

i. Circulation System:

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

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

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

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

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

(3) Dedication of land to public use or set aside for common ownership; and

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

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

C. SUBMISSION OF PRELIMINARY PLAT, IMPROVEMENT DRAWINGS, EROSION AND SEDIMENTATION PLANS AND FINAL PLAT: Plan requirements developed under the Stage I and Stage II Plan requirements of this section, involving the subdivision of land shall also be submitted and developed in accordance with the applicable requirements of the adopted subdivision regulations of the Kenton County and Municipal Planning and Zoning 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. Outside storage of any trailer, recreational vehicle, camper, boat, or similar type equipment, with a length of not more than eighteen (18) feet, shall be restricted to a paved surface in the rear yard of all lots within the jurisdiction of the legislative body, or in an enclosed building, 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 on a paved surface 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 commercial vehicle (truck with a dump body, cargo or box body, service body, utility body or stake body) with or without commercial placards or any truck with a gross vehicle weight in excess of ten thousand (10,000) pounds, or any trailer, recreational vehicle, camper, boat, or similar type of equipment with a length in excess of eighteen (18) feet, 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.

F. Notwithstanding the provisions of Sections 9.23, C. and 9.23, D., the Zoning Administrator, City Administrator, the City Clerk, or a Police Officer may issue a temporary parking permit to allow a trailer, recreational vehicle, camper, boat, or similar type equipment to be parked on a paved surface in a residential district zone within the City for a period not to exceed twenty-four (24) hours for loading
or unloading operations, maintenance, or cleaning in preparation for or incidental to a vacation or other legitimate recreational use. A maximum of twenty-four (24) permits may be issued per residence within the City per calendar year. The permit shall be prominently displayed on the trailer, recreational vehicle, camper, boat, or similar type equipment indicating the periods and times for which the temporary parking is permitted.

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 Areas 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
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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 the 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  GENERAL MOBILE HOME REGULATIONS

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

A. The mobile home shall, at a minimum, be equipped with plumbing and electrical connections designed for attachment to appropriate external systems.

B. All health, sanitation (including sewers and/or private secondary sewage treatment plants approved by the Northern Kentucky District Health Department and the Sanitation District No. 1 of Campbell and Kenton Counties), and safety requirements applicable to a conventional dwelling, shall be equally applicable to a mobile home.

C. The mobile home shall be set and adequately anchored on a concrete or hard surfaced slab in accordance with the Kentucky Mobile Home and Recreational Vehicle Park regulations, and the open space between the ground and the floor of the mobile home shall be enclosed with some material such as concrete block, corrugated metal, or other durable and suitable material.

D. Any person, firm, or corporation desiring to locate a mobile home shall apply for a zoning/building permit and an occupancy permit. Applicable permits must be approved prior to the installation and occupancy of any mobile home. The proper permits must be displayed in a conspicuous location in each mobile home,
signifying that all permits have been approved by the building inspector and zoning administrator.

SECTION 9.26 FILING OF CERTIFICATE OF LAND USE RESTRICTIONS

A. FILING OF CERTIFICATES OF LAND USE RESTRICTIONS: A "Certificate of Land Use Restriction" shall be filed in the office of the county clerk by the planning commission, legislative body, and/or board of adjustment, whichever body(s) impose(s) any land use restrictions according to the provisions of KRS 100.3681 to 100.3684. A $10.50 fee for recording such filing shall be collected by the body imposing the restriction. This fee shall be paid over to the county clerk. An additional fee, not to exceed $10.50, may be imposed by the body imposing the restriction for costs of completing and filing the certificate.

SECTION 9.27 PHASED ZONING REGULATIONS

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

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

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

D. The minimum size of any area to be rezoned, as regulated by this section of the ordinance, is one (1) acre, provided that all other provisions of this ordinance and the subdivision regulations are adhered to. Development of a smaller tract adjacent to an existing zone being requested may be permitted if the proposed development conforms to and extends the original development as if the new area had been a part of the original development and provided further that the zone is in conformance with the comprehensive plan.

SECTION 9.28 COMPATABILITY STANDARDS FOR QUALIFIED MANUFACTURED HOUSING

A. PURPOSE: The purpose of compatibility standards for manufactured housing is:

1. To permit local governments to adopt and enforce, as part of its zoning regulations, compatibility standards governing the placement of qualified manufactured homes in residential zones, within the local government’s jurisdiction, designed to ensure that when a qualified manufactured home is placed in a residential zone, it is compatible, in terms of assessed value, with existing housing located immediately adjacent to (1) either side of the proposed site within the same block front; (2) adjacent to the rear, or (3) within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured home.

B. A qualified manufactured home that meets the compatibility standards as set forth in Subsections D. 5., and D. 6., of this section, as well as the regulations of the zone in which it is proposed, shall be allowed as a permitted use and as a primary family residence in any residential zone permitting detached single-family residential uses.

C. Applications must be submitted to the zoning administrator demonstrating that the compatibility standards as set forth in Subsections D., 5. and D. 6., have been met and contending that the proposed construction, installation, or relocation of the qualified manufactured home is similar and comparable in exterior appearance, building materials, and living area to other dwelling units that have been constructed on adjacent tracts, lots, and parcels.

D. The procedures for approval shall be in accordance with the requirements of Article XVI and the following:

1. Applications for the placement of qualified manufactured homes shall be submitted with a nonrefundable application fee on a form or forms
developed for that purpose to the city zoning administrator. Qualified manufactured homes may not be constructed until after an application has been accepted and approved in accordance with these regulations.

2. The application shall include (1) only information reasonably necessary to make determination as to conformity with the provisions of this Section of this ordinance; (2) recent photographs of the front, side and rear of the qualified manufactured home exterior finish (whichever is applicable); (3) pictures taken from the proposed site of the dwelling unit in the northerly, easterly, southerly, and westerly directions, and pictures of any adjacent dwelling units. The photographs shall be taken within 30 days prior to the submittal of the application. In addition, each application shall be accompanied by a site plan or plot plan containing appropriate information including, but not limited to, the following:

a. Location of all existing buildings, structures, easements, and boundary lines;
b. North arrow, scale, city and land lot;
c. Existing use of adjacent property;
d. Location of all proposed buildings, structures, and land uses.

3. Applications shall be first reviewed for completeness. If the application is rejected for not being complete, the applicant shall be notified of the reasons for the rejection. The applicant shall be responsible for the satisfaction of all of the comments prior to the resubmission of the revised application.

4. The application shall be reviewed for compatibility with architectural appearance and similarity with:

a. adjacent development or surrounding developments;
b. development within the same zone or general area;
c. proposed development permitted in the same zone or general area; and

5. Compatibility with architectural appearance shall be based on the following:

a. floor living space and setbacks;
b. siding and exterior materials;
c. roof pitch;
d. square footage;
e. general aesthetic appearance.
6. Compatibility with the orientation and location of existing structures shall be based on the following:

a. building height;
b. building width;
c. building depth;
d. building setbacks.

7. A decision of approval, conditional approval or disapproval of a complete application shall be made and the applicant shall be notified in writing. Conditional approval shall require that the specific conditions and the reasons therefore be stated in writing and be agreed to by the applicant; such conditions shall be binding upon the applicant upon agreement. In the case of disapproval, the reasons therefore shall be specifically stated in writing by designating each specific provision of this section or other applicable ordinance that is not met and an explanation as to the reason or reasons why each such provision is not met.

SECTION 9.29 REGULATIONS OF SEXUALLY ORIENTED BUSINESSES

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

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

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

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

E. Duncan Associates has summarized this work and presented recommendations to Planning and Development Services of Kenton County and Kenton and Campbell Counties and their cities in an August 2003 report entitled “Site Visit Analysis: Sexually Oriented and Related Businesses in Kenton and Campbell Counties” (hereinafter called simply the “Kelly and Cooper Study”).

F. That study has also been made available to the legislative bodies of Kenton and Campbell Counties for their consideration and use.

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

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

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

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

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

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

Defendant City of Newport ("City" or "Newport") long ago gained a reputation as home to a veritable smorgasbord of vice, attracting patrons from across the nation. For decades, the small city was considered the Midwest's answer to Las Vegas, and leaders of organized crime were said to operate its gambling casinos and nightclubs.

In the 1960's, public pressure began to demand that Newport be cleaned up. This pressure has continued until the present, with varying degrees of success.

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

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

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

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

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

To do this, it must overcome the sleazy impression of Newport and Northern Kentucky that survives from "the heyday" when things ran wide open; reform candidates were literally drugged and framed for morals offenses by public officials and police officers; the members of reform citizens groups were vilified and harassed; and a "liberal" in local parlance was a person favoring the continued open and notorious violation of the gambling and morals laws.

To illustrate that the Council's perception of a need to clean up the image of the City is not paranoid, the court notes the following statements in a national magazine's satirical Chapter on Newport's big sister, the city of Cincinnati.

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


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

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

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

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

N. The cities of Covington and Newport continue their efforts to improve their image. Since 1985, Covington has redeveloped its riverfront, creating several new office towers, high-end condominiums, hotels, and a convention center. In Newport, in conjunction with private development and Southbank Partners, Inc., the City has built a major entertainment center along the river. This initiative has promoted improved pedestrian and transit connections in Northern Kentucky’s river cities to and from the stadiums and other attractions along the Cincinnati riverfront.

O. Despite these efforts, the areas of downtown Covington and Newport away from the riverfront continue to suffer in many ways. The study by Kelly and Cooper found in the area near to existing sexually oriented uses a number of building vacancies and building maintenance falling far short of that found in the revitalized areas near the river.

P. The City of Fort Mitchell 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 Fort Mitchell to balance the Constitutional rights of businesses that present sexually oriented entertainment with the City of Fort Mitchell 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 Fort Mitchell also finds that such businesses may have primary and secondary effects involving crimes related to the activities in the establishments, of which prostitution and crimes of violence are those of greatest concern. See for example:


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

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

1. Sexually oriented businesses should, to the maximum extent practicable, be separated from one another by a distance that is greater than a convenient walking distance, because experience elsewhere has shown that the location of such businesses near one another may increase the adverse secondary effects, particularly those related to crime, by a greater than arithmetic factor;
2. Sexually oriented businesses have the greatest adverse effect on residential neighbourhoods and should thus be separated to the maximum extent practicable from residential neighbourhoods;
3. Sexually oriented businesses are likely to attract criminal elements that prey on “soft targets,” including children, and it is thus important to separate sexually oriented businesses from schools, parks, recreation centers, and religious institutions, all of which are places where children are likely to congregate, often without parental protection;

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

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

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

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

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

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

AC. City of Fort Mitchell 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 Fort Mitchell can not recall ever receiving any applications for or inquiries about the establishment of any sexually oriented business in the City of Fort Mitchell.

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

AF. City of Fort Mitchell 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 Fort Mitchell 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 Fort Mitchell therefore finds that there are no suitable locations for sexually oriented businesses in the City of Fort Mitchell 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 Fort Mitchell 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,” “stripers,” “showgirls,” “exotic dancers,” “gentleman’s club,” “XXX” or similar terms, shall be considered evidence that an establishment holds itself out to the public as an establishment where sexually oriented entertainment is available.

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

3. DAY CARE CENTER – a licensed facility providing care, protection and supervision for children 12 years old or younger or for any individual who is deemed mentally challenged.
4. DISPLAY PUBLICLY – the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others or from any portion of the premises where items and material other than sexually oriented media are offered for sale or rent to the public.

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

6. ENTERTAINER, SEXUALLY ORIENTED – any person paid as an employee, contractor, subcontractor, or agent of the operator of a cabaret who frequently appears in a state of semi-nudity at any establishment regulated by this chapter.

7. ENTERTAINMENT, SEXUALLY ORIENTED – any of the following activities, when performed by a sexually oriented entertainer at a sexually oriented business that is required to be licensed: dancing, singing, talking, modeling (including lingerie or photographic), gymnastics, acting, other forms of performing, or individual conversations with customers for which some type of remuneration is received.

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

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

10. ESCORT BUREAU, SERVICE ORIENTED – an escort bureau that
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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. SADOMASCHISTIC 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 Fort Mitchell and county-wide under Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. No Zoning Permit shall be issued for the following prohibited businesses:

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

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

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

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

1. Separate room. The sexually explicit media shall be kept in a separate room from the rest of the inventory of the store and shall not visible outside the room;
2. Age limit. Sexually explicit media shall be available only to persons 18 years or older;
3. Access. Access to the room shall be through a solid door, accessed by an electronic control device monitored by the clerk or manager on duty through direct visual control;

4. Visibility. Customers and activities in the room shall be visible at all times to the clerk or manager on duty through a video system located at the clerk’s or manager’s counter; and

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

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

SECTION 9.30 FLOOD PROTECTION DEVELOPMENT CONTROLS

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

1. STATUTORY AUTHORIZATION

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

2. FINDINGS OF FACT

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

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

3. STATEMENT OF PURPOSE

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

a. Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;

b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;

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

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

4. OBJECTIVES

The objectives of this ordinance are to:

a. Protect human life and health;

b. Minimize expenditure of public money for costly flood control projects;

c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. Minimize prolonged business interruptions;

e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;

f. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood blighted areas caused by flooding;

g. Ensure that potential homebuyers are on notice that property is in a Special Flood Hazard Area; and,
h. Ensure that those who occupy a Special Flood Hazard Area assume responsibility for their actions.

B. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

11. Area of shallow flooding - A designated AO or AH Zone on a community’s Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

12. Base flood - A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.

13. Base Flood Elevation (BFE) - The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/O that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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

15. Building - See definition for structure.

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

17. Community Rating System (CRS) - A program developed by the Federal Insurance Administration to provide incentives to those communities in the Regular Program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

18. Community Flood Hazard Area (CFHA) - An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. This includes areas downstream from dams.
19. **Critical facility** - Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. Critical facilities include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

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

21. **Development** - Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

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

23. **Elevation Certificate** - A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure’s elevation and other related information to verify compliance with this ordinance.

24. **Emergency Program** - The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

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

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

27. **Existing construction** - Any structure for which the “start of construction” commenced before the effective date of the FIRM or before January 1,
1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

28. Existing Manufactured Home Park or Subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by a community.

29. Expansion to an existing Manufactured Home Park or Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

30. Five-Hundred Year Flood - The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate risk of flooding.

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

33. **Flood Hazard Boundary Map (FHBM)** - A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA).

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

35. **Flood Insurance Study** - The report provided by the Federal Emergency Management Agency (FEMA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

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

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

38. **Floodplain Management** - The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

39. **Floodplain Management Regulations** - This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

40. **Floodproofing** - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

41. **Floodproofing Certificate** - A certification by a registered professional engineer or architect, the FEMA form in effect at the time of certification.
stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

42. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the "regulatory floodway".

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

44. Freeboard - A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. Freeboard must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, etc.

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

46. Functionally dependent use facility - A facility, structure, or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
47. Governing body - The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

48. Hazard potential - The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g. safety, structural integrity, flood routing capacity).

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

50. Historic Structure - Any structure that is:
   a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
   b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
   c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
   d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
      (1) By an approved state program as determined by the Secretary of the Interior, or
      (2) Directly by the Secretary of the Interior in states without approved programs.

51. Increased Cost of Compliance (ICC) – Increased cost of compliance coverage means under the standard flood insurance policy the cost to repair a substantially flood damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are floodproofing (nonresidential), relocation, elevation, demolition, or any combination thereof.
52. ICC coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

53. Letter of Map Change (LOMC) – An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC’s include the following categories:
   a. Letter of Map Amendment (LOMA) – A revision based on technical data showing that a property was inadvertently included in a designated SFHA. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.
   b. Letter of Map Revision (LOMR) - A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.
   c. Letter of Map Revision – Based on Fill (LOMR-F) – A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

54. Levee - A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

55. Levee System - A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

56. Limited storage - An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

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

58. Lowest Floor - The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a basement area is not considered a structure’s lowest floor, provided that
such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

59. Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term “manufactured home” does not include a “recreational vehicle” (see Recreational Vehicle).

60. Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

61. Map - The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

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

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

64. Mean Sea Level (MSL) - The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the MSL is used as a reference for establishing various elevations within the floodplain as shown on the community’s FIRM. For purposes of this ordinance, the term is synonymous with either National Geodetic Vertical Datum (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988.

65. Mitigation - Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.
66. Mudslide (i.e. mudflow) - Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A mudslide (i.e. mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

67. Mudslide (i.e. mudflow) area management - The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.

68. Mudslide (i.e. mudflow) prone area - An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

69. National Flood Insurance Program (NFIP) - The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

70. National Geodetic Vertical Datum (NGVD) - As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRM’s. Refer to FIRM legend panel for correct datum.)

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

72. New manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

74. North American Vertical Datum (NAVD) – As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRM’s and Digitally Referenced FIRM’s (DFIRM’s). (Refer to FIRM or DFIRM panel legend for correct datum.)

75. Obstruction - Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

76. One-Hundred Year Flood (100-Year Flood) (see Base Flood) - The flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to inundation by the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA.

77. Participating Community - A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

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

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

80. Probation – A FEMA imposed change in community’s status resulting from violations and deficiencies in the administration and enforcement of the local floodplain management regulations.
81. Program Deficiency - A defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards.

82. Public Safety and Nuisance - Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

83. Recreational Vehicle - A vehicle that is:
   a. Built on a single chassis;
   b. 400 square feet or less when measured at the largest horizontal projection;
   c. Designed to be self-propelled or permanently towable to a light duty truck; and
   d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

84. Regular Program - The phase of a community’s participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and flood elevations determined in the FIS.

85. Regulatory floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See Base Flood.

86. Remedy a violation - The process by which a community brings a structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

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

88. Repetitive Loss - Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.
89. Repetitive Loss Property - Any insurable building for which two or more claims of more than $1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

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

91. Section 1316 - That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

92. Severe Repetitive Loss Structure - Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:
   a. Four or more separate claim payments of more than $5,000 each (including building and contents payments); or
   b. Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

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

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

94. Special flood hazard area (SFHA) - That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, or AR.

95. Start of Construction (includes substantial improvement and other proposed new development) - The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days
of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

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

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

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

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

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

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

101. Substantially improved existing manufactured home parks or subdivisions - Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

102. Suspension - Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP.

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

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

105. Violation - Failure of a structure or other development to fully comply with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

107. Water surface elevation - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

108. Watershed - All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

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

111. Zone - A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

C. GENERAL PROVISIONS

1. LANDS TO WHICH THIS ORDINANCE APPLIES

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

2. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Kenton County, dated May 16, 2013, with the accompanying Flood Insurance Rate Maps (FIRMS), other supporting data and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations by the City of Fort Mitchell, and for those land areas acquired by the City of Fort Mitchell through annexation. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the City Council by the Floodplain Administrator and are enacted by City Council pursuant to statutes governing land use management regulations. The FIS and/or FIRM are permanent records of the City of Fort Mitchell and are on file and available for review by the public during regular business hours at the PDSKC offices at 2332 Royal Drive, Fort Mitchell, Kentucky, 41091.

3. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities.
in the special flood hazard areas (SFHA). See Section 9.30.D.2 for instructions and explanation.

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

4. COMPLIANCE

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

5. ABROGATION AND GREATER RESTRICTIONS

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

6. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

a. Considered minimum requirements;
b. Liberally construed in favor of the governing body; and
c. Deemed neither to limit nor repeal any other powers granted under state statutes.

7. WARNING AND DISCLAIMER OF LIABILITY

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

8. ENFORCEMENT, VIOLATION NOTICE AND PENALTIES

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

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

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

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

D. ADMINISTRATION

1. DESIGNATION OF LOCAL ADMINISTRATOR

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

2. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before any construction or other development begins within any special flood hazard area established in Section 9.30.C.2. Application for a Development Permit shall be made on forms furnished by Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Endorsement of floodplain administrator is required before a state
floodplain construction permit can be processed. Specifically, the following information is required.

a. Application Stage

(1) Proposed elevation in relation to Mean Sea Level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade; or

(2) Proposed elevation in relation to Mean Sea Level to which any non-residential structure will be flood-proofed;

(3) All appropriate certifications from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 9.30.E.2.b and Section 9.30.E.4.b;

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

b. Construction Stage

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

When flood proofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder’s risk. The Floodplain Administrator shall review the lowest floor and flood proofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

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

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

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

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

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

c. Notification of Other Agencies:

1. Notify adjacent communities, the Kentucky Division of Water, and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse, and
2. Submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and
(3) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

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

(1) Certification required by Section 9.30.E.2.a (lowest floor elevations) as shown on an accurately completed and certified Elevation Certificate. Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new and substantially improved structures, in accordance with Section 9.30.D.2.b;

(2) Certification required by Section 9.30.E.2.b (elevation or floodproofing of nonresidential structures) as shown on an accurately completed and certified FEMA floodproofing certificate. Verify and record the actual elevation (in relation to Mean Sea Level) to which the new and substantially improved structures have been flood-proofed, in accordance with Section 9.30.D.2.a;

(3) Certification required by Section 9.30.E.2.c (elevated structures),

(4) Certification of elevation required by Section 9.30.E.5.a (subdivision standards),

(5) Certification required by Section 9.30.E.2.e (floodway encroachments),

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

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

(8) Remedial Action. Take action to remedy violations of this ordinance as specified in Section 9.30.C.8.

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

(1) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 9.30.F.3.a;
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(2) When base flood elevation data and floodway data have not been provided in accordance with Section 9.30.C.2, then the Floodplain Administrator shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Section 9.30.E;

(3) When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with Section 9.30.E.2.b a floodproofing certificate;

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

f. Right of Entry

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

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

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

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

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

h. Revocation of Permits

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

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

i. Liability

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

j. Expiration of Floodplain Construction Permit

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

1. GENERAL CONSTRUCTION STANDARDS

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

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

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

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

d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

e. Electrical, heating, ventilation, plumbing, air condition equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if

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

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

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

i. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
j. Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance;

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

2. SPECIFIC STANDARDS

In all special flood hazard areas where base flood elevation data have been provided, as set forth in Section 9.30.C.2, the following provisions are required:

a. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured home) shall have the lowest floor, including basement, mechanical equipment, and ductwork elevated no lower than 2 feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of hydrostatic flood forces on walls shall be provided in accordance with standards of Section 9.30.E.2.c.

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

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

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

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

b. Non-residential Construction. New construction and substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes used for non-residential purposes) shall be elevated to conform with Section 9.30.E.2.a or together with attendant utility and sanitary facilities:

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

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

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

(4) Manufactured homes shall meet the standards in Section 9.30.E.2.d.

(5) All new construction and substantial improvement with fully enclosed areas below the lowest floor (including basements) that are usable solely for parking of vehicles, building access
or storage, and which are subject to flooding, shall be constructed of flood resistant materials to an elevation 2 feet above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Openings for meeting this requirement must meet or exceed the standards of Section 9.30.E.2.c.

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

(1) Openings for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

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

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

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

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

d. Standards for Manufactured Homes and Recreational Vehicles.

(1) All new and substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community’s Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:
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(1) All such manufactured homes must be:
   (i) Elevated on a permanent foundation, and
   (ii) Have its lowest floor elevated no lower than 2 feet above the level of the base flood elevation, and
   (iii) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Except manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
   (i) The manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either the:
       o The lowest floor of the manufactured home is elevated no lower than 2 feet above the base flood elevation, or
       o The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.

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

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

e. Floodways. Located within areas of special flood hazard established in Section 9.30.C.2, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:

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

(2) If Section 9.30.E.2.e is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of Section 9.30.E.

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

Located within the special flood hazard areas established in Section 9.30.C.2, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

a. No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
b. New construction and substantial improvements of structures shall be elevated or flood proofed to elevations established in accordance with Section 9.30.C.2.

4. STANDARDS FOR SHALLOW FLOODING ZONES

Located within the special flood hazard areas established in Section 9.30.E.C.2, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet (1 – 3’), where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

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

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

b. All new construction and substantial improvements of non-residential structures shall:

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

   (2) Together with attendant utility and sanitary facilities be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in Section 9.30.E.2.b.
5. **STANDARDS FOR SUBDIVISION PROPOSALS**

   a. All subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage;

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

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

   d. In areas where base flood elevation and floodway data is not available, base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall be provided.

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

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

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

   a. Must be non-habitable;

   b. Must be anchored to resist floatation and lateral movement;

   c. Must be provided with flood openings in accordance with the standards of Section 9.30.E.2.c;

   d. Must be built of flood resistant materials to 2 feet above the base flood elevation;

   e. Must elevate utilities 2 feet above the base flood elevation;

   f. Can only be used for storage or parking; and

   g. Must not be modified for a different use after permitting.

7. **CRITICAL FACILITIES**

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

F. APPEALS AND VARIANCE PROCEDURES

1. Nature Of Variances

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the legislative body to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

2. Designation of Variance and Appeal Board

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

3. Duties of Board of Adjustment

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

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

In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:

a. Danger that materials may be swept onto other lands to the injury of others;

b. Danger to life and property due to flooding or erosion damage;

c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

d. Importance to the community of the services provided by the existing or proposed facility;

e. Necessity that the facility be located on a waterfront, in the case of functionally dependent use;

f. Availability of alternative locations, which are not subject to flooding or erosion damage;

g. Compatibility of the proposed use with existing and anticipated development;

h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. Safety of access to the property in times of flood for ordinary and emergency vehicles;

j. Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges and culverts.

5. Conditions for Variances

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

a. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

b. Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the
flood hazard. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the legislative body need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the legislative body believes will both provide relief and preserve the integrity of the local ordinance.

c. Variances shall only be issued upon:
   (i) A showing of good and sufficient cause;
   (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
   (iii) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in the definition section under "Public safety and nuisance"), cause fraud or victimization of the public (as defined in the definition section) or conflict with existing local laws or ordinances.

d. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor being situated below the base flood elevation.

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

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

6. Variance Notification

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

   a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage;
b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Kenton County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

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

7. Historic Structures

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

G. SEVERABILITY

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

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

This ordinance was adopted at a public meeting of the legislative body of the City of Fort Mitchell on February 11, 2013.
ARTICLE X

ZONES

SECTION 10.0 CO (CONSERVATION) ZONE

A. PERMITTED USES

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

B. ACCESSORY USES

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

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

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

   a. Boat harbors and marinas;

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

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

D. AREA AND HEIGHT REGULATIONS

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

E. OTHER DEVELOPMENT CONTROLS

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

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Agricultural uses;
3. Sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any street;
4. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises provided that the storage of manure shall not be permitted nearer than one hundred (100) feet from the front of a street, road, highway, or right-of-way line, or not nearer than fifty (50) feet from a side lot line;
5. Stables and riding academies, both public and private.
6. Qualified manufactured homes, subject to the compatibility standards established in section 9.28 of this ordinance

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Funeral homes, provided they are located adjacent to an arterial street
4. Governmental offices
5. Nursery schools
6. Police and fire stations, provided they are located adjacent to an arterial street
7. Public and parochial schools
8. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools 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 and clubs
f. Gun clubs and ranges

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES

1. Minimum lot area - Three (3) acres
2. Minimum lot width at building setback line - Three hundred (300) feet
3. Minimum front yard depth - Seventy-five (75) feet
4. Minimum side yard width on each side of lot - Seventy-five (75) feet
5. Minimum rear yard depth - Seventy-five (75) feet
6. Maximum building height - Thirty-five (35) feet

E. OTHER DEVELOPMENT CONTROLS

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

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in section 9.28 of this ordinance

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, 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 (20) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
SECTION 10.3  R-1D (RESIDENTIAL ONE-D) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in section 9.28 of this ordinance

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, 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 recreational centers, including public 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 - Nine thousand (9,000) square feet
2. Minimum lot width at building setback line - Seventy (70) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total: Eighteen (18) feet; One Side: Six (6) feet
5. Minimum rear yard depth - Forty (40) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
SECTION 10.4  R-1E (RESIDENTIAL ONE-E) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in section 9.28 of this ordinance

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, 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 recreational centers, including public 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 - Seven thousand five hundred (7,500) square feet
2. Minimum lot width at building setback line - Sixty (60) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total: Eighteen (18) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Forty (40) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
SECTION 10.5  R-1F (RESIDENTIAL ONE-F) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in section 9.28 of this ordinance

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, 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 recreational centers, including public 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
12. Museums, provided they are an accessory use to a single-family residential dwelling, and they are in existence or established on or before December 31, 2015. This section shall allow expansion of the use, provided it continues to be an accessory use.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

1. Minimum lot area - Six thousand (6,000) square feet
2. Minimum lot width at building setback line - Fifty (50) feet
3. Minimum front yard depth - Twenty-five (25) feet
4. Minimum side yard width - Total: Fifteen (15) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Forty (40) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
SECTION 10.6 R-1G (RESIDENTIAL ONE-G) ZONE

A. PERMITTED USES

1. Municipal buildings, including police stations
2. Publicly owned and/or operated parks, playgrounds, and community centers
3. Single-family dwellings
4. Qualified manufactured homes, subject to the compatibility standards established in section 9.28 of this ordinance

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Funeral homes, provided they are located adjacent to an arterial street
4. Institutions for higher education, providing they are located adjacent to an arterial street
5. 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
6. Nursery schools
7. Public and parochial schools
8. 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 - Six thousand (6,000) square feet
2. Minimum lot width at building setback line - Fifty (50) feet
3. Minimum front yard depth - Twenty-five (25) feet  
4. Minimum side yard width on each side of lot - Five (5) feet  
5. Minimum rear yard depth - Twenty-five (25) feet  
6. Maximum building height - Thirty-five (35) feet or two and one-half (2-1/2) stories

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.  
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.  
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.  
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
SECTION 10.7 R-2 (RESIDENTIAL TWO) ZONE

A. PERMITTED USES

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

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, 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 recreational centers, including public 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 - Twenty thousand (20,000) square feet
2. Maximum density - Nine and one-tenth (9.1) dwelling units per net acre
3. Minimum lot width at building setback line - One hundred (100) feet
4. Minimum front yard depth - Forty (40) feet
5. Minimum side yard width on each side of lot - Fifteen (15) feet
6. Minimum rear yard depth - Thirty (30) feet
7. Maximum building height - Forty (40) feet
8. In the case of this zone, more than one principal building, as defined herein, may be permitted on one lot

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Forty (40) feet

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.
SECTION 10.8 R-3a (RESIDENTIAL THREE a) ZONE

A. PERMITTED USES

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

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, 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 recreational centers, including public 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 - Twenty thousand (20,000) square feet
2. Maximum density - Fifteen (15.0) dwelling units per net acre
3. Minimum lot width at building setback line - One hundred (100) feet
4. Minimum front yard depth - Forty (40) feet
5. Minimum side yard width on each side of lot - Fifteen (15) feet
6. Minimum rear yard depth - Thirty (30) feet
7. Maximum building height - Forty (40) 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 - Forty (40) feet

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone, except when development is proposed under the Planned Unit Development regulations, as regulated by Section 10.8 of this ordinance.
SECTION 10.9 PUD (PLANNED UNIT DEVELOPMENT) OVERLAY ZONE

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

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

C. APPLICATION AND PROCESSING: Applications for a Planned Unit Development Overlay Zone shall be processed as follows in two stages:

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

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

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

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

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

2. Stage II - Plan and Record Plat - A Stage II Plan and Record Plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of Section 9.20, B. and C., and submitted to the planning commission for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of section 9.20, B. and C., shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.

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

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

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

Following planning commission approval of the record plat, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded by the planning commission to the office of the county clerk to be recorded.

D. RESIDENTIAL USES AND DENSITIES: All types of residential housing units (attached or detached) may be permitted within a PUD Overlay Zone, including but not limited to, single-family, two-family, and multi-family residential units. The density of dwelling units in a PUD shall be determined by the density (dwelling units per net acre) as calculated from the existing residential (R) zone superimposed by the PUD Overlay Zone. This density shall be applied to the total project area excluding that land devoted to commercial uses and streets (public and private).

E. COMMERCIAL USES: Commercial uses, intended primarily for the service and convenience of residents of the PUD, may be permitted within the project area, provided a market analysis is made justifying the need for said uses.

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

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

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

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

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

G. AREA REQUIREMENTS: No PUD Overlay Zone shall be permitted on less than twenty-five (25) acres of land. However, development of a smaller tract adjacent to an existing PUD Overlay Zone may be permitted, if the proposed development conforms to and extends the original development as if the new area had been a part of the original development.

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

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

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

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

L. COMMON OPEN SPACE/RECREATION AREA: At least twenty percent (20%) of the total acreage of the proposed PUD shall be retained as common open space/recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the PUD. Common open space/recreation areas shall be that part of the total project exclusive of dwellings, streets, parking areas, single-family lots, commercial areas, and other non-open space and non-recreationally oriented facilities.
M. AMENDMENTS: Any amendments to plans, except for minor adjustments which may be permitted by the planning commission, shall be made in accordance with the procedure required by this ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.

N. EXPIRATION: Any amendment to the PUD Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said PUD Overlay zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions apply:

1. A particular section of the original Stage I Plan has not had a Stage II approval by the city legislative body within twenty-four (24) consecutive months from the date of the approval of the Stage I approved plan for that particular section, provided an extension may be permitted by the legislative body if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Plan by the legislative body of a particular section; provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.
SECTION 10.10   RCD (RESIDENTIAL CLUSTER DEVELOPMENT) OVERLAY ZONE

A. PURPOSE: The purposes of the Residential Cluster Development (RCD) Overlay Zone are to: provide a means whereby clusters of attached and detached single-family residential units may be constructed in the Residential (R-1) Zones, and therein, through a development plan, permit a wide flexibility in the design, location, siting of the building, and yard and setback requirements in order to provide for, to the greatest extent possible, the preservation of hillside areas and other natural geographic and topographic features, and to provide for more usable and suitably located recreation facilities and open space than would otherwise be provided under conventional R-1 residential land development procedures.

B. GENERAL: A Residential Cluster Development (RCD) Overlay Zone may only be permitted to be superimposed over any of the Residential (R-1) Zones, provided that all conditions or provisions of this section of the ordinance, the applicable requirements of the subdivision regulations, and any additional requirements, as may be determined necessary to provide for the most efficient layout of the RCD Overlay Zone and its proper integration with the surrounding development, are met; and a public hearing is held on the RCD application.

C. APPLICATION AND PROCESSING: Applications for Residential Cluster Development Overlay Zone shall be processed as follows in two stages:

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

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

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

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

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

2. Stage II -- Plan and Record Plat - A Stage II Plan and Record Plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of Section 9.20, B. and C., and submitted to the planning commission for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of section 9.20 B. and C. shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.

a. The planning commission shall review the submitted Stage II Plan with regard to its compliance with the required elements of Section 9.20, B., for Stage II plans, other applicable elements of this ordinance, and other applicable regulations, and its conformity with the Stage I approved plan. The planning commission, in approving the Stage II Plan, may authorize minor adjustments from the Stage I approved plan, provided that the adjustments do not: change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), or decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

Upon planning commission approval of the Stage II Plan, a copy of said plan shall be forwarded to the zoning administrator, who shall grant permits only in accordance with the Stage II approved plan and other regulations as may be required by this ordinance.
b. Upon approval of the Stage II Plan, the planning commission shall review the submitted Record Plat with regard to its compliance with the required elements of Section 9.20, C., for record plats, the applicable requirements of the subdivision regulations, and its conformance with the Stage II approved plan.

Upon planning commission approval of the record plat, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded by the planning commission to the office of the county clerk to be recorded.

D. RESIDENTIAL USES AND DENSITIES: Attached and detached single-family dwellings may be permitted within a RCD Overlay Zone. The density of dwelling units in a RCD shall be determined by the density (dwelling units per net acre) as calculated from the existing residential (R-1) zone superimposed by the RCD Overlay Zone. This density shall be applied to the total project area, excluding that land devoted to streets (public and private).

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

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

F. AREA REQUIREMENTS: No RCD Overlay Zone shall be permitted on less than ten (10) acres of land. However, development of a smaller tract adjacent to an existing RCD Overlay Zone may be permitted, if the proposed development conforms to and extends the original development as if the new area had been a part of the original development.

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

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

I. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs, shall be as approved in the plan.
J. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.

K. COMMON OPEN SPACE/RECREATION AREA: At least twenty percent (20%) of the total acreage of the proposed RCD shall be retained as common open space/recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the RCD. Common open space/recreation areas shall be that part of the total project exclusive of dwellings, streets, parking areas, single-family lots, commercial areas, and other non-open space and non-recreationally oriented facilities.

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

M. EXPIRATION: Any amendment to the RCD Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said RCD Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions apply:

1. A particular section of the original Stage I Plan has not had Stage II approval by the city legislative body within twenty-four (24) consecutive months from the date of the approval of the Stage I approved plan for that particular section, provided an extension may be permitted by the legislative body if sufficient proof can be demonstration that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Plan by the legislative body of a particular section; provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction
constituting initiating substantial construction shall be as approved in the Stage II approved plan.
SECTION 10.11 MHP (MOBILE HOME PARK) OVERLAY ZONE:

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

B. APPLICATION AND PROCESSING: Applications for Mobile Home Park Overlay Zone shall be processed as follows in two stages:

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

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

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

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

2. Stage II -- Plan and Record Plat - A Stage II Plan and Record Plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of Section 9.20, B. and C., and submitted to the planning commission for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, B. and C., shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.

   a. The planning commission shall review the submitted Stage II Plan with regard to its compliance with the required elements of Section 9.20, B., for Stage II plans, other applicable elements of this ordinance, and other applicable regulations, and its conformity with the Stage I approved plan. The planning commission, in approving the Stage II Plan, may authorize minor adjustments from the Stage I approved plan, provided that the adjustments do not: change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), or decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

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

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

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

C. USES AND DENSITIES: Mobile homes including customary accessory buildings and uses may be permitted within a MHP Overlay Zone. The density of dwelling units in a MHP shall be determined by the density (dwelling units per net acre) as calculated from the existing residential (R-1) zone superimposed by the MHP Overlay Zone. This density shall be applied to the total project area, excluding that land devoted to streets (public and private). The following structures and uses related to and for the exclusive use of the residents of the Mobile Home Park (excluding, however, any commercial uses), are also permitted:

1. Community centers
2. Laundry facilities
3. Rental or sales offices for lots and/or mobile homes in the Mobile Home Park;

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

1. Churches
2. Open space/recreation areas
3. Schools (nursery or day care, elementary and secondary)

E. AREA REQUIREMENTS: No MHP Overlay Zone shall be permitted on less than ten (10) acres of land. However, development of a smaller tract adjacent to an existing MHP Overlay Zone may be permitted, if the proposed development conforms to and extends the original development as if the new area had been a part of the original development.

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

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

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

I. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.
J. COMMON OPEN SPACE/RECREATION AREA: At least twenty percent (20%) of the total acreage of the proposed MHP shall be retained as common open space/recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the MHP. Common open space/recreation areas shall be that part of the total project exclusive of dwellings, streets, parking areas, single-family lots, commercial areas, and other non-open space and non-recreationally oriented facilities.

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

L. EXPIRATION: Any amendment to the MHP Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said MHP Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions apply:

1. Stage II Plan has not been approved by the planning commission within a period of twenty-four (24) consecutive months from the date of the Stage I approved plan and MHP Overlay Zone amendment by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstration that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Plan by the planning commission; provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.
SECTION 10.12  LHS (LIMITED HIGHWAY SERVICE) ZONE

A. PERMITTED USES

1. Banks and other financial institutions
2. Convention facilities and/or exhibit halls
3. Dinner theaters and playhouses
4. Drug stores
5. Eating establishments (sit-down only), dining room-cafeteria and/or supper club, and including a drive-thru facility, subject to the requirements of section 10.11, E., Other Development Controls
6. Health clubs with indoor or outdoor court facilities
7. Museums
8. Offices
9. Schools, for the purpose of career education
10. New luxury car dealerships

B. ACCESSORY USES

1. Customary accessory buildings and uses to include:
   a. Electro-mechanical games - being defined as electro-mechanical pinball machines and video games specifically designed, constructed, set up, and kept to be played for amusement only
   b. Offices for the following uses:
      (1) Administrative offices
      (2) Travel agencies, including ticket reservation facilities
      (3) Visitor and tourist information services
   c. Uses that produce goods for human consumption primarily on the premises, such as, but not limited to:
      (1) Bakery goods
      (2) Beverages
      (3) Candy
   d. Gift, souvenir, and craft shops
   e. Automobile rental and leasing services, including indoor service facilities
   f. Taverns
2. Fences and walls, as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV of this ordinance
4. Swimming pools, indoor or outdoor, in connection with hotels or motels, or health clubs
5. Uses as listed below, only in conjunction with a New Luxury Car Dealership, provided that the accessory use(s) shall not exceed forty-nine (49) percent of the gross sales area utilized by the permitted use(s):
   a. Luxury automobile service departments associated with the New Luxury Car Dealership. All such service shall be conducted within the dealership or other fully enclosed building
   b. Pre-owned car sales or leases controlled by, and associated with, the primary New Luxury Car Dealership

C. CONDITIONAL USES

1. Service stations, including automobile repair, maintenance and washing services, but excluding the storage of junk materials
2. Day care facilities
3. Hotels, not including motels
4. Outdoor dining, in connection with a restaurant, provided that such area meets the following minimum requirements:
   a. Such area shall be designated to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility.
   b. Such area shall not exceed fifty (50) percent of the maximum seating capacity of the indoor dining area.
   c. Entertainment, unamplified music shall be permitted between the hours of 6:00 pm and 11:30 pm.
   d. Outdoor dining areas shall be operated no later than midnight, Sunday through Thursday, and 2:30 am on Friday and Saturday.

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

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

8. In the case of a New Luxury Car Dealership, the minimum lot area shall be not less than 6 acres; the minimum lot width at building setback line shall be at least one hundred (100) feet, the minimum front yard depth shall be at least forty (40) feet, the minimum side yard width shall be at least forty (40) feet, and the minimum rear yard depth shall be at least thirty (30) feet.

E. OTHER DEVELOPMENT CONTROLS:

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

2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers, with the exception of the outdoor displays of vehicles as part of a new luxury car dealership.

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

4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17, A., 2., d. of this ordinance.

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

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

7. Off-street parking and loading and/or unloading areas may be located in front and side yards in this zone, provided that no off-street parking areas shall be closer than fifteen (15) feet to the street, road, highway, or right-of-way line or boundary line of any adjacent district. This fifteen (15) foot area shall remain open and unobstructed except by items specifically permitted in yard areas in this ordinance, provided that, for New Luxury Car Dealerships, any portions of off-street parking areas that are immediately adjacent and touching an interstate highway right-of-way-line shall not be required to have a setback and may be built up to the interstate highway right-of-way line.

8. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas, the outdoor display of vehicles as part of a New Luxury Car Dealership, and the outdoor play area of day care facilities.

9. Any service station located within the Limited Highway Service Zone which had an area used for outdoor storage of inoperable vehicles existing at the time of adoption of Ordinance 1978-17 (November 30, 1978) may
be permitted to continue temporary outdoor storage of inoperable vehicles, subject to the following requirements:

a. No inoperable vehicle may be parked for a period exceeding forty-eight (48) hours or stored outside of a completely enclosed building unless confined within an area effectively screened from view from adjoining properties which has been approved by the Board of Adjustment. Only solid fences, evergreen trees (ten feet in height, as provided by Section 9.17 of the Fort Mitchell Zoning Ordinance), or a combination of fence and evergreen trees may be used to provide screening for the storage area, subject to the approval of the Board of Adjustment; and

b. No area used for outdoor storage of inoperable vehicles shall be permitted to be enlarged or expanded beyond the scope and area of its operation existing at the time of adoption of this ordinance; and

c. No outdoor storage of inoperable vehicles shall be permitted unless said vehicles are accessory to an existing auto service or towing service operation; and

d. No inoperable vehicle may be stored within a screened storage area as provided for within this section, for a period exceeding one hundred twenty (120) consecutive calendar days. In order to ensure that inoperable vehicles shall not be stored for a period exceeding one hundred twenty (120) days, the operator shall be required to maintain a record log available for examination for the Zoning Administrator, to indicate the date at which time each vehicle was initially stored and removed from within said storage area. (Ord. 1979-16, passed 12/3/79).

10. Eating establishments or restaurants of the type permitted in this zone may provide a drive-thru facility for window service, subject to the following conditions:

a. The hours of operation of the drive-thru service shall be limited to seven (7:00) A.M. to eleven (11:00) P.M.

b. The sound pressure level from any speaker or order station may not exceed 55 decibels, as provided for in Section 15.2, C.

c. The speaker or order station shall be located on any wall or in any yard of a building adjacent to any area which is either zoned for or developed in residential use, or located within one hundred (100) feet of such use.

11. Dumpster units and mechanical devices such as air conditioners, heating units, and heat exchangers, shall be screened from residential areas.
Noise, which emanates from mechanical devices shall not exceed 55 decibels, as provided for within Section 15.2, C., Noise, of this ordinance.

12. No New Luxury Car Dealership shall be operated, either for sales, leasing, or service, earlier than 7:30 a.m., nor later than 9:00 p.m., Monday through Friday; or 8:30 a.m. to 7:30 p.m. Saturday, or 12:00 p.m. to 6:30 p.m. Sunday. The sound pressure level from any speaker at the New Luxury Car Dealership, used to project announcements, pages, or music, shall not exceed 55 decibels, as provided for in Section 15.2, C. Furthermore, all exterior lighting from this use shall be directed away from residential zones and any light poles or posts shall not extend to a height that is greater than 20 feet above ground level.

13. Additional Construction Standards

(a) Exterior Wall Materials

(i) Primary Building Materials may be used for up to 100% of the exterior wall surface area. Permitted primary materials include the following materials; brick, wood “clapboard” type siding, wood composite “clapboard” type siding or cement board “clapboard” type siding, stone, tile, glass or concrete which is formed to have a masonry unit appearance may be used.

(ii) Secondary Building Materials may be used for trim, detailing, and incidental or secondary wall areas. These secondary materials may not exceed 40% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals, EIFS/stucco, glass block and precast concrete. Only architectural grade materials shall be used.

(iii) Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or synthetic appearing exterior wall materials (such as ribbed, industrial style metal siding, exposed fastener metal wall panels, vinyl siding, T111 or other hard board type materials that are manufactured in sheets) are not permitted.

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

(c) Mechanicals

(i) All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street. This does not include equipment that
is required by a public utility company (i.e. Electric/gas meters, etc.).

(ii) Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design detailing as the principal building.

(iii) If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an integral part of the overall building. For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.
SECTION 10.13 LSC (LIMITED SERVICE COMMERCIAL) ZONE

A. PERMITTED USES: The following services and limited retail sales:

1. Eating and drinking places, excluding drive-ins
2. Nursery school
3. Offices, including medical and dental offices
4. Banks and other financial institutions with drive-thru windows

B. ACCESSORY USES

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

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, in connection therewith, subject to the approval of the board of adjustment, as set forth in this Section and in Sections 18.5 and 18.7 of this ordinance.

1. Service stations (including auto repairing, providing all repair, except that of a minor nature (e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc.) is conducted wholly within a completely enclosed building and providing further that such service station is located on a major arterial street).

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

1. Minimum lot area - Eight thousand (8,000) square feet
2. Minimum lot width at minimum building setback line - Fifty (50) feet
3. Minimum front yard depth - Twenty-five (25) feet
4. Minimum side yard width - Five (5) feet
5. Minimum rear yard depth - Ten (10) feet
6. Maximum building height - Thirty-five (35) feet or two and one-half (2-1/2) stories

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional buildings and/or uses 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 or two and one-half (2-1/2) stories

F. OTHER DEVELOPMENT CONTROLS

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

(a) Exterior Wall Materials

(i) Primary Building Materials may be used for up to 100% of the exterior wall surface area. Permitted primary materials include the following materials; brick, wood “clapboard” type siding, wood composite “clapboard” type siding or cement board “clapboard” type siding, stone, tile, glass or concrete which is formed to have a masonry unit appearance may be used.

(ii) Secondary Building Materials may be used for trim, detailing, and incidental or secondary wall areas. These secondary materials may not exceed 40% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals, EIFS/stucco, glass block and precast concrete. Only architectural grade materials shall be used.

(iii) Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or synthetic appearing exterior wall materials (such as ribbed, industrial style metal siding, exposed
fastener metal wall panels, vinyl siding, T111 or other hard board type materials that are manufactured in sheets) are not permitted.

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

(c) Mechanicals

(i) All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street. This does not include equipment that is required by a public utility company (i.e. Electric/gas meters, etc.).

(ii) Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design detailing as the principal building.

(iii) If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an integral part of the overall building. For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.
SECTION 10.14  NC (NEIGHBORHOOD COMMERCIAL) ZONE

A. PERMITTED USES

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

B. ACCESSORY USES

1. Customary accessory uses
2. Fences and walls, as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV of this ordinance
4. Electro-mechanical games - being defined as electro-mechanical pin ball machines and video games specifically designed, constructed, set up and kept to be played for amusement only

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, in connection therewith, subject to the approval of the board of adjustment, as set forth in this Section and in Sections 18.5 and 18.7 of this ordinance.

1. Outdoor dining, in connection with a restaurant, provided that such area meets the following minimum requirements:
   a. Such area shall be designed to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility.
   b. Such area shall not exceed fifty (50) percent of the maximum seating capacity of the indoor dining area.
   c. Entertainment, music, and sound amplifying systems shall be permitted within the outdoor dining area between the hours of six (6) o'clock p.m. and ten (10) o'clock p.m. on Thursday, between six (6) o'clock p.m. and eleven (11) o'clock p.m. on Friday and Saturday, and six (6) o'clock p.m. and nine (9) o'clock p.m. on Sunday with a decibel level of ninety (90) at the property line, provided the property is not adjacent to residential uses. No live music will be permitted Monday through Wednesday.
   d. Such area shall not be permitted to locate within any minimum required front, side, or rear yard.
   e. Outdoor dining areas shall be operated no later than ten (10) o'clock p.m. on Sunday through Thursday inclusive, and no later than eleven (11) o'clock p.m. on Friday and Saturday.
D. AREA AND HEIGHT REGULATIONS: No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

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

E. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. No outdoor storage of any usable material shall be permitted except in accordance with Section 10.12, E., 6., below.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas, and outdoor dining facilities. The display of merchandise is permitted on sidewalks only subject to the following restriction:
   a. Only merchandise for sale, including plants and gardening materials, may be displayed.
   b. Displays are limited to the area directly in front of a commercial establishment offering the items for sale. The front of a commercial
establishment shall be that side of a building where there is a public entrance.

c. Displays may not be located within six feet of the edge of the sidewalk nearest the curb, and shall allow for six feet of clear width on the sidewalk in any case.

d. Displays shall not block ingress or egress to any entrances or exits or adjoining buildings or properties.

e. No stacks of any material or pallets higher than five (5) feet.

f. No such displays shall engage the use of electricity nor shall such displays be animated or use lights or noise making devices.

g. Cooking or grilling is not permitted anywhere on sidewalk nor in the parking areas.

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

8. Additional Construction Standards

(a) Exterior Wall Materials

(i) Primary Building Materials may be used for up to 100% of the exterior wall surface area. Permitted primary materials include the following materials; brick, wood “clapboard” type siding, wood composite “clapboard” type siding or cement board “clapboard” type siding, stone, tile, glass or concrete which is formed to have a masonry unit appearance may be used.

(ii) Secondary Building Materials may be used for trim, detailing, and incidental or secondary wall areas. These secondary materials may not exceed 40% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals, EIFS/stucco, glass block and precast concrete. Only architectural grade materials shall be used.

(iii) Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or synthetic appearing exterior wall materials (such as ribbed, industrial style metal siding, exposed fastener metal wall panels, vinyl siding, T111 or other hard board type materials that are manufactured in sheets) are not permitted.

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

(c) Mechanicals

(i) All mechanical equipment shall be screened from view of the public street frontage or a private access drive which
functions as a street. This does not include equipment that is required by a public utility company (i.e. Electric/gas meters, etc.).

(ii) Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design detailing as the principal building.

(iii) If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an integral part of the overall building. For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.
SECTION 10.15   PO (PROFESSIONAL OFFICE BUILDING) ZONE

A.   PERMITTED USES:

1. Banks and other financial institutions, including loan, savings and finance companies with drive-in windows
2. Clinics - medical and dental
3. Day care facilities
4. Health clubs with indoor and outdoor court facilities
5. Offices
6. Off-street parking lots and/or garages
7. Police and fire stations
8. Post offices
9. Schools, for the purpose of career education

B.   ACCESSORY USES:

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV of this ordinance
4. Uses as listed below, included within and entered from within any office building as a convenience to the occupants thereof, their patients, clients, or customers providing that the accessory uses shall not exceed ten (10) percent of the gross floor area of the permitted uses in the building and no exterior advertising displays for any of the accessory uses shall be visible from outside the building.
   a. Barber shops
   b. Beauty shops
   c. Coffee shops or refreshment stands
   d. Eating and drinking places
   e. Medical and dental laboratories
   f. News and confectionery stands
   g. Prescription pharmacies

5. Electro-mechanical games - being defined as electro-mechanical pin ball machines and video games specifically designed, constructed, set up, and kept to be played for amusement only.

C.   CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, in connection therewith, subject to the approval of the board of adjustment, as set forth in this Section 10.13, C. and in Sections 18.5 and 18.7 of this ordinance.

1. Restaurants, excluding drive-ins
2. Outdoor dining, in connection with a restaurant, provided that such area meets the following minimum requirements:

a. Such area shall be designed to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility.

b. Such area shall not exceed twenty-five (25) percent of the maximum seating capacity of the indoor dining area.

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

d. Such area shall not be permitted to locate within any minimum required front, side, or rear yard.

e. Outdoor dining areas shall be operated no later than ten (10) o'clock p.m. on Sunday through Thursday inclusive, and no later than eleven (11) o'clock p.m. on Friday and Saturday.

3. Barber and beauty shops

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

1. Minimum Lot Area - Twenty two thousand five hundred (22,500) square feet.

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

3. Minimum Front Yard Depth - Thirty (30) feet for the first two (2) stories, plus ten (10) feet for each additional story.

4. Minimum Side Yard Width - Fifteen (15) feet plus five (5) feet for each additional story.

5. Minimum Rear Yard Depth - Twenty-five (25) feet plus eight (8) feet for each additional story.

6. Maximum Building Height - Eighty (80) feet.

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

E. OTHER DEVELOPMENT CONTROLS:

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

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

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

4. Where any yard or any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall
be maintained by a screening area, as regulated by Section 9.17 of this ordinance.

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

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

7. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking and loading and/or unloading areas, the outdoor play areas of day care facilities, and outdoor dining facilities.
SECTION 10.16 SC (SHOPPING CENTER) ZONE

A. PERMITTED USES

1. Advertising agencies
2. Antique shops
3. Apparel shops
4. Art supplies
5. Automobile laundry
6. Automotive parts and accessories store (new)
7. Automotive service and repair shops
8. Bakery and bakery goods store, provided the products are sold exclusively on the premises
9. Banks and other financial institutions, including savings, loan, and finance companies, with drive-in windows
10. Barber and beauty shops
11. Billiard or pool halls
12. Books, stationery, or gift shops
13. Bowling alleys
14. Business or professional colleges
15. Bus stations
16. Camera and photographic supplies stores
17. Candy store, soda fountain, ice cream stores, excluding drive-ins
18. Carpet and rug stores
19. Clinics - medical or dental
20. Clubs - including businessmen's, YMCA/YWCA
21. Delicatessens
22. Department stores
23. Drug stores
24. Dry cleaning and laundry pick-up stations
25. Eating establishments and taverns, excluding drive-ins
26. Employment agencies
27. Florist shops
28. Food stores and supermarkets
29. Furniture stores
30. Garden supplies
31. Glass, china, or pottery stores
32. Haberdashery
33. Hardware stores
34. Health clinics and health spas
35. Hobby shops
36. Household and electrical appliance store, including incidental repair
37. Interior decorating studios
38. Jewelry stores, including repair
39. Laboratories - medical and dental
40. Laundromats and self-service washing and drying
41. Leather goods and luggage stores
42. Library
43. Locksmith shops
44. Music, musical instruments, and record stores, including incidental repair
45. Off-street parking lots and/or garages
46. Office appliances and supplies stores
47. Offices
48. Opticians and optical goods stores
49. Package liquor and wine stores, excluding drive-ins
50. Paint and wallpaper stores
51. Pet shops, excluding boarding and outside runs
52. Police and fire stations
53. Post offices
54. Radio and television stores, including repair
55. Service stations
56. Shoe stores sales and repair
57. Sporting goods stores
58. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
59. Tailor shops
60. Theaters, excluding drive-ins
61. Toy stores
62. Travel bureaus
63. Variety stores, including notions and "Five and Ten" stores

B. ACCESSORY USES

1. Customary accessory uses
2. Fences and walls, as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV of this ordinance
4. Electro-mechanical games - being defined as electro-mechanical pin ball machines and video games specifically designed, constructed, set up and kept to be played for amusement only
5. Recycling collection facility - being a building or trailer providing for a collection location for the temporary storage of recyclable materials; such facility shall be restricted to the side or rear yard area of shopping centers

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

1. Minimum building site area - Five (5) acres (In the case of this zone, more than one principal building, as defined herein, may be permitted to be constructed within the minimum building site area)
2. Minimum yard requirements - Fifty (50) feet for each front, side (on each side of the building site), and rear yards
3. Maximum building height - Forty (40) feet

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. No outdoor storage of any usable material shall be permitted except in accordance with Section 10.14, D., 6., below.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
4. Where any yard of any use permitted in this zone abuts a residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be provided.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking and loading and/or unloading areas. The display of merchandise is permitted on sidewalks only subject to the following restriction:
   a. Only merchandise for sale, including plants and gardening materials, may be displayed.
   b. Displays are limited to the area directly in front of a commercial establishment offering the items for sale.
   c. Displays may not be located within six feet of the edge of the sidewalk nearest the curb, and shall allow for six feet of clear width on the sidewalk in any case.
   d. Displays shall not block ingress or egress to any entrances or exits or adjoining buildings or properties.
   e. No stacks of any material or pallets higher than five (5) feet.
   f. No such displays shall engage the use of electricity nor shall such displays be animated or use lights or noise making devices.
   g. Cooking or grilling is not permitted anywhere on sidewalk nor in the parking areas.
7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone. Such site plan shall include the layout of the entire area of the proposed shopping center and shall take into consideration good shopping center design (i.e., internal and external good pedestrian and vehicular access) and functional relationship of uses within the shopping center.
8. Additional Construction Standards

(a) Exterior Wall Materials

(i) Primary Building Materials may be used for up to 100% of the exterior wall surface area. Permitted primary materials include the following materials; brick, wood “clapboard” type siding, wood composite “clapboard” type siding or cement board “clapboard” type siding, stone, tile, glass or concrete which is formed to have a masonry unit appearance may be used.

(ii) Secondary Building Materials may be used for trim, detailing, and incidental or secondary wall areas. These secondary materials may not exceed 40% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals, EIFS/stucco, glass block and precast concrete. Only architectural grade materials shall be used.

(iii) Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or synthetic appearing exterior wall materials (such as ribbed, industrial style metal siding, exposed fastener metal wall panels, vinyl siding, T111 or other hard board type materials that are manufactured in sheets) are not permitted.

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

(c) Mechanicals

(i) All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street. This does not include equipment that is required by a public utility company (i.e. Electric/gas meters, etc.).

(ii) Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design detailing as the principal building.

(iii) If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an integral part of the overall building. For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.
SECTION 10.17 CPUD (COMMERCIAL PLANNED UNIT DEVELOPMENT) OVERLAY ZONE

A. PURPOSE: The purposes of the Commercial-Planned Unit Development (C-PUD) Overlay Zone are to: promote flexibility in design and permit planned diversification in the relationships between location of and types of uses and structures; promote the advantages of modern large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion; provide for more usable and suitably located open space facilities and other public and/or common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

B. GENERAL: A Commercial-Planned Unit Development Overlay Zone may be permitted to be superimposed over any of the commercial (NC, SC, LHS, and PO) Zones, provided that all conditions or provisions of this section of the ordinance, the applicable standards of the subdivision regulations, and any additional requirements as may be determined necessary to provide for the most efficient layout of the C-PUD and its proper integration with the surrounding development, are met; and a public hearing is held on the C-PUD application.

C. APPLICATION AND PROCESSING: Applications for a Commercial-Planned Unit Development Overlay Zone shall be processed as follows in two stages:

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

   a. The application for a map amendment to overlay an area for a C-PUD and accompanying development plan shall be submitted to the planning commission.

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

c. The legislative body, shall, within ninety (90) days after receiving the recommendations of the planning commission, review said recommendations and take action to approve, or disapprove said C-PUD application. Such action may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose less stringent conditions than recommended by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection C., 1., b., above. Approval of the C-PUD Overlay Zone shall require that development be in conformance with the Stage I approved plan.

2. Stage II - Plan And Record Plat - A Stage II Plan and record plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of Section 9.20, and submitted to the planning commission, or its duly authorized representative, and the legislative body for its review and approval. Except for construction standards, the manner of submission and processing included in the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, B., shall be substituted. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.

a. The planning commission, or its duly authorized representative, shall review the submitted Stage II Plan with regard to its compliance with the required elements of Section 9.20, B., for Stage II plans, other applicable elements of this ordinance and other applicable regulations, and its conformity with the approved Stage I approved plan. The planning commission, or its duly authorized representative, in recommending approval of the Stage II plan, may include minor adjustments from the Stage I approved plan, provided that the adjustments do not: significantly affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and pedestrian), or decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

b. The legislative body shall, within forty-five (45) days after receiving the recommendations of the planning commission, or its duly authorized representative, review said recommendations and take action to approve, approve with conditions, or disapprove the Stage
II plan. The legislative body shall also take action to approve or disapprove any minor adjustments proposed to the approved Stage I plan.

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

c. Upon approval of the Stage II plan, the planning commission, or its duly authorized representative, shall review the submitted record plat, if applicable, with regard to its compliance with the required elements of the subdivision regulations, and its conformance with the Stage II approved plan. Upon planning commission approval of the record plat, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded to the office of the county clerk to be recorded.

D. PRIMARY PERMITTED USES: Permitted uses shall be as specified within the zones being overlaid. A minimum of seventy-five (75) percent of the floor space within a proposed C-PUD shall be primary permitted uses.

E. OTHER USES: Permitted uses and conditional uses as specified in Section 10.12, Neighborhood Commercial Zone, Section 10.11, Limited Highway Service Zone, Section 10.13, Professional Office Zone, and Section 10.14, Shopping Center Zone, subject to all other requirements of this section. Additionally, the following uses may also be permitted:

1. Community centers, including day care facilities
2. Fire and police stations
3. Libraries
4. Schools

F. AREA REQUIREMENTS: No C-PUD Overlay Zone shall be permitted on less than five (5) acres of land. However, development of a smaller tract adjacent to an existing C-PUD Overlay Zone may be permitted, if the proposed development conforms to and extends the original development as if the new area had been a part of the original development.

G. HEIGHT, YARD, AND SETBACK REGULATIONS: Requirements shall be as approved in the plan. A minimum fifty (50) foot setback shall be provided from adjacent residential areas and adjacent streets.
H. OFF-STREET PARKING AND LOADING AND/OR UNLOADING: Off-street parking and when applicable, loading and/or unloading facilities shall be provided in accordance with Articles XI and XII of this ordinance. Parking may be permitted within required yards but no closer than fifteen (15) feet to the adjoining property.

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

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

K. OPEN SPACE: At least ten (10) percent of the total acreage of the proposed C-PUD shall be retained as open space area. Open space area shall be that part of the total project exclusive of streets, parking areas, buildings, and other non-open space. A landscape plan shall be submitted with the Stage II Plan and Record Plat.

L. SCREENING: Shall be as provided within Section 9.17 of the zoning ordinance.

M. Evaluation of the proposed development plan shall be based upon the following factors:

1. Agreement with the various elements of the Kenton County Comprehensive Plan.

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

3. Nature and extent of the proposed commercial types, proposed in relation to the unique characteristics of the site; the current or anticipated need for such use(s) and the specific size and locale of the market area from which the specific uses of the site will draw or serve.

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

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

6. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within the site, and to and from the site without adversely affecting the ability of the adjoining street system to carry traffic.

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

N. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the City Administrative Officer or his designee, 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.

O. EXPIRATION: Any amendments to the C-PUD Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said C-PUD Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following condition applies:

1. Stage II Plan has not been submitted to the planning commission or its duly authorized representative within a period of twelve (12) consecutive months from the date of the Stage I approved plan and Overlay Zone amendment by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Plan by the legislative body, provided that an extension may be permitted upon
approval of the legislative body, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant’s control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.
SECTION 10.18   MLU (MIXED LAND USE) ZONE

A. PURPOSE: The purpose of the Mixed Land Use (MLU) Zone is to provide for the combining of offices, commercial uses, retail and service uses, and residential uses within a planned development. Such development is intended to be designed to provide for a related group of activities which are functionally integrated relative to land uses, vehicular and pedestrian circulation, and the arrangement of structures. In addition, the intent of the zone is to promote flexibility in design and planned diversification in the relationships between location of and types of uses and structures; promote the advantages of large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion; provide for more usable and suitably located open space facilities and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

B. GENERAL: A Mixed Land Use Zone may be permitted provided that all conditions or provisions of this section of the ordinance, the applicable requirements of the subdivision regulations, and any additional requirements as may be determined necessary to provide for the most efficient layout of the MLU Zone and its proper integration with the surrounding development are met; and a public hearing is held on the MLU application.

C. APPLICATION AND PROCESSING: Applications for a Mixed Land Use Zone shall be processed as follows in two stages:

1. Stage I - Except as provided in Section 17.0, I., applications for a map amendment to zone an area for Mixed Land Use (MLU) shall be accompanied by a development plan, in accordance with the Stage I Plan Requirements, provided for within Section 9.20, A., of this ordinance. If an area, however, is currently zoned MLU, the submission of a Stage I Development Plan for review by the planning commission and the legislative body, shall not be required until the area is proposed to be developed.

   a. The planning commission shall hold a public hearing on the proposed application (Stage I Development Plan, and where applicable, the zoning map amendment), in accordance with the requirements of KRS Chapter 424, and review said application with regard to its compliance with the stated purpose of the MLU Zone, the required elements of the Stage I Development Plan and other applicable requirements of this section. Written notice of the
hearing shall be given to the owner of every parcel of property adjoining the property encompassed within the Stage I Development Plan as provided in and in accordance with the provisions of Section 17.0, D., 2. Upon holding such hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Stage I Plan and the bases for their recommendation.

b. The legislative body shall, within ninety (90) days after receiving the recommendations of the planning commission, review said recommendations and take action to approve, or disapprove said C-PUD application. Such action may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose less stringent conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection C., 1., a., above.

The legislative body shall forward a copy of the approved plan to the planning commission for further processing, in accordance with the requirements for Stage II Development Plan and Record Plat.

Zoning Map Amendment - Upon approval of the MLU Zone, the official zoning map shall be amended by adding the area as identified in the application or as shown on the Stage I approved plan.

2. Stage II - Plan And Record Plat - A Stage II Development Plan and record plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of Section 9.20, B. and C., and submitted to the planning commission, or its duly authorized representative, for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, B. and C., shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.

a. The planning commission, or its duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 9.20, B., for Stage II plans, other applicable elements of this ordinance and other applicable regulations, and its conformity with the Stage I
approved plan. Minor adjustments from the Stage I approved plan may be permitted, provided that the adjustments do not change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), or decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this ordinance (e.g., parking requirements). The planning commission, or its duly authorized representative, upon completion of its review of the proposed Stage II Development Plan, shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The planning commission, or its duly authorized representative, shall submit, along with their recommendations, a copy of the Stage II Development Plan and the bases for their recommendation.

b. The legislative body shall, within forty-five (45) days after receiving the recommendations of the planning commission, or its duly authorized representative, review said recommendations and take action to approve or disapprove the Stage II Development Plan. Such action may incorporate any conditions imposed by the planning commission, or its duly authorized representative. However, should the legislative body take action to impose different conditions than were reviewed and considered by the planning commission, or its duly authorized representative, then said conditions shall be resubmitted to the planning commission, or its duly authorized representative, for further review and recommendation, in accordance with Subsection C., 2., a., above.

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

c. Upon approval of the Stage II Development Plan, the planning commission, or its duly authorized representative, shall review the submitted record plat, if applicable, with regard to its compliance with the required elements of Section 9.20, C., for Record Plats, the applicable requirements of the subdivision regulations, and its conformance with the Stage II approved plan. Upon approval of the Record Plat, by the planning commission, or its duly authorized representative, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded by the
D. PERMITTED USES: One or more of the following uses may be permitted. Said uses shall be clearly delineated on the Stage I and II Plans:

1. Residential - including single-family and two-family. Residential development shall not occupy a cumulative total of more than ten (10) percent of the area within the MLU. Residential uses which are located above nonresidential uses shall not be considered to be a part of this cumulative total.

2. Offices

3. Restaurants, excluding drive-ins and drive-thrus

4. Retail and service uses, excluding drive-ins, as follows:
   a. Advertising agency
   b. Antique shop
   c. Apparel shop
   d. Appliance shop - electrical and household
   e. Appliances - office
   f. Art and art supplies
   g. Bakery shop
   h. Banks, finance companies, savings and loans, and financial institutions
   i. Book shops
   j. Cafeterias
   k. Camera supplies
   l. Candy store
   m. Clinics - medical and dental
   n. Clothing store
   o. Clubs - business, YMCA, YWCA
   p. Coffee shop
   q. Computer or internet based game facilities, specifically excluding: (1) electro-mechanical games such as pinball/video machines; (2) coin or paper money operated machines; or (3) the activity, business or content of any such games that contain material which is regulated in Section 9.29 of this ordinance relating to the Regulations of Sexually Oriented Businesses.
   r. Convenience store - drug, fruit, grocery, meat, pharmacy, vegetables
   s. Craft shops
   t. Day care facilities
   u. Dry cleaning pick-up
   v. Electronics supplies or sales
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w. Florist shop
x. Food store
y. Garden supplies
z. Gift shop
aa. Glass store
bb. Hair stylist
cc. Hardware store
dd. Hobby shop
ee. Ice cream store
ff. Interior decorator
gg. Jewelry store
hh. Laboratory - medical and dental
ii. Laundry pick-up
jj. Leather goods
kk. Locksmith shop
ll. Luggage shop
mm. Music shop
nn. Office furniture
oo. Office supplies
pp. Optical goods and supplies
qq. Optician and optometrist
rr. Paint store
ss. Pet shop
tt. Pharmacy
uu. Photographic supplies
vv. Pottery store
ww. Record shop
xx. Shoe repair shop
yy. Shoe store with incidental repair
zz. Soda fountain
aaa. Souvenir shop
bbb. Sporting goods
ccc. Stationary shop
ddd. Studio - decorating, photo
eeee. Tailor shop
fff. Toy store
ggg. Travel agency
hhh. Video rental
iii. Wallpaper store

5. Public and semi-public structures and uses as delineated on the plan and limited to one or more of the following uses:

a. Fire and police station
b. Post office branch
c. Schools (elementary and secondary)  
d. Libraries

E. ACCESSORY USES:

1. Customary accessory buildings and uses

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

1. Outdoor dining, in connection with a restaurant, provided that such area meets the following requirements:
   a. Such area shall be designated to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility.
   b. Such area shall not exceed twenty five percent of the maximum seating capacity of the indoor dining area.
   c. Entertainment, unamplified music shall be permitted between the hours of 6:00 pm and 11:30 pm.
   d. Outdoor dining areas shall be operated no later than Midnight, Sunday through Thursday, and 2:30 am on Friday and Saturday.

2. Home improvement store

G. AREA REQUIREMENTS:

1. No MLU Zone shall be permitted on less than fifteen (15) acres of land. However, an area of less than fifteen (15) acres may be zoned MLU, provided it is adjacent to an area that is currently zoned MLU.

2. The minimum area for submission of a Stage I Development Plan, within an existing MLU Zone, shall be not less than five (5) acres. However, a Stage I Development Plan may be submitted for an area of less than five (5) acres, provided it is adjacent to and extends the existing Stage I Development Plan and conforms to requirements of the MLU Zone.

H. ACCESS REGULATIONS: Access shall be provided to the site via a major arterial or collector street, as identified within the locally adopted comprehensive plan. In addition to access to the site via a major arterial or collector street, other connections to a local street network may be permitted as approved in the Stage I Development Plan.

I. HEIGHT, YARD, AND SETBACK REGULATIONS: Requirements shall be as approved in the plan.
J. OFF-STREET PARKING AND LOADING AND/OR UNLOADING: Off-street parking and, when applicable, loading and/or unloading facilities shall be provided in accordance with Articles XI and XII of this ordinance.

K. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs shall generally be in accordance with Articles XIII and XIV of this ordinance and as approved in the plan.

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

M. RECREATION AND OPEN SPACE: At least twenty (20) percent of the total acreage of the proposed MLU development shall be retained as open space or recreation areas. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all activities within the MLU development. Open space and recreation areas shall be that part of the total project exclusive of buildings, parking areas, access drives and streets. At such time as the Stage II Development Plan for a particular development is submitted to the planning commission, or its duly authorized representative, notwithstanding Subsection C., 2., a., open space requirements of less than twenty (20) percent may be considered for the development if unique topographic conditions exist, unique treatment of parking areas is provided for, and unique conditions and circumstances exist on or are adjacent to the site.

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

1. Agreement with the various elements of the Kenton County Comprehensive Plan, and where applicable, any KRS Chapter 99 approved Urban Renewal Development Plan.
2. Extent to which the proposed development plan is consistent with the purpose of the MLU Zone.
3. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).
4. Nature and extent of the proposed uses in relation to the unique characteristics of the site; the current or anticipated need for such use(s) and the specific size and locale of the market area from which the specific uses of the site will draw or serve.
5. Extent to which the proposed design, as indicated in the Stage I Plan, is compatible and coordinated with existing and/or proposed development.
contiguous to the site. Compatibility and coordination with existing and/or proposed development shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding areas, including coordination of vehicular and pedestrian circulation; the scale (e.g., height and mass of structures) of the proposed development; location of open spaces and size of setbacks; provisions of screening areas or utilization of natural features; the transition of land use types based on the proposed design; and the impact of the proposed development on adjacent uses, such as noise, visual impact, hours of operation, traffic circulation, etc.

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

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

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

O. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the planning commission, shall be made in accordance with the procedure required by Subsection C., of this section.

P. EXPIRATION: Development plans within the MLU Zone shall be subject to the time constraints, as noted below. Upon expiration of said time constraints, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining the appropriateness of the approved development plan. A public hearing may be initiated if either of the following condition apply:

1. Stage II Plan has not been submitted to the planning commission or its duly authorized representative within a period of twenty-four (24) consecutive months from the date of the Stage I approved plan, except as agreed upon for the phasing of development by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Plan by the planning commission; provided that an extension may be permitted
upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.
SECTION 10.19 MBLU (MIXED BUSINESS LAND USE) ZONE

A. PURPOSE: The purpose of the Mixed Business Land Use (MBLU) Zone is to provide for the combining of offices, commercial uses, retail, limited residential uses provided it is located above other permitted uses, and service uses within a planned development. Such development is intended to be designed to provide for a related group of activities which are functionally integrated relative to land uses, vehicular and pedestrian circulation, and the arrangement of structures. In addition, the intent of the zone is to promote flexibility in design and planned diversification in the relationships between location of and types of uses and structures; promote the advantages of large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion; provide for more usable and suitably located open space facilities and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

B. GENERAL: A Mixed Business Land Use Zone may be permitted provided that all conditions or provisions of this section of the ordinance, the applicable requirements of the subdivision regulations, and any additional requirements as may be determined necessary to provide for the most efficient layout of the MBLU Zone and its proper integration with the surrounding development are met; and a public hearing is held on the MBLU application.

C. APPLICATION AND PROCESSING: All developments within the MBLU Zone must be approved through the Stage I/Stage II Development Plan process described herein. Applications for a Mixed Business Land Use Zone shall be processed as follows in two stages:

1. Stage I - Except as provided in Section 17.0, I., applications for a map amendment to zone an area for Mixed Land Use (MBLU) shall be accompanied by a development plan, in accordance with the Stage I Plan Requirements, provided for within Section 9.20, A., of this ordinance. If an area, however, is currently zoned MBLU, or the map amendment is proposed by the legislative body, the submission of a Stage I Development Plan for review by the planning commission and the legislative body, shall not be required until the area is proposed to be developed.

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

b. The legislative body shall, within ninety (90) days after receiving the recommendations of the planning commission, review said recommendations and take action to approve, or disapprove said Stage I Development Plan application. Such action may incorporate any conditions imposed by the planning commission.

The legislative body shall forward a copy of the approved plan to the planning commission for further processing, in accordance with the requirements for Stage II Development Plan and Record Plat.

Zoning Map Amendment - Upon approval of the MBLU Zone, the official zoning map shall be amended by adding the area as identified in the application or as shown on the Stage I approved plan.

2. Stage II - Plan And Record Plat - A Stage II Development Plan and record plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of Section 9.20, B. and C., and submitted to the planning commission, or its duly authorized representative, for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, B. and C., shall be substituted therefor. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.

a. The planning commission, or its duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 9.20, B., for Stage II plans, other applicable elements of this ordinance and other applicable regulations, and its conformity with the Stage I approved plan. Minor adjustments from the Stage I approved plan may be permitted by the City Administrative Officer or his designee, provided that the adjustments do not change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), or decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of
this ordinance (e.g., parking requirements). The planning commission, or its duly authorized representative, upon completion of its review of the proposed Stage II Development Plan, shall make one of the following recommendations to the city’s chief administrative official, or his/her representative: approval, approval with conditions, or disapproval. The planning commission, or its duly authorized representative, shall submit, along with their recommendations, a copy of the Stage II Development Plan and the basis for their recommendation.

b. The city’s chief administrative official, or his/her duly authorized representative, shall, within forty five (45) days after the planning commission, or its duly authorized representative, makes its recommendation, process the proposed Stage II Development Plan.

Upon approval of the Stage II Development Plan, by the chief administrative official, or his/her duly authorized representative, a copy of said plan shall be forwarded to: (1) the zoning administrator, who shall grant permits only in accordance with the Stage II approved plan and other regulations, as may be required by this ordinance.

c. Upon approval of the Stage II Development Plan, the planning commission, or its duly authorized representative, shall review the submitted record plat, if applicable, with regard to its compliance with the required elements of Section 9.20, C., for Record Plats, the applicable requirements of the subdivision regulations, and its conformance with the Stage II approved plan. Upon approval of the Record Plat, by the planning commission, or its duly authorized representative, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded by the planning commission to the office of the county clerk to be recorded.

D. PERMITTED USES: One or more of the following uses may be permitted. Said uses shall be clearly delineated on the Stage I and II Plans:

1. Offices, including medical and dental offices
2. Restaurants, excluding drive-ins and drive-thrus, except as are permitted as Conditional Uses
3. Retail and service uses, excluding drive-ins unless specifically authorized by the use herein, as follows:
   a. Advertising agency
b. Antique shop
c. Apparel shop
d. Appliance shop - electrical and household
e. Appliances – office
f. Art and art supplies
g. Bakery shop
h. Banks, with drive-thru windows permitted
i. Book shops
j. Cafeterias
k. Camera supplies
l. Candy store
m. Clinics - medical and dental, including urgent care and emergency room
n. Clothing store
o. Clubs - business
p. Coffee shop, with drive-thru windows permitted
q. Craft shops
r. Day care facilities
s. Dry cleaning pick-up, with drive-thru windows permitted
t. Electronic supplies or sales
u. Finance company, financial institutions
v. Florist shop
w. Food store
x. Garden supplies
y. Gift shop
z. Glass store
aa. Grocery stores, with drive-thru windows permitted
bb. Hair stylist
cc. Hardware store
dd. Health clubs
e. Hobby shop
ff. Ice cream store, with drive-thru windows permitted
gg. Interior decorator
hh. Jewelry store
ii. Laboratory - medical and dental
jj. Laundry pick-up
kk. Leather goods
ll. Luggage shop
mm. Music shop
nn. Office furniture
oo. Office supplies
pp. Optical goods and supplies
qq. Optician and optometrist
rr. Pet shop
ss. Pharmacy, including drive-thru windows and other retail sales
tt. Photographic supplies
uu. Pottery store
vv. Record shop
ww. Savings and loan
xx. Shoe store with incidental repair
yy. Soda fountain
zz. Souvenir shop
aaa. Sporting goods
bbb. Stationary shop
ccc. Studio - decorating, photo
ddd. Tailor shop
eee. Toy store
fff. Travel agency
ggg. Wallpaper store

4. The following public and semi-public structures and uses may be permitted in the MBLU Zone, which shall be delineated on the plan and shall be limited to one or more of the following uses:

   a. Fire and police stations
   b. Libraries
   c. Park

E. ACCESSORY USES:

1. Customary accessory buildings and uses
2. Swimming pools, indoor or outdoor, in connection with hotels, residential amenity, or health clubs

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

1. Outdoor dining, in connection with a restaurant, provided that such area meets the following requirements:

   a. Such area shall be designated to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility.
   b. Such area shall not exceed twenty five percent of the maximum seating capacity of the indoor dining area.
   c. Entertainment, unamplified music shall be permitted between the hours of 6:00 pm and 11:30 pm.
   d. Outdoor dining areas shall be operated no later than Midnight, Sunday through Thursday, and 2:30 am on Friday and Saturday.
2. Drive through window service for restaurants, subject to the following conditions and limitations:
   a. The hours of operation of the drive-thru service shall be limited to six (6:00) A.M. to eleven (11:00) P.M.
   b. The sound pressure level from any speaker or order station may not exceed 60 decibels, as provided for in Section 15.2,C.
   c. The speaker or order station shall not be located on any wall or in any yard of a building adjacent to any area which is either zoned for or developed in residential use, or located within one hundred (100) feet of such use.

3. Hotels, not including motels.

4. Service stations, but not including automobile repair, maintenance and washing, and excluding the storage of junk materials, subject to the following conditions and limitations:
   a. The hours of operation of the service station shall be limited to five (5:00) A.M. to eleven (11:00) P.M.
   b. The service station shall be directly connect to a major arterial or collector street, shall not be permitted within one hundred fifty (150) feet of any residential zone or use if the service station is separated from the residential zone or use by an major arterial or collector street, or within three hundred fifty (350) feet of any residential zone or use not separated from the residential zone or use by a collector or arterial street.

5. Convenience store - drug, fruit, grocery, meat, vegetables

6. Home improvement store

7. Residential – provided such uses are located above non-residential uses otherwise permitted in this Zone and further provided that the maximum density shall not exceed 40 units per net acre within the Stage I Development Plan area. Additionally, in no event shall residential uses comprise more than 30% of the land area in the zone.

G. AREA REQUIREMENTS:

1. No MBLU Zone shall be permitted on less than ten (10) acres of land. However, an area of less than ten (10) acres may be zoned MBLU, provided it is adjacent to an area that is currently zoned MBLU.
2. The minimum area for submission of a Stage I Development Plan, within an existing MBLU Zone, shall be not less than three (3) acres. However, a Stage I Development Plan may be submitted for an area of less than three (3) acres, provided it is adjacent to and extends the existing Stage I Development Plan and conforms to requirements of the MBLU Zone.

H. ACCESS REGULATIONS: Access shall be provided to the site via a major arterial or collector street, as identified within the locally adopted comprehensive plan. In addition to access to the site via a major arterial or collector street, where practical, other connections to a local street network should be provided as approved in the Stage I Development Plan.

I. HEIGHT, YARD, AND SETBACK REGULATIONS: No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Where any use permitted in this zone abuts a residential zone, a minimum fifty (50) foot setback shall be provided from adjacent residential areas with screening to be provided as required in Section 9.17 of the zoning ordinance.
2. All other requirements shall be as approved in the plan.

J. OFF-STREET PARKING AND LOADING AND/OR UNLOADING: To promote flexibility in design to achieve a planned development that establishes strong connectivity between uses and encourages all modes of transportation, off-street parking shall be as approved in the plan provided it is not less than 70% of the parking requirement per Section 11.2, a parking study is submitted, and the design and layout meet the requirements of Section 11.1. Loading and/or unloading facilities shall be provided in accordance with Articles XI and XII of this ordinance.

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

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

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

1. Agreement with the various elements of the Kenton County Comprehensive Plan, and where applicable, any KRS Chapter 99 approved Urban Renewal Development Plan.
2. Extent to which the proposed development plan is consistent with the purpose of the MBLU Zone.

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

4. Nature and extent of the proposed uses in relation to the unique characteristics of the site; the current or anticipated need for such use(s) and the specific size and locale of the market area from which the specific uses of the site will draw or serve.

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

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

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

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

N. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the City Administrative Officer or his designee, shall be made in accordance with the procedure required by Subsection C., of this section.
O. EXPIRATION: Development plans within the MBLU Zone shall be subject to the time constraints, as noted below. Upon expiration of said time constraints, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, including written notification to the owners for the purpose of determining the appropriateness of the approved development plan. A public hearing may be initiated if either of the following conditions apply:

1. Stage II Plan has not been submitted to the planning commission, or its duly authorized representative, within a period of twenty-four (24) consecutive months from the date of the Stage I approved plan, except as agreed upon for the phasing of development by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

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

P. OTHER DEVELOPMENT CONTROLS:

1. No lighting shall be permitted which would glare from this zone into any adjacent residential property.
2. Other development controls may be imposed and shall be as provided in the Stage I and Stage II approved plans.
SECTION 10.20 PO-1 (PROFESSIONAL OFFICE - ONE) ZONE

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

B. PERMITTED USES

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

C. ACCESSORY USES

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

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

1. Minimum Lot Area - Six thousand five hundred (6,500) square feet, except for bed and breakfast establishments which shall have a minimum lot area of ten thousand (10,000) square feet.
2. Minimum Lot Width At Building Setback Line - Fifty (50) feet, except for bed and breakfast establishments which shall have a minimum lot width at building setback line of ninety (90) feet.
3. Minimum Front Yard Depth - Thirty (30) feet.
4. Minimum Side Yard Width - Total: Fifteen (15) feet; One Side: Five (5) feet, zero (0) if abutting a PO or PO-1 zone.
5. Minimum Rear Yard Depth - Fifty (50) feet.
6. Maximum Building Height - Thirty-five (35) feet.
7. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot.

E. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance. Parking may be permitted on street, provided a study is prepared by the owner or operator.
in compliance with Section 11.2, H., and it is determined that the on street parking will not over burden the area.

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

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

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

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

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

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

8. All utilities shall be underground when new development occurs.

9. For the purposes of minimum size of new zones per Article XVII.F the area of an abutting PO zone may be included with the PO-1 zone to meet minimum area requirements.
ARTICLE XI

OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS

In all zones, off-street parking facilities for the storage or parking of motor vehicles for use of occupants, employees, and patrons of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this ordinance, shall be provided and maintained as herein prescribed. However, where a building permit has been issued prior to the date of adoption of this ordinance, and provided that construction has not begun within ninety (90) consecutive calendar days of such effective date, off-street parking facilities in the amounts required by this ordinance shall prevail.

SECTION 11.0 GENERAL REQUIREMENTS

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

B. ADDITIONAL PARKING SPACES TO BE PROVIDED: Whenever the intensity of use of any building, structure, or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, change of use, or other units of measurement specified herein, additional parking spaces shall be provided in the amounts hereafter specified for that use, if the existing parking space is inadequate to serve such increase in intensity of use.

C. LOCATION OF OFF-STREET PARKING FACILITIES

1. Off-street parking facilities shall be located as follows:

   a. Single-Family Residential Zones - (R-RE, R-1C, R-1D, R-1E, R-1F, R-1G): Except as provided for below for R-1G Zones, off-street parking may be permitted in driveways in the front, side, and rear yards of permitted uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking located in the rear yard shall be set back a minimum of ten (10) feet from the rear lot line. No off-street parking area, located in the front yard in a single-family residential zone, may exceed four hundred (400) square feet (two parking spaces) except, however, the zoning administrator may allow additional off-street parking spaces to be located thereon, provided that the additional parking spaces will not cause the ratio of unpaved area to paved area (parking and driveway areas) in the front yard to be less than 3:1.
Notwithstanding any of the foregoing, there shall be no off-street parking permitted in the front yard in any R-1G Zone.

b. Multi-Family Residential Zones - (R-2, R-3a): 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, MLU, and MBLU) 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 minimum 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, except as provided under Shared Parking Provision Section 11.0, E. or the Cooperative Parking Section 11.0, F.

E. SHARED PARKING PROVISION: When any land or building is under the same ownership, or upon submission of satisfactory guarantees of the continued operation and proper maintenance of the shared parking facility, and proposed development is for two (2) or more land uses, excluding residential uses, the number of minimum required parking spaces shall be computed by multiplying the minimum number of parking spaces normally required for each land use by the appropriate percentage, as shown in the following shared parking credit table, for each of the five (5) time periods shown. The number of parking spaces required is then determined by adding the results in each column. The column total that generates the highest number of parking spaces becomes the minimum parking requirement.

**SHARED PARKING CREDIT TABLE**

<table>
<thead>
<tr>
<th>LAND USE TYPE</th>
<th>Time Of Operation</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Daytime (6 am - 6 pm)</td>
<td>Evening (6 pm - midnight)</td>
<td>Daytime (6 am - 6 pm)</td>
<td>Evening (6 pm - midnight)</td>
</tr>
<tr>
<td>Office/Industrial</td>
<td>100%</td>
<td>10%</td>
<td>10%</td>
<td>5%</td>
</tr>
<tr>
<td>Retail/Personal Service</td>
<td>60%</td>
<td>90%</td>
<td>100%</td>
<td>70%</td>
</tr>
<tr>
<td>Hotel/Motel</td>
<td>75%</td>
<td>100%</td>
<td>75%</td>
<td>100%</td>
</tr>
<tr>
<td>Restaurant</td>
<td>50%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Indoor Theater/Commercial Recreational Establishment</td>
<td>40%</td>
<td>100%</td>
<td>80%</td>
<td>100%</td>
</tr>
</tbody>
</table>
1. The following requirements shall apply to any shared parking facility for mixed use development.
   
a. The shared parking facility must be located within five hundred (500) feet walking distance of the entrance to the establishment to be served. Said walkway access shall provide a safe means of pedestrian access to and from the establishment being served.
   
b. Reserved spaces shall not be shared.
   
c. It shall be determined at the time of parking facility plan approval that shared parking is possible and appropriate at the location proposed. Particular attention is needed to assure that sufficient and convenient short-term parking will be available to commercial establishments during the weekday daytime period. The short-term shared parking spaces must be located in the most convenient and visible area of the parking facility nearest the establishment being served.
   
d. Any subsequent change in use shall require the issuance of a new zoning permit and proof that minimum parking requirements, per these regulations, will be met.
   
e. Shared parking may be utilized for other uses, which are not shown in the parking credit table. The applicant shall prepare a similar calculation for the proposed uses, indicating the estimated percentage of each time period, based upon current parking information. Documentation shall be submitted by the applicant to demonstrate that the normal and regular operating hours of the uses proposing a shared parking arrangement do not coincide or overlap in any manner.

F. COOPERATIVE PARKING

1. Cooperative parking represents an arrangement whereby a shopping complex within the SC Zone provides its required off-street parking in the same parking lot, thereby reducing the number of individual parking spaces, reducing the amount of impervious surface, and reducing the amount of stormwater runoff. Reduced off-street parking requirements are available as an incentive for providing cooperative parking.

2. The following reductions in the number of off-street parking spaces required are allowed when multiple uses provide their off-street parking in the same parking lot, as follows:
Article XI  Off-Street Parking And Access Control Regulations

a. A 20% reduction is allowed when 4 or more uses are involved;
b. A 15% reduction is allowed when 3 uses are involved.

3. An agreement providing for the shared use of parking, executed by the parties involved, must be filed with the Zoning Administrator, in a form approved by the Zoning Administrator. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, then parking must be provided as otherwise required by this article.

G. 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.

H. 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.

I. 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.

J. 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 the applicable standards adopted by the legislative body.

G. All parking areas, including spaces and access drives existing at the time of adoption of this ordinance, serving industrial, commercial, and multi-family residential uses, which are not paved in accordance with the requirements of this ordinance and having access to improved public streets, shall be required to be paved in accordance with the provisions of this ordinance within one (1) year after adoption of this ordinance.
SECTION 11.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS: The amount of off-street parking space required for uses, buildings, or additions, and changes in intensity of uses thereto, shall be determined according to the following requirements, and the space, so required, shall be stated in the application for a zoning and building permit and shall be reserved for such use. Where more than one use is located in the same building, each individual use shall be in accordance with the off-street parking requirements of this section of the ordinance.

<table>
<thead>
<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Airport, railroad passenger stations and bus terminal</td>
<td>One (1) parking space for each four (4) seating accommodations for waiting passengers, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
</tr>
<tr>
<td>B. Automobile laundries</td>
<td>One (1) parking space for each employee, plus one (1) space per owner or manager, and reservoir space equal to five (5) times the capacity of the facility.</td>
</tr>
<tr>
<td>C. Automobile Service stations</td>
<td>One (1) parking space for each gas pump island, plus two (2) parking spaces for each working bay, plus one (1) parking space for each employee on shift of largest employment.</td>
</tr>
<tr>
<td>D. Beauty parlor and/or barber shops</td>
<td>Two (2) parking spaces per barber and/or beauty shop operator.</td>
</tr>
<tr>
<td>E. Bowling establishments</td>
<td>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>
</tr>
<tr>
<td>G. Commercial or trade schools</td>
<td>One (1) parking space for each two (2) students, based on design capacity of the school, plus one (1) parking space for each employee.</td>
</tr>
<tr>
<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
</tr>
<tr>
<td>--------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>H. Convalescent homes, nursing homes, rest homes, homes for the aged, and orphanages</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>I. Dance halls, pool and billiard halls, and exhibition halls without fixed seats</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>
</tr>
<tr>
<td>J. Dormitories, Fraternities, Sorority Houses, and other group housing</td>
<td>One (1) parking space per each two (2) residents, plus one (1) parking space per owner or operator, plus one (1) parking space per employee, or one (1) parking space for each two (2) seats for membership meetings, whichever is greater, based on design capacity.</td>
</tr>
<tr>
<td>K. Dwellings: One-Family Two-Family</td>
<td>Two (2) parking spaces. Four (4) parking spaces, with individual access for each dwelling unit, or a joint access in which no parking is permitted on the access drive.</td>
</tr>
<tr>
<td>L. Dwellings: Multi-Family</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>
</tr>
</tbody>
</table>
### TYPES OF USES

<table>
<thead>
<tr>
<th>M. Establishments for sale and consumption on the premises of alcoholic beverages, food, refreshments, or for take home food service</th>
<th>One (1) parking space for each two (2) employees on shift of largest employment plus one parking space for each:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A. Thirty (30) square feet of gross floor area in a drive-in restaurant;</td>
</tr>
<tr>
<td></td>
<td>B. One hundred forty (140) square feet of gross floor area in a carry-out restaurant:</td>
</tr>
<tr>
<td></td>
<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>
</tr>
<tr>
<td></td>
<td>D. Three (3) seating accommodations, based on maximum seating capacity, in a sit-down restaurant.</td>
</tr>
</tbody>
</table>

| N. Fire stations | One (1) parking space for each person on duty on largest shift. |

| O. Hospitals | One (1) parking space for each two (2) beds, plus one (1) parking space for each two (2) employees or staff members, including nurses, on shift of largest employment, plus one (1) parking space per doctor. |

| P. Laundromats | One (1) parking space for each two (2) washing machines, plus one (1) parking space for each employee. |

<p>| Q. Libraries, museums, and art galleries | One (1) parking space for each four (4) seats in rooms for public assembly or one (1) parking space for each fifty (50) square feet of gross floor area for use by the public, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment. |</p>
<table>
<thead>
<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>R. Medical offices and/or clinics</strong></td>
<td>Five (5) parking spaces for each practitioner plus one (1) parking space per each two (2) employees, or one (1) parking space for each two hundred (200) square feet of gross floor area in the building, plus one (1) parking space for each two (2) employees, whichever is greater.</td>
</tr>
<tr>
<td><strong>S. Mortuaries or funeral homes</strong></td>
<td>One (1) parking space for each four (4) seats in the main chapel or public assembly area, based on maximum seating capacity, plus one (1) parking space for each funeral vehicle and employee, or in the case of no fixed seats, one (1) parking space for each fifty (50) square feet of floor area in parlor or service rooms, or one (1) parking space for each four (4) persons, based on design capacity of the building, whichever is greater, plus one (1) parking space for each funeral vehicle and employee.</td>
</tr>
<tr>
<td><strong>T. Offices for professional, business, and financial, real estate, and business purposes, other than medical offices and/or clinics</strong></td>
<td>Four (4) parking spaces for each one thousand (1,000) square feet of gross leasable area. Provided that in the event there is sufficient information shown on the Stage II Plan, which evidences the availability to satisfy the required four (4) parking spaces per one thousand (1,000) square feet of gross leasable area, and shows, or there is constructed the associated infrastructure necessary to support such four (4) parking spaces, then there may be constructed and built out not less than three (3) parking spaces for each one thousand (1,000) square feet of gross leasable area.</td>
</tr>
<tr>
<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>U.</strong> Offices for professional, business, and financial, real estate, and business purposes, located in an Office Park, and other than medical offices and/or clinics</td>
<td>Three and one-half (3-1/2) spaces for each one thousand (1,000) square feet of gross leasable area. Provided that in the event there is sufficient information shown on the Stage II Plan, which evidences the ability to satisfy the required three and one-half (3-1/2) parking spaces per one thousand (1,000) square feet of gross leasable area, and shows or there is constructed the associated infrastructure necessary to support such three and one-half (3-1/2) parking spaces, then there may be constructed and built out not less than three (3) parking spaces for each one thousand (1,000) square feet of gross leasable area.</td>
</tr>
<tr>
<td><strong>V.</strong> Post offices</td>
<td>One (1) parking space for each two hundred (200) square feet of gross floor area, plus one (1) parking space for each two (2) employees on shift of largest employment, plus one (1) parking space for each vehicle operating from the premises.</td>
</tr>
<tr>
<td><strong>W.</strong> 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><strong>X.</strong> 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><strong>Y.</strong> 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>
</tbody>
</table>
### TYPES OF USES

<table>
<thead>
<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Z. 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>AA. Shopping centers</td>
<td>Four (4) parking spaces per one thousand (1,000) square feet of gross leasable area.</td>
</tr>
<tr>
<td>BB. Stadium and sports arenas</td>
<td>One (1) parking space for each four (4) seats, based on maximum seating capacity, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
</tr>
<tr>
<td>CC. Theaters, auditoriums, churches, and places of assembly with fixed seats</td>
<td>One (1) parking space for each four (4) seats, based on maximum seating capacity, plus one (1) additional parking space for each two (2) employees on shift of largest employment.</td>
</tr>
<tr>
<td>DD. Theaters, auditoriums, churches, and places of assembly without fixed seats</td>
<td>One (1) parking space per four (4) people in designed capacity of building, or one (1) parking space per one hundred (100) square feet in main auditorium or assembly area, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
</tr>
<tr>
<td>EE. Tourist homes, cabins, motels or hotels, excluding areas used for meeting rooms and places of assembly</td>
<td>One (1) parking space for each sleeping room or suite, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
</tr>
</tbody>
</table>
FF. Industrial establishments, including manufacturing, research, and testing laboratories

Two (2) parking spaces for each three (3) employees - the total number of parking spaces being the total number of employees on any two (2) consecutive shifts having the largest number of employees, based on design capacity, plus one (1) parking space for each company vehicle operating from the premises.

GG. Wholesale establishments, warehouses, and storage buildings

One (1) parking space for each employee, plus one (1) parking space for each company vehicle operating from the premises.

HH. All other uses not listed herein

Based on a study to be prepared by the owner or operator; number of spaces to be required determined according to:
(a) type of use and estimated number of total trips generated during peak conditions (inbound and outbound);
(b) estimated parking duration per vehicle trip (turn-over rates);
(c) based on estimated number of trips generated and average parking duration per trip, calculate number of spaces required;
(d) estimated number of employees - (one (1) parking space to be provided for each two (2) employees based on shift of maximum employment).
SECTION 11.3 ACCESS CONTROL REGULATIONS

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 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>Passenger Car</td>
<td>150</td>
<td>130</td>
<td>130</td>
<td>360</td>
<td>260</td>
</tr>
<tr>
<td>Truck</td>
<td>300</td>
<td>200</td>
<td>200</td>
<td>500</td>
<td>400</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 point has been able to accelerate to within ten (10) miles per hour of the route speed.

When the street, in the section to be used for acceleration after leaving the access point, ascends at three (3) percent to four (4) percent, then sight distances in the direction of approaching ascending traffic are to be increased by a factor of 1.4. When the access point ascends at five (5) percent to six (6) percent, sight distances should be increased by a factor of 1.7.

When the street, in the section to be used for acceleration after leaving the access point, descends at three (3) percent to four (4) percent, then sight distances in the direction of approaching descending traffic are to be reduced by a factor of 0.6. If the road descends at five (5) percent to six (6) percent, sight distances should be reduced by a factor of 0.5.

When the criteria for sight distances to the right cannot be met, the need can be eliminated by prohibiting left turns by exiting vehicles.
**TABLE 1B**

**LEFT TURN SIGHT DISTANCE FOR VEHICLES ENTERING ACCESS POINTS**

*see Figure 1B*

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>20 MPH Lane</th>
<th>30 MPH Lane</th>
<th>40 MPH Lane</th>
<th>50 MPH Lane</th>
<th>60 MPH Lane</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passenger Car</td>
<td>150</td>
<td>160</td>
<td>170</td>
<td>230</td>
<td>250</td>
</tr>
<tr>
<td>Truck</td>
<td>260</td>
<td>260</td>
<td>300</td>
<td>400</td>
<td>400</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 point has been able to accelerate to within ten (10) miles per hour of the route speed.

When the street, in the section to be used for acceleration after leaving the access point, ascends at three (3) percent to four (4) percent, then sight distances in the direction of approaching ascending traffic are to be increased by a factor of 1.4. When the access point ascends at five (5) percent to six (6) percent, sight distances should be increased by a factor of 1.7.

When the street, in the section to be used for acceleration after leaving the access point, descends at three (3) percent to four (4) percent, then sight distances in the direction of approaching descending traffic are to be reduced by a factor of 0.6. If the road descends at five (5) percent to six (6) percent, sight distances should be reduced by a factor of 0.5.

When the criteria for sight distances to the right cannot be met, the need can be eliminated by prohibiting left turns by exiting vehicles.
FIGURE 1A
SIGHT DISTANCE FOR VEHICLES EXITING FROM ACCESS POINTS
refer to Table 1A

FIGURE 1B
LEFT TURN SIGHT DISTANCE FOR VEHICLES ENTERING ACCESS POINTS
refer to Table 1B
ARTICLE XII

OFF-STREET LOADING AND/OR UNLOADING REGULATIONS

SECTION 12.0 GENERAL REQUIREMENTS

For all buildings and structures erected, altered, or extended, and all uses of land established as specified herein, after the effective date of this ordinance, off-street loading and/or unloading facilities shall be provided as required by the regulations herein. However, where a building permit has been issued prior to the date of the adoption of this ordinance, and provided that construction has not begun within ninety (90) days of such effective date, off-street loading and/or unloading facilities in the amounts required by this ordinance, shall prevail.

A. SPACES REQUIRED

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

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

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

2. If it is determined by the zoning administrator, based on existing conditions of the proposed site, the design of the building, and the completed needs study, that additional loading and/or unloading spaces
are needed to accommodate the facilities than could be reasonably provided, the zoning administrator shall require that additional parking areas, properly designed to handle the parking of necessary trucks, including the maneuvering of the trucks to and from the space, be provided for the storage of trucks waiting to be loaded and/or unloaded.

3. If, after approval by the zoning administrator of the number of spaces and any storage of truck parking needed to accommodate the loading and/or unloading of trucks for a specific use, a need exists, based on operation of the specific use, to provide additional off-street loading and/or unloading spaces or storage of trucks than was previously determined, the zoning administrator may require that corrective action be taken to eliminate any deficiencies as follows:

a. limit the time and interval of arrival and departure of trucks, commensurate with the need
b. require necessary additional loading and/or unloading spaces, or
require that adequate parking areas be provided for the storage of trucks waiting to be loaded and/or unloaded

B. ADDITIONAL LOADING AND/OR UNLOADING SPACES TO BE PROVIDED: Whenever the intensity of any use of a building, or premises is increased through addition of gross floor area, change of use, or increased activity, additional loading and/unloading spaces shall be provided in accordance with the requirements of Section 12.0, A., above, if it is determined by the zoning administrator that the existing spaces are not adequate to serve such increase in intensity.

C. LOCATION OF OFF-STREET LOADING AND/OR UNLOADING AREA: All loading and/or unloading spaces shall be located on the same lot as the use served. However, permitted uses located in industrial zones may provide parking areas for the storage of trucks waiting to be loaded and/or unloaded within three hundred (300) feet from each lot served, upon the approval of the zoning administrator, provided that said off-street storage of trucks are unable to be provided on the same lot, or contiguous to the same lot, as the use being served and further provided that said storage of trucks is located in the same zone as the use being served. Loading and/or unloading areas may be located in the side and minimum required rear yards, provided that all loading and/or unloading facilities shall be set back a minimum of ten (10) feet from the rear lot line and minimum side yard clearances are maintained.

D. DRIVEWAYS NOT COMPUTED AS PART OF REQUIRED LOADING AND/OR UNLOADING AREA: Entrances, exits, or driveways shall not be computed as
E. OFF-STREET LOADING AND/OR UNLOADING SPACE TO BE USED FOR LOADING AND/OR UNLOADING ONLY: Any loading and/or unloading space shall be used for loading and/or unloading only. Any other use of such space, including repair work or servicing of any kind, other than in an emergency, or the requirement of any payment for the use of such space, shall be in violation of the provisions of this ordinance.

F. NO BUILDING TO BE ERECTED IN OFF-STREET LOADING AND/OR UNLOADING SPACE: No building of any kind shall be erected in any off-street loading and/or unloading space.

G. OFF-STREET LOADING AND/OR UNLOADING SPACE SHALL NOT BE REDUCED: The required parking spaces, as set forth and designated in this ordinance, shall not be reduced, except as provided for in this ordinance.

H. LOADING AND/OR UNLOADING PLAN APPROVAL REQUIRED: Plans for all loading and/or unloading facilities shall be submitted to the zoning administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the legislative body. Such plans shall show the number and location of loading and/or unloading spaces, including necessary maneuvering of trucks, and dock and apron approach, and arrangements of access aisles, location of access points onto adjacent streets, provisions for truck circulation, location of curbs on or adjacent to the property, utilities, location of signs, typical cross-sections of pavement, including base and subbase, proposed grade of lot, storm drainage facilities, location and type of lighting facilities, and such other information or plans as the circumstances may warrant. Where such loading and/or unloading plans include provisions for access points to adjacent streets, then said plans shall also be prepared in accordance with the requirements of Section 11.2.

SECTION 12.1 DESIGN AND LAYOUT OF OFF-STREET LOADING AND/OR UNLOADING AREAS

A. SIZE OF OFF-STREET LOADING AND/OR UNLOADING SPACE: Each off-street loading and/or unloading space shall be at least fourteen (14) feet in width and at least sixty (60) feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least fifteen (15) feet, provided, however, that when it is demonstrated that a particular loading and/or unloading space will be used by shorter trucks, as provided for in Section 12.0, A., the zoning administrator may reduce the minimum length to not less than thirty-five (35) feet.
B. ACCESS: Each required off-street loading and/or unloading space shall be designed with direct access, via an approved access drive, to a deeded right-of-way which offers efficient ingress, egress, and safety for trucks. Access drives or aisles shall be laid out with a width of at least twelve (12) feet for one-way circulation and at least twenty-two (22) feet for two-way circulation, with intersection radii not to be less than fifty (50) feet.

Off-street loading and/or unloading space shall be so designed and constructed so that all maneuvering for loading and/or unloading can take place entirely within the property lines of the premises being served. Such off-street loading and/or unloading space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk or street.

C. OTHER DESIGN FEATURES: Docks are to be designed to facilitate efficient loading and/or unloading. Platform heights should be forty-four (44) inches for light pickup and delivery trucks and forty-eight (48) to fifty-two (52) inches for heavy trucks and trailers. The dock area should be at least twice the total body floor area of the largest number of trucks that can be docked at one time. Minimum dock overhead clearance (including pipes, lights, etc.) should be twelve (12) feet.

D. PAVING OF OFF-STREET LOADING AND/OR UNLOADING AREAS: All off-street loading and/or unloading areas, including spaces, maneuvering, and storage areas for truck parking shall be paved with asphalt concrete or portland cement concrete and shall be designed and constructed in accordance with Appendix A.

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

F. SCREENING AND LANDSCAPING: All loading and/or unloading areas, including storage of parked trucks, shall be effectively screened on each side adjoining or fronting on any property situated in a residential zone, as regulated by Section 9.17 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

G. All off-street loading and/or unloading areas, including spaces, access drives, maneuvering, and storage areas for truck parking facilities serving industrial and commercial uses which are unpaved, in accordance with the requirements of this ordinance and having access to an unimproved public street, shall be required to be paved, in accordance with the requirements of this ordinance, within one (1)
year after adoption of this ordinance.
ARTICLE XIII

FENCES, WALLS, AND OBSTRUCTION TO VIEW REGULATIONS

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

SECTION 13.1 CLASSIFICATION OF FENCES AND WALLS

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

1. Masonry walls
2. Ornamental iron (eighty (80) percent open)
3. Woven wire (eighty (80) percent open); and chain link
4. Wood or other materials (more than fifty (50) percent open)
5. Solid fences, wood or other materials (less than fifty (50) percent open)
6. Hedges
7. Barbed wire or sharp pointed fences
8. Earthen or concrete walls intended to contain or redirect flooding waters

SECTION 13.2 CONSERVATION AND AGRICULTURAL ZONES

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

1. Except as provided for in Section 13.0, class 2 or 3 fences may be erected in front yards up to a maximum height of ninety-six (96) inches.
2. Side and rear yard, class 1, 2, 3, 4, 5, 6, or 7 fences and/or walls may be erected up to a maximum height of ninety-six (96) inches.
3. Class 8 walls shall be permitted but shall conform to requirements of the Corps of Engineers and/or city engineer, whichever is applicable.

SECTION 13.3 RESIDENTIAL ZONES

A. Fences and/or walls within all residential (R) zones, including their applicable overlay zone, shall conform to the following requirements:
Article XIII   Fences, Walls, And Obstruction To View Regulations 13-2

1. The requirements for the Residential (R) Zones for residential uses only, are as set forth and depicted on Figure 1 of this ordinance.

2. For all non-residential uses conditionally permitted in any residential zone herein, the requirements are as follows:
   a. Fences of class 2 or 3 only shall be permitted in front yards, including the front yard of corner lots, as governed by Section 13.0. Said fences may be erected up to a maximum height of seventy-two (72) inches.
   b. Classes 1, 2, 3, 4, 5, or 6 fences and/or walls may be erected in side or rear yards up to a maximum height of seventy-two (72) inches, provided, however, for the following exceptions:
      (1) General purpose recreational areas may be enclosed with fences or walls of Class 1, 2, 3, 4, 6, or 7, up to a maximum height of ninety-six (96) inches.
      (2) Class 3 fences (or a combination of 3 and 7) may be erected to enclose tennis courts or as backstops for baseball and/or softball fields, up to a maximum height of one hundred forty-four (144) inches.
      (3) In the case of corner lots, as governed by Section 13.0, fences of class 2 or 3 only may be erected, as regulated by the applicable provisions of this section.

SECTION 13.4   COMMERCIAL AND INDUSTRIAL ZONES: Fences and/or walls within all commercial and industrial zones, including those permitted with all conditionally permitted uses in this zone shall conform to the following requirements:

A. Except as provided for in Section 13.0, fences of classes 1, 2, 3, 4, 5, or 6 may be erected in side and rear yards of commercial zones, up to a maximum height of seventy-two (72) inches. In the case of corner lots, as governed by Section 13.0, fences of class 2 or 3 only, may be erected up to a maximum height of seventy-two (72) inches. In minimum front yards, fences of classes 1, 2, 3, 4, 5, or 6 may be erected up to a maximum height of forty-eight (48) inches (except as noted in Section 13.0).

B. Except as noted in Section 13.0, fences of classes 1, 2, 3, 4, 5, or 6 may be erected up to a maximum height of eighty-four (84) inches in all industrial zones in side and rear yards and not more than forty-eight (48) inches in height in the minimum front yard depth. Except for the IP Zone, classes 2 or 3 fences may be erected up to a maximum height of seventy-two (72) inches in the minimum front yard depth in all industrial zones.
SECTION 13.5    MEASUREMENT OF ALL FENCE AND/OR WALL HEIGHTS AND/OR LOCATIONS

A. All fences and/or wall heights shall be measured along the fence or wall locations.

B. All locations for distance measurements shall be measured from lot lines.

SECTION 13.6    HEIGHT OF ANY BARBED WIRE OR SHARP POINTED FENCES: In all zones, barbed wire or sharp pointed fences, where permitted, must start a minimum of sixty (60) inches above ground level, except that said fences may be located in areas used for agricultural purposes without any restrictions to height.

SECTION 13.7    HEIGHT OF FENCES ATOP RETAINING WALLS: A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to the level of the higher finished grade. The fence portion must be of the class and height permitted within this ordinance for the applicable zone. Said measurement shall be made at and along the location of the fence and retaining wall.

SECTION 13.8    ELECTRIFIED FENCES: No fence carrying an electrical charge shall be permitted in any zone.

SECTION 13.9    PERMIT REQUIRED FOR ERECTION OF FENCES: No fence shall be erected, except as exempted or specified within this ordinance, until all required fees have been paid to the proper authorities, or their agents, and the necessary permits have been issued for such by the zoning administrator and the building inspector, in accordance with Sections 16.1 and 16.2 of this ordinance.

SECTION 13.10   STRUCTURAL ELEMENTS OF FENCES: Fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side which faces the property owned by the person building the fence.

SECTION 13.11   SPECIAL DEVELOPMENT ZONES: The location, height, and type of all fences and/or walls within any area zoned PUD, RCD, MHP, CPUD, MLU or MBLU shall be as approved by the planning commission.
Article XIII  Fences, Walls, And Obstruction To View Regulations

Figure 1

HEIGHT
RESTRICTIONS
CLASS  MAX. HEIGHT
1      4 feet
2      6 feet
3      8 feet
4      10 feet
5      12 feet
6      14 feet
Any height

All Johns Fences Shall Have Access On One Side. Minimum Gate height Forty-Two (42") Indus

TYPE AND CLASS
OF FENCES AND WALLS
PERMITTED WITHIN THIS ORDINANCE

<table>
<thead>
<tr>
<th>TYPE</th>
<th>CLASS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>No Fences Permitted</td>
</tr>
<tr>
<td>B</td>
<td>1, 2, 3, 4, 5, or 6</td>
</tr>
</tbody>
</table>
ARTICLE XIV

SIGN REGULATIONS

SECTION 14.1  SHORT TITLE: This Article shall be known as the Sign Article of Fort Mitchell

SECTION 14.2  PURPOSE AND INTERESTS SERVED

A. The purpose of this Article is to establish a comprehensive scheme for the regulation of signs within the jurisdiction of the City of Fort Mitchell. These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts.

As a basis for adopting these regulations, the City of Fort Mitchell finds:

1. Signs are an essential form of communication in the built environment, providing way-finding guides to residents, visitors, public safety officials, customers and potential customers of local businesses, delivery people and others.

2. Signs also provide communication on public issues, as the U.S. Supreme Court found in City of LaDue v. Gilleo: Signs that react to a local happening or express a view on a controversial issue both reflect and animate change in the life of a community. Often placed on lawns or in windows, residential signs play an important part in political campaigns, during which they are displayed to signal the resident's support for particular candidates, parties, or causes. They may not afford the same opportunities for conveying complex ideas as do other media, but residential signs have long been an important and distinct medium of expression.

3. Retailers and other businesses depend on signs to help people find their businesses, and, in a large and expensive media market like that of Cincinnati (a market which includes Fort Mitchell), many small businesses depend on signs as one of the most affordable forms of advertising.

4. Although signs thus serve many important purposes in society in general and in Fort Mitchell in particular, there are other considerations that the City of Fort Mitchell weighs heavily.
5. Signs may distract drivers and lead to deaths and injuries to pedestrians and cyclists as well as to drivers and passengers and to property damage. Moving, flashing and rapidly changing signs are particularly distracting to drivers. A proliferation of signs on a particular site can have the same effect as moving signs, as drivers try to sort through the visual cacophony to find the information that they want or need.

6. The Fort Mitchell City Council, with the advice of the Kenton County Planning Commission and its professional staff, and with input from residents through the Direction 2030: Your Voice. Your Choice. planning process, has placed an increasing emphasis on preserving the sense of place and the design of the built environment; limiting the size, height and number of signs is an important tool in preserving a sense of place, a tool that accompanies the County’s standards for landscaping.

7. Direction 2030: Your Voice. Your Choice. recommends that policies, regulations and incentives be developed and implemented that preserve and improve the existing community fabric.

8. Balancing these competing considerations is particularly difficult in residential areas, where people value both their pleasing and visually appealing environments and their ability to communicate their opinions regarding candidates and public issues through yard signs.

9. In updating its ordinance in 2016 after the Supreme Court’s landmark decision in Reed v. Town of Gilbert, the Fort Mitchell City Council, working with PDS staff and an outside consultant, has made a major effort to limit content as a factor in its sign regulations. After due consideration, however, it has concluded that one way to leave room for extensive free expression through signs in residential areas while limiting total sign clutter is to maintain significant limits on commercial signs in residential areas. Recognizing the importance of “for sale” and “for lease” signs in maintaining the occupancy of healthy neighborhoods (see the U.S. Supreme Court decision in Linmark Associates, Inc. v. Willingboro), those signs must remain. There is a similar utility in providing for yard sale signs, which allow people to dispose of unwanted items without sending them to a landfill.

10. Although as the Court found in Reed v. Gilbert, time limits on signs can be arbitrary, as the Court recognized in 2009 in Pleasant Grove v. City of Summum, a significant distinction between speakers expressing an opinion and signs is that “Speakers, however long-winded, will eventually come to the end of their remarks.” Members of the Fort Mitchell City Council have long noted that signs for political campaigns as well as those advertising pancake breakfasts and spaghetti dinners for civic organizations are often abandoned after the events, contributing to clutter long after they have served their purpose. Although such signs were once typically paper or cardboard that would eventually decay, many today are plastic and will remain until removed. Thus, despite the expressed
concern of the Supreme Court with time limits, the Fort Mitchell City Council finds that it has a substantial governmental interest in clarifying the status of signs for past events that thus no longer serve a purpose so that there is a legal basis for the City of Fort Mitchell to remove them or force their removal.

11. The City of Fort Mitchell has long allowed unlimited numbers of small signs bearing non-commercial messages to allow merchants and others to designate handicapped parking places, provide directions to ATMs and restrooms, warn of guard dogs and other hazards and provide a variety of other place-based information. With the prohibition of commercial messages on such signs, it has been the observation of the Fort Mitchell City Council members and their professional staff members that property owners are judicious and appropriate in posting such signs. The City of Fort Mitchell thus finds that it has a substantial interest in allowing merchants and property owners freely to post necessary informational signs but without allowing an endless proliferation of commercial messages.

12. Although in findings above the City of Fort Mitchell has recognized the multiple values of signs in the built environment, Fort Mitchell officials after consultation with the Planning Commission and representatives of cities and towns in the County concluded several years ago that there is no place for signs of overwhelming size and no relation to context in an urban and urbanizing environment like Fort Mitchell. Although previous versions of these regulations followed the pattern of state and federal laws by defining such billboard as “off-site” signs, this ordinance addresses the same issue by establishing a form of circuit breaker size limit, prohibiting very large signs on small lots, on vacant lots, or on lots with only small buildings.

13. These are complex public policy issues, and the Fort Mitchell City Council with the help of its professional planners, attorneys and outside consultant, has attempted to balance the competing considerations in a way that it believes best protects the public health, safety and welfare of the citizens of Fort Mitchell, including its many valued businesses and the tens of thousands of visitors who arrive or pass through the City of Fort Mitchell each month.

SECTION 14.3 TEMPORARY SIGNS

A. One temporary sign per tenant space, including banners, will be permitted on each site 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. If the message relates to an event, such sign shall be removed within seven (7) days following the conclusion of the event;
7. Such a sign may bear any commercial or noncommercial message;

SECTION 14.4  SCOPE, AUTHORITY AND APPLICABILITY

A. SCOPE: This Article is adopted pursuant to KRS 100.

B. AUTHORITY: This Article regulates signs, as defined herein, when mounted, located, or displayed on property located within the incorporated limits of the City of Fort Mitchell, on land that is either private land or public land over which the City of Fort Mitchell 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 Fort Mitchell, except as otherwise provided herein. All signs displayed in the City of Fort Mitchell shall comply with all requirements of this Article and all other applicable law. Permits shall be required for all signs in the City of Fort Mitchell, 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 Fort Mitchell, except in conformity with these regulations. New signs, additional signs, relocations or structural alterations of existing signs also require sign permits.

D. COMPLIANCE REQUIRED: It shall be unlawful and a violation of this Article for any person to fasten, place, paint, or attach in any way: any sign, handbill, poster, advertisement, or notice of any kind, or cause the same to be done in or upon any curb-stone, lamp post, utility pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest room, bus stop kiosk or shed, station building, tree, or in or upon any portion of any public sidewalk, street, or sign, except as specifically allowed within this Article.

E. EXEMPTIONS: The following signs or sign elements are exempt from the provisions of this Article but are subject to any other applicable laws and regulations:
1. Any sign installed in a building or enclosed space and not legible from the public right-of-way or from private or public property other than the property on which it is located;
2. Any sign with a sign area of less than four square feet in area and less than four feet in height (if freestanding), that is not separately illuminated and that is not legible from the public right-of-way or from private or public property other than the property on which it is located;
3. Signs on mass transit vehicles operating in or passing through the City of Fort Mitchell; 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 parking lot or parking area 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 installed for a governmental purpose by employees or officials of the City of Fort Mitchell, Kenton County, a state or federal agency during their governmental duties;
3. Signs required by a state or federal statute;
4. Signs required by an order of a court of competent jurisdiction;
5. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the use and/or provide contact information regarding the facility; and
6. Signs installed by a transit company with a franchise or other right to operate in the City of Fort Mitchell, where such signs are installed along its routes and relate to schedules or other information about the transit route.
Article XIV  Sign Regulations

G. **SIGN REGULATIONS 14-6**

Fort Mitchell Zoning Ordinance January 2018 PDS

**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 identifying the address of any building shall not be counted toward allowed sign area;
2. Detached signs smaller than four square feet in area and less than four feet in height, of which not more than 25 percent may be used for a commercial message; (e.g., “Enter” or “Exit” signs);
3. Detached signs smaller than seven square feet, allowed in residential, conservation and agricultural zoning districts;
4. Temporary signs not greater than twelve (12) square feet, allowed in non-residential zones;
5. Wall signs containing no commercial message and not larger than four square feet in area;
6. Cultural decorations or displays of noncommercial nature, mounted on private residential property, which pertain to cultural observances;
7. Cornerstones, foundation stones and memorial signs or tablets, when cut into any masonry surface or inlaid 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, that are integrated into the architecture of a building;
9. Gravestones when erected in a lawful cemetery or graveyard; and
10. Graphic images which are visible only from aircraft flying above.

**H. OTHER ACTIONS ALLOWED WITHOUT A PERMIT:** The following signs and actions related to signs shall be exempt from the permit requirements of this Article but shall be subject to all other standards of this Article.

1. Changing the face, advertising copy or message on an existing sign. Changing from a static sign to a changeable copy sign (automatic or
manual) is not allowed without a permit. Changeable copy signs are only permitted within the zone where they are being located, and the copy on an electronic message board shall not change more frequently than allowed under Section 14.6, D.;

2. Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural alterations;

3. Installation of permanent signs smaller than four square feet where such signs are allowed by this Article and involve no electrical installation; and

4. Installation of temporary signs not larger than four square feet, where such signs are allowed by this Article and conform with this Article in all respects.

I. PRODUCT DISPLAYS, SALES DEVICES, MENU BOARDS

1. Nothing in this Article shall prohibit or limit the outdoor display of products where allowed under the zoning ordinance, although a particular product may be a thing which would be prohibited by this Article if used as a sign and although one or more such products may have on them permanent labels that might otherwise fall under this Article. This Article shall, however, apply to any sign, banner, pennant, or other attention-attracting device affixed to a product displayed outdoors. For example, the label “Chevrolet” on an automobile or “John Deere” on a tractor shall not be considered a sign for purposes of this Article, but a separate sign attached to such a product shall be considered a sign and subject to regulation.

2. Signs on gasoline pumps, vending machines, news racks and similar machines and devices used for the sale or dispensing of products shall be allowed without a sign permit if they do not flash and if they are either not legible from any public right-of-way, public property or private property other than the site on which the sign is located; or they consist entirely of letters, numerals or symbols that are less than four inches in height. All other signs on vending machines, gas pumps, news racks and similar machines and devices shall be considered “signs” and shall be subject to all of the regulations of this Article.

3. In districts where drive-through and drive-up facilities are allowed, menu boards or other instructional or informational devices related to the drive-through or drive-up facilities shall be allowed without a sign permit, provided that such device is less than 12 square feet in size, and that the only words, numerals, symbols or pictures on such device that are legible from any location other than the site on which it is located shall include no commercial message but shall simply identify the device as a “menu,” “directory,” “instructions,” “information” or something similar, or a logo that is no larger than one foot in any dimension. In such districts, directional information and logos installed on drive-through canopies are also permitted and are not considered signs.
SECTION 14.5   PROHIBITED SIGN TYPES

A. Unless specifically authorized by another section of this Article, or by other law, the following sign types are prohibited always and in all zones.

1. New billboards;
2. Any freestanding sign of which the area exceeds 10 percent of the area of the site or parcel on which it is located; or two percent of the lawful, as-built floor area of the principal building on the site; note that this is intended as a circuit-breaker and that all signs are subject to other size and dimensional requirements in this ordinance;
3. Portable signs, including folding portable signs and flashing portable signs;
4. Pennants, streamers, balloons, and similar devices;
5. Animated, projecting, revolving, and moving signs, including those which create the appearance of animation, projection, revolving or other movement, or utilize flashing or intermittent lights, or lights of changing degrees of intensity; automatic changeable copy signs that conform with Section 14.6, D., are not subject to this limitation;
6. Signs which are not traffic, control or safety signals, but by their shape, color, or manner of mounting or display, appear to be traffic, control or safety signals, and thus create confusion for drivers and pedestrians, as well as signs which create or constitute traffic hazards;
7. Signs on vacant lots in non-residential zones larger than 12 square feet in area;
8. Signs for which a separate structure is mounted on a roof or parapet; this provision does not prevent signs which are integral to the building;
9. Signs using sounds, music, sound effects, noises, or other sound or noise-making or transmitting device or instruments.

SECTION 14.6   INSTALLATION, DESIGN AND CONSTRUCTION STANDARDS

A. LOCATION

1. No sign shall be located closer than five feet to any property line.
2. No sign shall be located so that it obstructs access to or from a doorway, fire escape or required escape window.
3. No sign shall be located so that it blocks the free air flow through windows in residential units.
4. No sign located within a clear sight triangle shall obstruct the vision of motorists or pedestrians between a height of 30 inches and 108 inches off the ground.

5. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

6. No sign shall be located within eight vertical feet or four horizontal feet of overhead electrical or other wires.

B. NO PROJECTIONS OVER STREETS OR ALLEYS: Projecting signs are allowed in some zoning districts. No sign shall project over a public right-of-way unless the sign owner has obtained an encroachment permit for such sign. No sign shall project over any portion of a right-of-way used as a street, alley or other way for vehicular travel; encroachment permits are limited to allowing projecting signs to extend over sidewalks.

C. SIGN MAINTENANCE

1. The property owner shall be liable to maintain such sign, including its illumination sources, in neat and orderly condition and good working order at all times and to prevent the development of any deterioration in the safety of such sign. The property owner may assign such responsibility to a tenant or other party, but the property owner shall remain accountable for the maintenance.

2. Nothing in this Article shall prohibit the routine maintenance of any nonconforming sign or the changing of the copy or content of any nonconforming sign, except where such maintenance or change in copy would increase the degree of its nonconformity.

D. FLASHING SIGNS, MOVING SIGNS, AND CHANGEABLE COPY SIGNS

1. General Rule: Signs that move, flash or simulate movement are prohibited except as allowed under this section. A changeable copy sign is considered a different classification of sign under this Article; conversion of an existing sign to a changeable copy sign or to add changeable copy elements to it is allowed only if the modified sign will conform with all standards in this Section and with all other applicable standards related to the location, height, size and other characteristics of the sign.

2. Rules for Changeable Copy Signs Allowed under this Article: Automatic changeable copy signs shall be allowed only in those districts in which “changeable copy sign, automatic” is listed as a permitted sign type and shall be subject to the following additional restrictions:

   a. Such technology shall be programmed so that the message or image on the sign changes no more often than every eight seconds.
b. There shall be no effects of movement, flashing, scintillation, or similar effects in the individual images.

c. Changes of image shall be substantially instantaneous as seen by the human eye and shall not use fading, rolling, window shading, dissolving or similar effects as part of the change.

d. Video technology in signs shall use automatic level controls to reduce light levels at night and under cloudy or other darkened conditions, in accordance with the following standards.

(1) All electronic or digital display unit message boards shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the electronic board based on ambient light conditions.

(2) Maximum brightness levels for electronic or digital display boards shall not exceed 5,000 nits when measured from the billboard’s face at its maximum brightness, during daylight hours and 500 nits when measured from the board face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset.

e. Any sign using electronic or electro-mechanical technology for changeable copy message boards, which malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing therein motion, movement, flashing or any other similar effects, shall be repaired or disconnected within 48 hours by the owner or operator of such billboard.

f. The area of a sign consisting of electronic or electro-mechanical message board elements shall not constitute more than 100 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 Fort Mitchell or other jurisdiction's residential zoning districts, although this restriction shall not apply to mixed use districts and commercial districts allowing residential uses.

(2) A sign on which the electronic or electro-mechanical message board includes 20 or more square feet of sign area but less than 100 square feet of sign area shall not be erected within 200 feet of property falling in one of the City of Fort Mitchell or other jurisdiction’s residential zoning districts,
Article XIV  Sign Regulations 14-11

although this restriction shall not apply to mixed use districts and commercial districts allowing residential use.

(3) A sign on which the electronic or electro-mechanical message board includes less than 20 square feet of sign area shall not be erected within 100 feet of property zoned and used exclusively for single family uses; it is the express intent of this provision to allow the use of such technology on signs for institutional uses located in residential districts, provided that the required separation is maintained between the sign and any property zoned and exclusively used for a single-family use.

SECTION 14.7 SIGNS ALLOWED IN CONSERVATION, AGRICULTURAL AND RURAL DISTRICTS (CO and R-RE Zones)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be illuminated.

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

B. DETACHED SIGNS

1. Each lot shall be allowed a total of four detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of four detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the sale of agricultural products, the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

2. Signs related to the sale of personal property (not including agricultural products) shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.
C. TEMPORARY SUBDIVISION SIGNS

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

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

D. PERMANENT ENTRANCE SIGNS

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

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed fifty (50) square feet in area. This may include changeable copy
Article XIV  Sign Regulations

signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

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

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
<th></th>
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</thead>
<tbody>
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<td>Maximum size</td>
<td>One and one-half (1-1/2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</td>
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F. OTHER SIGNS

1. Other signs as permitted pursuant to Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

SECTION 14.8 SIGNS ALLOWED IN SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICTS (R-1C, R-1D, R-1E, R-1F, and R-1G Zones)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be separately illuminated.

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

1. Each occupied lot in a residential district shall be allowed a total of eight detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of eight detached signs at any time), each not exceeding thirty-two (32) 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 seventy-two hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, such sign shall be removed within seven (7) days following the conclusion of such election or other event.

C. TEMPORARY SUBDIVISION SIGNS

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

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

D. PERMANENT ENTRANCE SIGNS

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

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed fifty (50) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

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

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
</tr>
<tr>
<td>Maximum number</td>
</tr>
<tr>
<td>Permitted illumination</td>
</tr>
<tr>
<td>Changeable copy</td>
</tr>
<tr>
<td>Maximum Letter Size</td>
</tr>
</tbody>
</table>
F. OTHER SIGNS

1. Other signs as permitted pursuant to Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

SECTION 14.9 SIGNS ALLOWED IN MULTI-FAMILY RESIDENTIAL DISTRICTS (R-2 and R-3a Zones)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be separately illuminated.

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

3. For any building containing three or more dwelling units sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance. Such sign shall bear no commercial message. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message.

B. DETACHED SIGNS

1. Permanent detached signs are allowed in these zoning districts subject to the following limitations. The principal detached sign may contain a commercial message related to the rental, lease or occupancy of the premises. No other commercial message is allowed on the permanent signs allowed under this table.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Directory</th>
<th>Additional</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage per site</td>
<td>One per vehicle entrance</td>
<td>One per public entrance per building</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
<td>Six square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>6 feet</td>
<td>4 feet</td>
<td>4 feet</td>
</tr>
</tbody>
</table>
Article XIV  Sign Regulations 14-17

<table>
<thead>
<tr>
<th>Minimum setback from nearest property line</th>
<th>5 feet from front property line; 10 feet from any other property line</th>
<th>15 feet</th>
<th>25 feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted illumination</td>
<td>External or internal, direct or concealed source</td>
<td>Concealed source only</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

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

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

C. TEMPORARY SUBDIVISION SIGNS

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

   a. Installation of a permanent neighborhood identification sign;
b. Sale of more than ninety percent (90%) of the lots in the subdivision; or

c. A period of two (2) years from the date of installation.

D. PERMANENT ENTRANCE SIGNS

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

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed fifty (50) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

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

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.
**Wall**

<table>
<thead>
<tr>
<th>Maximum size</th>
<th>One and one-half (1-1/2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Maximum Letter Size</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

### F. OTHER SIGNS

1. Other signs as permitted pursuant to Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.

**SECTION 14.10 SIGNS ALLOWED IN OFFICE DISTRICTS (PO and PO-1 Zones)**

**A. WINDOWS AND WALL SIGNS**

1. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th><strong>Window</strong></th>
<th><strong>Wall</strong></th>
<th><strong>Total</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
<td>One and one-half (1-1/2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Area limit only</td>
<td>One per building street frontage</td>
<td>N/A</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>No separate illumination</td>
<td>Indirect white light</td>
<td>N/A</td>
</tr>
<tr>
<td>Maximum letter size</td>
<td>N/A</td>
<td>Thirty-six (36) inches</td>
<td>N/A</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
</tbody>
</table>
For any building containing three or more offices or other tenants sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance. Such sign shall bear no commercial message related to activities, goods or services not offered on the premises. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message related to commercial activities not conducted on the premises.

B. DETACHED SIGNS

1. Permanent detached signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Directory</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum number</strong></td>
<td>One per street</td>
<td>One per vehicle</td>
<td>One per public</td>
</tr>
<tr>
<td>frontage per site</td>
<td></td>
<td>entrance</td>
<td>entrance</td>
</tr>
<tr>
<td><strong>Maximum size</strong></td>
<td>60 square feet</td>
<td>Six square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td><strong>Maximum height</strong></td>
<td>Pole: 20 feet</td>
<td>4 feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Ground: 10 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Minimum setback from nearest property line</strong></td>
<td>5 feet from front property line; 10 feet from any other property line</td>
<td>15 feet</td>
<td>25 feet</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, direct or concealed source</td>
<td>Concealed source only</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 50 percent of sign face</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

C. DIRECTORY (WALL) SIGNS

1. One directory sign on a wall, not exceeding six square feet in area, is allowed per public entrance for a nonresidential building. Such sign shall not be legible from the public right-of-way and shall be illuminated by direct white light only.
D. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed fifty (50) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

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

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
<th>Maximum size</th>
<th>Maximum number</th>
<th>Permitted illumination</th>
<th>Changeable copy</th>
<th>Maximum Letter Size</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>One and one-half (1-1/2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</td>
<td>One per building street frontage</td>
<td>Concealed source only</td>
<td>Not allowed</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

E. OTHER SIGNS

1. Other signs as permitted pursuant to Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.
SECTION 14.11 SIGNS ALLOWED IN GENERAL BUSINESS AND COMMERCIAL DISTRICTS

A. WINDOW AND WALL SIGNS

1. NC Zoning District
   a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
<td>One and one-half (1-1/2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Area limit only</td>
<td>One per building street frontage</td>
<td>N/A</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>No separate illumination</td>
<td>Illumination from a concealed source only</td>
<td>N/A</td>
</tr>
<tr>
<td>Maximum letter size</td>
<td>N/A</td>
<td>Thirty-six (36) inches</td>
<td>N/A</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
</tbody>
</table>

2. LHS and LSC 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.
3. **SC Zoning District**

   a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th><strong>Window</strong></th>
<th><strong>Wall</strong></th>
<th><strong>Total</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum size</strong></td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
<td>One and one-half (1-1/2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td><strong>Maximum number</strong></td>
<td>Area limit only</td>
<td>One per building street frontage</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Permitted illumination</strong></td>
<td>External or internal, concealed or direct source</td>
<td>External or internal, concealed or direct source</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Maximum letter size</strong></td>
<td>N/A</td>
<td>Thirty-six (36) inches</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Changeable copy</strong></td>
<td>Not allowed</td>
<td>Automatic allowed; may cover up to 50 percent of area of sign face</td>
<td>N/A</td>
</tr>
</tbody>
</table>
B. POLE OR GROUND SIGNS

1. NC Zoning District
   a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations:

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
<td>One per vehicle entrance</td>
</tr>
<tr>
<td>Maximum size</td>
<td>60 square feet</td>
<td>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>0 feet</td>
<td>0 feet</td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>Five feet from any other property line; 50 feet from nearest single-family residential district</td>
<td>Five feet from any other property line; 15 feet from nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 50 percent of sign face allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

2. LHS and LSC Zoning Districts
   a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations:

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
<td>One per vehicle entrance</td>
</tr>
<tr>
<td>Maximum size</td>
<td>60 square feet</td>
<td>Four square feet</td>
</tr>
</tbody>
</table>
### Article XIV  Sign Regulations

<table>
<thead>
<tr>
<th></th>
<th>Maximum height</th>
<th>Minimum setback from nearest right-of-way</th>
<th>Minimum setback, other</th>
<th>Permitted illumination</th>
<th>Changeable copy</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>20 feet</td>
<td>5 feet</td>
<td>Five feet from any other property line; 50 feet from nearest single-family residential district</td>
<td>External or internal, exposed or concealed source</td>
<td>Automatic and manual allowed; may cover up to 50 percent of sign face allowed</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Five feet from any other property line; 15 feet from nearest single-family residential district</td>
<td>Concealed source only</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

### SC Zoning District

a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
<td>One per vehicle entrance</td>
</tr>
<tr>
<td>Maximum size</td>
<td>Two square feet per 1000 square feet of gross leasable area, not to exceed 300 square feet per sign</td>
<td>Eight square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>30 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest right-of-way</td>
<td>15 feet</td>
<td>5 feet</td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>20 feet from any other property line; 50 feet from nearest single-family residential district</td>
<td>Five feet from any other property line; 15 feet from nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, exposed or concealed source</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 50 percent of sign face allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>
C. DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. LHS Zoning District:
   a. To improve wayfinding on multi-user sites, the following detached signs are allowed in addition to those allowed under subsection B. of this Section. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each ten separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

2. SC Zoning District:
   a. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in height shall be allowed for each ten separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

D. WALL SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. For any building containing three or more uses of any type sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance providing access to such uses. Such sign shall bear no commercial message related to activities, goods or services not offered on the premises. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message not related to commercial activities on the premises.
E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed fifty (50) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated.

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

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
</tr>
<tr>
<td>Maximum number</td>
</tr>
<tr>
<td>Permitted illumination</td>
</tr>
<tr>
<td>Changeable copy</td>
</tr>
<tr>
<td>Maximum Letter Size</td>
</tr>
</tbody>
</table>

F. OTHER SIGNS

1. Other signs as permitted pursuant to Section 14.4, F., Signs Subject to Other Standards, and Section 14.4, G., Signs Allowed Without a Permit.
SECTION 14.12 MASTER SIGNAGE PLANS

A. PURPOSE AND INTENT

1. It is the purpose of the City of Fort Mitchell 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 Fort Mitchell 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 Fort Mitchell 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 Fort Mitchell 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 Fort Mitchell, that, to the extent that it can guide the scope of review of a court considering an appeal, a court considering an appeal under this Section reverses or remands the decision of the Zoning Administrator only if it finds that such action is arbitrary and capricious.

B. APPLICABILITY

1. The owner of any site that includes more than one tenant or occupant shall apply for approval of a Master Signage Plan before applying for a sign permit for any detached sign.

C. PROCEDURE

1. The submittal of a Master Signage Plan shall be considered a Stage II Development Plan.

2. The owner(s) shall apply to the planning commission’s duly authorized representative.

3. Where an application for approval of a Master Signage Plan is submitted simultaneously or as part of another Stage II Development Plan, the two shall be processed together. Where an application includes properties not under common ownership, all property owners shall sign the application or shall submit documents granting the applicant the authority to process such an application.

4. The planning commission’s duly authorized representative shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of this Section, for Master Signage Plans, other applicable elements of this Article, and other applicable regulations, and its conformity with any approved Stage I Development Plan for the
property. In approving the Master Signage Plan, the planning commission’s duly authorized representative may authorize minor adjustments from the Stage I Development Plan.

5. If a Master Signage Plan application is denied, the applicant may submit a new application with a revised plan at any time.

6. Any person aggrieved by the action of the planning commission’s duly authorized representative on a Master Signage Plan may appeal the decision by filing an application with the Planning Commission.

D. APPLICATION CONTENTS

1. The application for approval of a Master Signage Plan shall contain at least the following information. Where the application is submitted simultaneously with an application for a Stage II Development Plan approval, the Master Signage Plan may refer to portions of the Stage II Development Plan application or approved Stage I Development Plan for related requirements:

   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 1/2” = 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 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 typefaces;

(4) If the design schemes for the wall signs and freestanding signs are different, they shall have in common at least two of the following criteria: lighting design; color schemes; materials; proportion; and

(5) The design scheme for freestanding signs shall use building materials, colors and, where applicable, architectural design features consistent with the materials, colors and architectural design features of the principal building on the site.

H. EFFECT

1. After approval of a Master Signage Plan, no permit shall be issued for a sign on the site(s) subject to the Master Signage Plan except in accordance with such plan, and no sign shall be erected, placed, painted, or maintained, except in accordance with such plan, and such plan may be enforced in the same way as any provision of this Article. In case of any conflict between a provision of a Master Signage Plan and one or more provisions of this Article, this Article shall prevail.

I. SPECIAL SEVERABILITY PROVISIONS

1. The severability provisions of Section 14.18, A., 11., are limited by this subsection. If any procedural aspect of this Section is found by a court of competent jurisdiction to be unconstitutional, it is the intent of the City of Fort Mitchell 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
Fort Mitchell that such part be stricken and that the rest of this Section remain in full force and effect, in accordance with the principles set out in more detail in Section 14.18, A., 11.

SECTION 14.13 PERMIT REQUIREMENTS AND PROCEDURES

A. Unless a particular sign is exempt from the permit requirement under an explicit provision of this Article or other applicable law, then a permit for such sign is required.

1. WHEN REQUIRED
   a. Replacements
      (1) If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location, subject to all requirements enumerated herein.
   b. Maintenance
      (1) If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.
   c. Relocation of Signs
      (1) If any sign is removed from one location and erected at a new location, a new permit shall be obtained.
   d. Alteration
      (1) Alteration or enlargement of any sign shall require a permit the same as for a new sign. Any change in technology for a sign shall be considered an alteration; this shall expressly apply but not be limited to the conversion of a sign to changeable copy technology of any type.

2. APPLICATION
   a. No permit shall be granted until and after an application has been filed with the designated administrative official, showing the plans and specifications, including application fees, dimensions,
materials, and details of construction of the proposed structure and meeting all provisions of this Article.

3. APPLICATION FORM

a. The Zoning Administrator shall prepare and provide a form to be used as an application for a sign permit. The same form may constitute a permit, when duly approved. Multiple signs may be listed on a single permit only when they are all on the same lot or parcel, or are part of a single, comprehensive development.

4. INFORMATION ON APPLICATION

a. The sign application form shall include the following information:

(1) Name and contact information for the applicant, and if separate, the name, address and consent of the property owner;
(2) Street address and Property Identification Number (PIDN) of the site;
(3) Accurate site plan to scale describing the design, dimensions, proposed placement, structural and electrical characteristics and appearance of the sign(s), including the location of existing buildings, signs and other structures on the same site as the proposed sign(s);
(4) If the plans and drawings require an engineer’s or architect’s seal, signature or certificate, such shall show current Kentucky registration or licensure;
(5) Any signs or other structures to be removed or relocated;
(6) Dimensions and heights of all existing and proposed sign(s);
(7) Information regarding electrification, trenching, demolition, plumbing, temporary street closure, or encroachment into the public right of way;
(8) Any known uncorrected violations of zoning laws on the site;
(9) Name, address and any licensing/bonding information for any sign contractors;
(10) Technical drawings, specifications, structural safety calculations for the sign structure;
(11) If the sign is subject to any of the safety codes (building, electrical, etc.), then all information required to determine compliance with such codes or to satisfy the requirements of such codes;
(12) The length of each occupant’s/tenant/s lineal wall frontage;
(13) Workers’ compensation and liability documents and occupational licenses for all contractors
5. INITIAL REVIEW

a. Unless a given sign is exempt from the permit requirement, all sign permit applications shall be reviewed by the Zoning Administrator, and approved or denied on the basis of whether the proposed sign satisfies all requirements of this Article, and all other applicable laws, rules and regulations. If it does, then the permit shall be issued. If it does not, then the denial notice shall specify the point(s) of noncompliance. Decisions on sign permit applications shall be made in writing by the Zoning Administrator, and are subject to the appeal procedures provided herein. When applicable, permits under building and electrical codes then in effect are also required; sign permits may be approved subject to compliance with building and electrical code requirements.

6. COMPLETENESS

a. Initial review of an application will be for the purpose of determining if the application is complete. If the application is found incomplete, written notice of the finding of incompleteness will be given to the applicant within fifteen working days of submission, detailing the points of incompleteness. Notice is deemed effective when mailed or personally delivered. After notice of incompleteness, the applicant shall have thirty calendar days in which to resubmit the application, with all noted items of incompleteness cured. If the application is resubmitted within that time, no additional fee shall be required, and the application, if complete, shall then be processed in accordance with this Section. If no notice of incompleteness is timely provided, the application shall be deemed complete as of the last day on which the notice of incompleteness could have been given.

7. TIME FOR DECISION

a. The Zoning Administrator shall render a decision on each complete sign permit application within five working days of when the application was complete.

8. NONCOMPLIANCE WITH PERMIT

a. All signs shall conform to the requirements of the permit, and all other applicable laws. Any sign not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed
as a misrepresentation of facts on the application and a violation of this Article. Any noncomplying sign which is not removed or corrected within the required time shall be a deemed public nuisances and a violation of the zoning ordinance, and may be abated in the same manner as any public nuisance or zoning ordinance violation.

SECTION 14.14 APPEALS

A. Decisions on sign permit applications, as well as directives, orders, notices and all other sign-related decisions of the Zoning Administrator may be appealed to the Board of Adjustment.

1. INITIATION OF APPEAL

   a. An appeal under this Article may be initiated by following the procedures set forth in KRS 100.261, within the time allowed by that section.

2. HEARING ON APPEAL

   a. Within 60 working days of timely receipt of a notice of appeal, the Board of Adjustment shall hear the appeal in an open, public, duly noticed hearing. The appellant and all other persons wishing to be heard shall be allowed to present evidence and argument. The Board will base its decision on the law and the evidence presented at the hearing. The Board will issue a written decision within 30 calendar days of the hearing, and the written decision shall state the decision and the facts and law supporting the decision.

3. WAIVER OF TIME

   a. Any of the timeliness requirements of this Section may be waived by the appellant.

4. JUDICIAL REVIEW

   a. The decision of the Board of Adjustment is final. Further review may be had in Kenton County Circuit Court, pursuant to the Kentucky law of civil procedure.
5. STATUS PENDING APPEAL

a. While any sign related matter is on appeal, the status quo of the subject sign(s) shall be maintained, except when, by virtue of physical condition, the sign poses an immediate threat to the public health, safety and welfare, in which case the threat may be abated in the same manner as any other immediate threat to the public health, safety and welfare.

SECTION 14.15 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 face
4. Measurement of Height of Sign
   
a. Sign height shall be measured from the elevation at the base of the sign to the highest point of the highest element of the sign, excluding any incidental structural element, such as an uplift cable for a projecting sign. Where the sign is located on a mound or berm, the average elevation of the land 20 feet to each side of the sign shall be used as a basis for measuring height.

SECTION 14.16 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 Fort Mitchell 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 Fort Mitchell 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 Fort Mitchell 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 Fort Mitchell 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 Fort Mitchell affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this Article. The City of Fort Mitchell 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 Fort Mitchell message neutrality and message substitution policies. Where a particular type of sign is proposed in a permit application, and the type is neither expressly allowed nor prohibited by this Article, or whenever a sign does not qualify as a “structure” as defined in the building code then in effect, then the Zoning Administrator shall approve, conditionally approve or disapprove the application based on the most similar sign type that is expressly regulated by this Article, in light of the policies stated in this Section.

7. NONCOMMUNICATIVE ASPECTS

a. All rules and regulations concerning the non-communicative aspects of signs, such as location, size, height, illumination, spacing, orientation, etc., stand enforceable independently of any permit or approval process.

8. MIXED USE ZONES AND OVERLAY ZONES

a. In any zone where both residential and non-residential uses are allowed, the sign-related rights and responsibilities applicable to any particular parcel or land use shall be determined as follows: (1) if specific sign regulations are provided in the zoning district, those regulations shall be applied; or (2) if no sign regulations are
provided in the zoning district, residential uses shall be treated as if they were located in a zone where a use of that type would be allowed as a matter of right, and nonresidential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or similar discretionary process.

9. PROPERTY OWNER’S CONSENT
   a. No sign may be displayed without the consent of the legal owner(s) of the property on which the sign is mounted or displayed. For purposes of this policy, “owner” means the holder of the legal title to the property and all parties and persons holding a present right to possession, control or use of the property. The signature of the property owner or authorized agent will be required on all applications for sign permits.

10. LEGAL NATURE OF SIGN RIGHTS
   a. As to all signs attached to real property, the signage rights, duties and obligations arising from this Article attach to and travel with the land or other property on which a sign is mounted or displayed. This provision does not modify or affect the law of fixtures, sign-related provisions in private leases regarding signs (so long as they are not in conflict with this Article or other law), or the ownership of sign structures. This provision does not apply to hand held signs or other images which are aspects of personal appearance.

11. SEVERABILITY
   a. Generally
      (1) If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as limited by Section 14.17, A., 11., b.
   b. Severability Where Less Speech Results
(1) Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section or elsewhere in this Article or this Code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article is declared unconstitutional, such declaration shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise additional standards.

c. Severability of Provisions Pertaining to Prohibited Signs

(1) Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section, or elsewhere in this Article or in this Code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or any other laws declared unconstitutional by valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under Section 14.5 of this Article. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or of any part of the Zoning Ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as expressly provided in Section 14.17, A., 11., b.

d. Severability of Prohibition on Off-premise Signs

(1) If any part section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article and/or 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 XV

PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES

SECTION 15.0 APPLICATION OF PERFORMANCE STANDARDS: After the effective date of this ordinance, any use established or changed to, and any building, structure, or tract of land, developed, constructed, or used for any permitted or permissible principal or accessory use in all industrial zones (I-P, I-1, I-2, I-4 and I-5), shall comply with all of the performance standards herein set forth for the district involved. If any existing use, or building, or other structure is extended, enlarged, or reconstructed, the performance standards for the district involved shall apply with respect to such extended, enlarged, or reconstructed portion, or portions, of such use, or building, or other structure.

SECTION 15.1 TIME SCHEDULE FOR COMPLIANCE OF PERFORMANCE STANDARDS: Except for standards regulated and enforced by the state of Kentucky, compliance with the provisions of this article of the ordinance shall be according to the following time schedule:

A. All new installations shall comply as of going into operation.

B. All existing installations not in compliance, as of the effective date of this ordinance, shall be in compliance within one (1) calendar year of the effective date of this ordinance, unless the owner or person responsible for the operation of the installation shall have submitted to the zoning administrator a program and schedule for achieving compliance. Such program and schedule to contain a date on or before which full compliance will be attained and such other information as the zoning administrator may require. If approved by the zoning administrator, such date will be the date on which the person shall comply.

The zoning administrator may require persons submitting such program to submit subsequent periodic reports on progress in achieving compliance.

SECTION 15.2 PERFORMANCE STANDARDS

A. BUILDING ENCLOSURES: Every use permitted in the I-P industrial district shall be operated in its entirety within a completely enclosed building. In the I-1, I-2, I-4, and I-5 industrial districts, permitted uses shall be operated either within a completely enclosed building or within an area screened from view at the nearest district boundary, according to Section 9.17 and Article XIV of this ordinance.
B. LANDSCAPING: In all industrial districts, all required yards shall either be open landscaped and grassed areas or be left in a natural state, if acceptable to the planning commission. If said area is to be landscaped, it shall be landscaped attractively with lawn, trees, shrubs, etc., according to the initially submitted plans which were first approved of for the development of such tract as a permitted use.

In areas to be used for off-street parking, the parking arrangement and surfacing must likewise have been approved of for the development of such tract as a permitted use. Any landscaped areas shall be poorly maintained thereafter in a sightly and well kept condition. Parking areas shall likewise be maintained in good condition. Any areas left in a natural state shall be properly maintained in a well kept condition.

C. NOISE: For the purpose of measuring the intensity and frequencies of a sound, a sound level meter and an octave band analyzer shall be employed that conforms to specifications published by the American National Standards Institute (specifications for Sound Level Meters S1.4 - 1971, and the Specifications for Octave, Half Octave, and Third Octave Band Filter Sets S1.11 -1966, or the latest edition of such standards, shall be used). In the enforcement of the regulation, noises produced by the operation of motor vehicles or other transportation facilities shall not be included in determining the maximum permitted decibel level. In the IP district, the sound pressure of noise radiated continuously from any activity shall not exceed the value given in Tables 1 and 2 of this section, in any octave band frequency at any point on or beyond any lot line. If the noise is not smooth and continuous, one or more of the corrections in Table 2 of this section shall be added or subtracted from each of the decibel levels given in Table 1 of this ordinance.

In the I-2, I-4, and I-5 districts, the sound pressure of noise radiated from any activity shall not exceed the values given in Table 3 of this section in any octave band frequency at any point on or beyond any lot line. If the IP or I-1 district adjoins a residential district, the maximum sound pressure level at any point on the district boundary shall be reduced by six (6) decibels from the maximum listed in Table 3 of this section.

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

D. ODOROUS MATTER: No emission of odorous matter shall be allowed in excess of ambient air quality standards, as set forth by regulations adopted by the Kentucky Department for Natural Resources and Environmental Protection,
Division of Air Pollution, Cincinnati Air Quality Region.

E. HUMIDITY, HEAT OR GLARE: In the I-P or I-1 districts, any activity producing humidity, in the form of steam or moist air, or producing heat or glare, shall be carried on in such a manner that the steam, humidity, heat, or glare is not perceptible at any lot line. In the I-2, I-4, and I-5 districts, any activity producing heat or glare shall be carried on in such a manner that the steam, humidity, heat, or glare is not perceptible at or beyond any residential or commercial district boundary. Detailed plans for the elimination of humidity, heat, or glare may be required before the issuance of a building permit.

F. EXTERIOR LIGHTING: Any lights used for exterior illumination, except for overhead street lighting and warning, or traffic signals shall direct light away from the adjoining zones.

G. VIBRATION: Vibrations shall be measured at the lot line in the I-P and I-1 districts and at the nearest district boundary in the I-2, I-4 and I-5 districts. No vibration is permitted which is discernible to the human sense of feeling for three (3) minutes or more duration in any one (1) hour. Vibration shall not produce, at any time, an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines, Bulletin No. 442, "Seismic Efforts of Quarry Blasting", on any structure. The methods and equations of said Bulletin No. 442, or any subsequent revision or amendment thereto, shall be used to compute all values for the enforcement of these provisions. Detailed plans for the elimination of vibrations may be required before the issuance of any building permit.

H. EMISSIONS AND OPEN BURNING: No emission of particulate matter, sulfur, compound, carbon monoxide, hydrocarbon, nitrogen oxide, and open burning shall be allowed in all industrial zones in excess of regulations adopted by the Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution, Cincinnati Air Quality Region.

I. RADIATION: In all industrial zones, all sources of ionizing radiation shall be registered or licensed by the Kentucky State Department of Health and operated in accordance with their regulations.

J. ELECTRICAL RADIATION: In all industrial zones, any electrical radiation shall not adversely affect, at any point on or beyond the lot line, any operation or equipment, other than those of the creation of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
K. STORAGE: In the IP Zone, no material, products, or supplies shall be stored or permitted to remain on any part of the property outside the buildings constructed thereon. In the I-1, I-2, I-4, and I-5 Zones, storage of materials, supplies, and products on the property outside the building, constructed thereon, is permitted to the side and rear of the property, providing that the storage of materials, supplies, and products are within an area screened from view at the nearest district boundary, in accordance with Section 9.17 and Article XIV.

L. FIRE AND EXPLOSIVE HAZARDS: In the I-2, I-4 and I-5 zones only, storage, utilization, or manufacture of solid materials which requires free burning and intense burning may be allowed if permitted in said zones, provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system. In the I-2, I-4 and I-5 zones only, the storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases, may be allowed if permitted in said zones, provided that storage, handling, and use shall be in accordance with Standards of American Insurance Association for Storage, Handling, and Use of Flammable Liquids, "American Insurance Association", Pamphlet No. 30, June 1959, or any subsequent revision or amendment thereto.

M. WASTE: Within the I-P zone, no waste material or refuse shall be dumped upon, or permitted to remain upon, any part of the part of the property outside of the buildings constructed thereon. All sewage and industrial waste shall be treated and disposed of in such a manner so as to comply with the standards of the appropriate authority. All plans for waste disposal facilities shall be required before the issuance of any building permit. In the I-1, I-2, I-4 and I-5 zones, all waste shall be disposed of in accordance with the Solid Waste Regulations of the Kentucky Department of Natural Resources and Environmental Protection.

N. MINING AND RECLAMATION: All methods of operation, construction of roads, back-filling, grading, blasting, water impoundments, treatment facilities, and reclamation must be in conformance with the regulations adopted by the Department for Natural Resources and Environmental Protection, Division of Reclamation. Any excavation or processing operations shall be subject to the regulations of the Kentucky Water Pollution Control Commission.

O. BLASTING AND EXPLOSIVES: All blasting and the use of explosives must be conducted in accordance with the regulations set forth by the Department of Mines and Minerals, Division of Explosives and Blasting (pursuant to the authority of KRS 351.310 to 351.340 and 351.990) and in accordance with the Standards of Safety for Explosives, for the state of Kentucky, prepared by the
Department of Public Safety, Division of Fire Prevention (pursuant to the authority of KRS 227.300).
TABLE 1

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

<table>
<thead>
<tr>
<th>OCTAVE BAND (CYCLES PER SECOND)</th>
<th>SOUND PRESSURE LEVEL (DECIBELS*)</th>
</tr>
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<tbody>
<tr>
<td>20 - 75</td>
<td>69</td>
</tr>
<tr>
<td>75 - 150</td>
<td>54</td>
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<tr>
<td>150 - 300</td>
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<td>300 - 600</td>
<td>41</td>
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<tr>
<td>600 - 1,200</td>
<td>37</td>
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<tr>
<td>1,200 - 2,400</td>
<td>34</td>
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<tr>
<td>2,400 - 4,800</td>
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<td>4,800 - 10,000</td>
<td>28</td>
</tr>
<tr>
<td>10,000 - 20,000</td>
<td>26**</td>
</tr>
<tr>
<td>20,000 - 30,000</td>
<td>25**</td>
</tr>
<tr>
<td>30,000 - 40,000</td>
<td>24**</td>
</tr>
<tr>
<td>40,000 - 50,000</td>
<td>23**</td>
</tr>
</tbody>
</table>

* According to the following formula, Sound Pressure Level in Decibels equals 10 Log where \( P_2 \) equals 0.0002 dynes/cm\(^2\) \( P_1/P_2 \).

** To avoid possible interference with animal experiments.
TABLE 2

CORRECTION IN MAXIMUM PERMITTED SOUND PRESSURE LEVEL IN DECIBELS TO BE APPLIED TO TABLE 3

<table>
<thead>
<tr>
<th>TYPE OF OPERATION OF CHARACTER OF NOISE</th>
<th>CORRECTION IN DECIBELS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise source operates less than twenty (20) percent of any one hour period</td>
<td>plus 5*</td>
</tr>
<tr>
<td>Noise source operates less than five (5) percent of any one hour period</td>
<td>plus 10*</td>
</tr>
<tr>
<td>Noise source operates less than one (1) percent of any one hour period</td>
<td>plus 15*</td>
</tr>
<tr>
<td>Noise of impulse character (hammering, etc.)</td>
<td>minus 5</td>
</tr>
<tr>
<td>Noise of periodic character (hum, screech, etc.)</td>
<td>minus 5</td>
</tr>
</tbody>
</table>

* Apply one of these corrections only

TABLE 3

MAXIMUM PERMITTED SOUND PRESSURE LEVEL IN DECIBELS

<table>
<thead>
<tr>
<th>OCTAVE BAND (CYCLES PER SECOND)</th>
<th>SOUND PRESSURE LEVEL (DECIBELS*)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 74</td>
<td>79</td>
</tr>
<tr>
<td>75 - 149</td>
<td>74</td>
</tr>
<tr>
<td>150 - 299</td>
<td>66</td>
</tr>
<tr>
<td>300 - 599</td>
<td>59</td>
</tr>
<tr>
<td>600 - 1,199</td>
<td>53</td>
</tr>
<tr>
<td>1,200 - 2,399</td>
<td>47</td>
</tr>
<tr>
<td>2,400 - 4,799</td>
<td>41</td>
</tr>
<tr>
<td>4,800 and over</td>
<td>39</td>
</tr>
</tbody>
</table>

* According to the following formula, Sound Pressure Level in Decibels equals 10 Log where P2 equals 0.0002 dynes/cm² P1/P2.
ARTICLE XVI

ADMINISTRATION

SECTION 16.0 ENFORCING OFFICER: A zoning administrator (official or officials appointed by the legislative body for carrying out the provisions and enforcement of this ordinance) shall administer and enforce this ordinance. He may be provided with assistance of such other persons as the legislative body directs.

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

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

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

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

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

A. ZONING PERMIT REQUIRED: No land shall be used, or building or other structure shall be erected, moved, added to, structurally altered, or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit, issued by the zoning administrator. No zoning permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the board of adjustment.

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

1. A completed application form, provided by the zoning administrator (in duplicate - See Appendix A).
2. The required fee for a zoning permit, as provided for in Section 19.0 of this ordinance.

3. An approved Development Plan or site plan, if required by this ordinance, or

4. A plot plan, in duplicate, drawn at a scale of not less than one (1) inch to fifty (50) feet, showing the following information as required by this ordinance.
   a. The location of every existing and proposed building, including dimensions and height, and the number, size, and type of dwelling units.
   b. All property lines, shape and dimensions of the lot to be built upon.
   c. Lot width at building setback line.
   d. Minimum front and rear yard depths and side yard widths.
   e. Existing topography, with a maximum of five (5) foot contour intervals.
   f. Total lot area, in square feet.
   g. Location and dimensions of all access points, driveways, off-street parking spaces.
   h. A drainage plan of the lot and its relationship to adjacent properties, including spot elevations of the proposed finished grade, and provisions for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
   i. All sidewalks, walkways, and open spaces.
   j. Location, type, and height of all walls, fences, and screen plantings.
   k. Location of all existing and proposed streets, including rights-of-way and pavement widths.
   l. All existing and proposed water, and sanitary, and storm sewer facilities to serve the lot, indicating all pipe sizes, types, and grades.

C. ISSUANCE OF ZONING PERMIT: The zoning administrator shall either approve or disapprove the application (when required by this ordinance -- e.g., Development Plan submitted required -- the planning commission, or its duly authorized representative, approval or disapproval shall also be required). If

D. 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.

E. 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.

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

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

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

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

1. A completed application form, provided by the building inspector.
2. An approved zoning permit.
3. An approved zoning permit.
4. The required fee for a building permit, as provided for in Section 19.0 of this ordinance.
5. An approved Development Plan or Site Plan, if required by this ordinance: or

6. 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.

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 16.9 of this ordinance.

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

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

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

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

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

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

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

**SECTION 16.8 COMPLAINTS REGARDING VIOLATIONS:** Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and bases thereof, shall be filed with the zoning administrator. The zoning administrator shall record properly such complaint, immediately investigate, and take action thereon, as provided by this ordinance and the Kentucky Revised Statutes.

**SECTION 16.9 PENALTIES:** Except as herein provided, 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.
Each day of violation shall constitute a separate offense.

A. Any violation of this ordinance is hereby classified as a civil offense, pursuant to KRS 65.8808 and Fort Mitchell Ordinance Number 1999-12, as amended, and such classification is intended, and shall be construed, to provide an additional or supplemental means of obtaining compliance with the applicable provisions of this ordinance, and nothing contained herein or in Fort Mitchell Ordinance Number 1999-12, as amended, shall prohibit the enforcement of this ordinance by any other means authorized by law.

B. If a citation for a violation of this ordinance is not contested by the person charged with the violation, the civil fine to be imposed for each offense shall be fifty dollars ($50.00) for the first offense, ninety dollars ($90.00) for the second offense, and two hundred ten dollars ($210.00) for the third, and thereafter, offense.

C. If a citation is contested and a hearing before the Code Enforcement Board is required, the maximum civil fine which may be imposed at the discretion of the Code Enforcement Board shall be not less than twenty dollars ($20.00) but no more than two hundred dollars ($200.00) for the first offense, not less than sixty dollars ($60.00) but no more than six hundred dollars ($600.00) for the second offense, and not less than one hundred eighty dollars ($180.00) but no more than one thousand eight hundred dollars ($1,800.00) for the third, and thereafter, offense.

D. Each section of this ordinance violated shall be considered a separate fineable offense. If two or more sections of this ordinance are violated, the fines shall be cumulative and be enforced under the same citation. Each day a violation exists shall be considered a separate offense upon issuance of a separate citation.

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

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

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

1. Causing corrections in apparent violations of performance standards;

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

3. For protecting the general public from unnecessary costs for administration and enforcement.

C. If the zoning administrator finds, after investigations have been made by qualified experts, that there is a violation of the performance standards, he shall take, or cause to be taken, lawful action to cause correction to, within limits set by such performance standards.

SECTION 16.11 DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE STANDARDS: If, in the judgment of the zoning administrator, there is probable violation of the performance standards as set forth, except if the probable violation is being enforced under the Code Enforcement Board, as provided for in Section 16.9, 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.
and that, if violations as alleged are found, costs of such investigations shall be charged against those responsible for the violations, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the investigation will be paid by the legislative body.

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

D. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice and the alleged violation is not corrected to the satisfaction of the zoning administrator within the established time limit, he shall proceed to take, or cause to be taken, such action as is warranted by continuation of a violation after notice to cease.

E. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the zoning administrator, but requesting additional time, the zoning administrator may grant an extension if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.

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

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

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

AMENDMENT PROCEDURE

SECTION 17.0 AMENDMENT PROCEDURE

A. FILING OF AMENDMENT APPLICATION: All applications for amendments to this ordinance shall be filed with Planning and Development Services of Kenton County. Planning and Development Services of Kenton County staff shall immediately notify the city promptly forwarding the application to the local planning commission. A public hearing shall be scheduled to be held within forty-five (45) days of the date of receipt of the application by Planning and Development Services of Kenton County. The fee required for applying for such amendment shall be as provided for by the local planning commission and/or the legislative body.

B. PLANNING COMMISSION REVIEW REQUIRED: A proposal for a zoning map amendment to this ordinance may originate with the planning commission, legislative body, or with an owner of the property in question. A proposal to amend the text of this ordinance may originate with the planning commission or with any fiscal court or legislative body. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission for its action before adoption.

C. PUBLIC HEARING REQUIRED, NOTICE GIVEN

1. The planning commission shall hold at least one public hearing on the proposed amendment, at which hearing parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, but may be published two or more times, in a newspaper of general circulation in the county, provided that one publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.

2. In addition to the public notice requirements prescribed herein, when the planning commission, fiscal court, or legislative body originates a proposal to amend the zoning map, notice of the public hearing before the planning commission, fiscal court, or legislative body shall be given at least thirty (30) days in advance of the hearing, by first class mail, to an owner of
Article XVII  Amendment Procedure  17-2

every parcel of property, the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner.

D. OTHER HEARING REQUIREMENTS, ZONING MAP AMENDMENT: In addition to the public hearing notice required in Section 17.0, C., above, the following notices shall also be given when a proposal is submitted by a property owner to amend the official zoning map:

1. Notice of the hearing shall be posted conspicuously on the property, the classification of which is proposed to be changed, for fourteen (14) consecutive days immediately prior to the hearing. Said posting shall consist of one or more signs, constructed of durable material, and clearly depicting the following information: the words "ZONING CHANGE" (three (3) inch high lettering); current zoning classification of property and proposed zoning classification (three (3) inch high lettering); date, place, and time of public hearing (one (1) inch high lettering); and address, including telephone number, of the planning commission where additional information regarding hearing may be obtained; and

2. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, with certification by the commission secretary, or other officer of the planning commission that the notice was mailed to an owner of every parcel of property adjoining the property, the classification of which is proposed to be changed. Where said property adjoins a street or alley, property abutting the opposite side of such street or alley shall be considered adjoining property. It shall be the duty of the person(s) proposing the amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more coowners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

3. If the property, the classification of which is proposed to be changed, adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, to certain officials, as follows:
a. If the adjoining property is part of a planning unit, notice shall be given to that unit’s planning commission; or

b. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

4. All procedures for public notice and publication, as well as for adoption, shall be the same as for the original enactment of a zoning regulation, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

E. FINDINGS NECESSARY FOR MAP AMENDMENT: Before any map amendment is granted, the planning commission, or legislative body, must find that the amendment is in agreement with the adopted comprehensive plan, or in the absence of such a finding, that one or more of the following apply, including the making of a written report, setting forth explicitly, the reasons and substantiation as to how each would apply, and such finding and report shall be recorded in the minutes and records of the planning commission or legislative body.

1. That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and

2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

F. MINIMUM SIZE OF NEW ZONES: No amendment to this ordinance shall be adopted whereby the zoning classification of an area is changed unless the total area being applied for meets the following requirements as to minimum size: the zoning map shall not be amended, changed, or modified in such manner as to create a free standing zone of less than five (5) acres, except where specific area
restrictions are stipulated in this ordinance, or as outlined in the adopted comprehensive plan by the planning commission. For the purpose of computing the total size of an area to be rezoned for compliance herewith, there shall be added to such area: (1) the area of public rights-of-way interior to the area being changed; (2) one-half the area of public rights-of-way abutting the area being changed; and (3) the area of any land which is contiguous to the area being changed (including land located outside the jurisdiction of the legislative body but contiguous thereto and which land already bears the zoning classification sought for the area being changed). For the purpose of this section, neither continuity nor abutment shall be destroyed by the existence of a street, alley, or city's corporation line.

G. PLANNING COMMISSION ACTION

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

2. TEXT AMENDMENT: Following the public hearing held by the planning commission on a proposed text amendment, the commission shall make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed text amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed text amendment.

H. LEGISLATIVE BODY DISPOSITION

1. MAP AMENDMENT: The legislative body or fiscal court shall take final action upon a proposed map amendment within ninety (90) days of the date upon which the planning commission takes its final action upon such
proposal. It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment whenever the planning commission forwards the application to the legislative body or fiscal court without a recommendation of approval or disapproval due to a tie vote. Unless a majority of the entire legislative body or fiscal court votes to override the planning commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the planning commission, the ordinance of the legislative body or fiscal court adopting the zoning map amendment shall be deemed to have passed by operation of law.

2. TEXT AMENDMENT: It shall take an affirmative vote of a majority of the legislative body or fiscal court to adopt a proposed text amendment.

I. SUBMISSION OF DEVELOPMENT PLAN AS CONDITION TO COMMERCIAL, MULTI-FAMILY RESIDENTIAL, OR INDUSTRIAL ZONING MAP AMENDMENT: Any request for a zoning map amendment, 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, etc.) multi-family residential zone (i.e., R-2, R-3, etc.), or industrial zone (i.e., IP, I-1, I-4, etc.) shall be made in accordance with all applicable requirements of this ordinance, including the following:

1. APPLICATION AND PROCESSING: Application for a zoning map amendment shall be processed in two stages:

a. Application for a zoning amendment shall be filed with the zoning administrator as required by Section 17.0, A., and shall include a Development Plan in accordance with the applicable requirements of Section 9.20, A., of this ordinance. The zoning administrator may waive the submission of such data involving detailed engineering study until such time as the zoning amendment has been granted.

b. The planning commission shall hold a public hearing on the proposed application and review said application with regard to the required elements of the Development Plan, and other applicable requirements of this section. Upon holding such a hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with condition(s), or disapproval. The planning commission shall submit,
along with their recommendations, a copy of the Development Plan and the bases for their recommendation.

c. The legislative body shall, within forty-five (45) consecutive days after receiving the recommendations of the planning commission, review said recommendations and take action to approve or disapprove the proposed Development Plan. Such approval may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose different conditions than were reviewed and recommended by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendations, in accordance with the process required for the initial review.

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

d. The legislative body shall forward a copy of the approved Development Plan to the zoning administrator, or the city's duly authorized representative, for further processing, in accordance with the applicable requirements of this ordinance.

e. If the detailed engineering data required under Section 9.20, 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 17.1 PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY
STAFF REVIEW AND RECOMMENDATION REQUIRED PRIOR TO OR AT
THE SCHEDULED PUBLIC HEARING: Planning and Development Services of Kenton County staff, pursuant to KRS 147.673, shall review and make recommendations upon all applications to the local planning commission and the applicant, along with supporting information and comprehensive plan documentation, prior to or at the scheduled public hearing.

SECTION 17.2 ACTIONS OF LOCAL GOVERNMENTAL UNITS TO BE FURNISHED
TO PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY: Pursuant to KRS 147.705, the legislative body shall, after final adoption of any zoning ordinance or resolution, including amendments thereto, furnish, or cause to be furnished, within sixty (60) days after adoption, a copy of same to Planning and Development Services of Kenton County.
ARTICLE XVIII

BOARD OF ADJUSTMENT

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

A. A board of adjustment is hereby established.

B. The board of adjustment shall consist of either three (3), five (5), or seven (7) members, all of whom must be citizen members and not more than two (2) of whom may be citizen members of the planning commission.

C. The mayor shall be the appointing authority of the board of adjustment, subject to the approval of the legislative body.

D. The term of office for the board of adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years, respectively.

E. Vacancies on the board of adjustment shall be filled within sixty (60) calendar days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs, other than through expiration of the term of office, it shall be filled for the remainder of that term.

F. All members of the board of adjustment shall, before entering upon their duties, qualify by taking the oath of office, prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky, before any judge, notary public, clerk of court, or justice of the peace, within the district or county in which they reside.

G. Reimbursement for expenses or compensation or both may be authorized for members on the board of adjustment.

H. Any member of the board of adjustment may be removed by the mayor, subject to the approval by the legislative body, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The mayor exercising the power to remove a member from the board of adjustment, shall submit a written statement to the planning commission setting forth the reasons and the statement shall be read at the next meeting of the board of adjustment which shall be open to the general public. The member so removed shall have the right of appeal from the removal.
to the circuit court of the county in which he resides.

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

SECTION 18.1 MEETINGS OF BOARDS; QUORUM; MINUTES; BYLAWS; FINANCES; SUBPOENA POWER; ADMINISTRATION OF OATHS

A. The board of adjustment shall conduct meetings at the call of the chairman, who shall give written or oral notice to all members of the board at least seven (7) days prior to the meeting, which notice shall contain the date, time, and place for the meeting, and the subject or subjects which will be discussed.

B. A simple majority of the total membership of the board of adjustment, as established by regulation or agreement, shall constitute a quorum. Any member of the board of adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question.

C. The board of adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the board of adjustment. A transcript of the minutes of the board of adjustment shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

D. The board of adjustment shall have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the state of Kentucky, including the United States Government.

E. The board of adjustment shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.

F. The chairman of the board of adjustment shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.

G. A board of adjustment may appoint one (1) or more of its members to act as hearing examiner to preside over a public hearing or public meeting and make
SECTION 18.2 PROCEDURE FOR ALL APPEALS TO BOARD: Appeals to the board of adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the zoning administrator. Such appeal shall be taken within thirty (30) calendar days after the appellant or his agent receives notice of the action of the official to be appealed from, by filing with said zoning administrator and with the board, a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. A fee, as required by Section 19.0 of this ordinance, shall also be given to the zoning administrator at this time. Said zoning administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the board, an interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

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

SECTION 18.3 APPEALS FROM PLANNING COMMISSION OR BOARD OF ADJUSTMENT, OR LEGISLATIVE BODY: Any appeal from planning commission or board of adjustment or legislative body action may be taken in the following manner:

A. Any person or entity claiming to be injured or aggrieved by any final action of the planning commission or board of adjustment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the action of the board of adjustment, lies. Such appeal shall be taken within thirty (30) consecutive calendar days after the final action of the planning commission or board of adjustment. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The board of adjustment shall be a party in any such appeal filed in the circuit court. Final action shall not include the planning commission's recommendations made to other governmental bodies.

B. Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the circuit court of the county in which the property, which is the subject of the commission's action, lies. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other
governmental bodies. All final actions which have not been appealed within 30 days shall not be subject to judicial review. Provided, however, any appeal of a planning commission action granting or denying a variance or conditional use permit, as provided in Section 17.0, J. of this ordinance, shall be taken pursuant to this subsection. In such case, the 30 day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the circuit court. All appeals shall be taken in the appropriate circuit court within 30 consecutive calendar days after the action or decision of the planning commission or board of adjustments and all decisions, which have not been appealed within 30 consecutive calendar days shall become final. After the appeal is taken, the procedure shall be governed by the rules of civil procedure. When an appeal has been filed, the clerk of the circuit court shall issue a summons to all parties, including the planning commission in all cases, and shall cause it to be delivered for service as in any other law action.

C. Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of any city, county, or urban-county government, relating to a map amendment, shall appeal from the action to the circuit court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the circuit court.

D. The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.

E. For purposes of this ordinance, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

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

SECTION 18.5 POWERS OF BOARD OF ADJUSTMENT: Upon appeals,
The board of adjustment shall have the following powers:

A. To hear and decide on applications for variances.

B. To hear and decide appeals, where it is alleged, by the appellant, that there is an error in any order, requirement, decision, grant, or refusal made by a zoning administrator in the enforcement of this ordinance. Such appeal shall be taken within thirty (30) consecutive calendar days.

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

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

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

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

A. VARIANCES

1. A variance shall not be granted by the board of adjustment unless and until:

   a. A written application for a variance (including the required fee per Section 19.0 of this ordinance) and a Site Plan, subject to the applicable requirements of Section 9.19, are submitted.

   b. Notice of public hearing shall be given in accordance with Section 18.2 of this ordinance.

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

   d. Prior to granting a variance:

       (1) The board of adjustment shall make findings that the
requirements of this section have been met by the applicant for a variance.

(2) The board of adjustment shall further make a finding that reasons set forth in the application justify the granting of a variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

e. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 16.9 of this ordinance.

2. Before any variance is granted, the board of adjustment must find that the granting of the variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:

a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

3. The board shall deny any request for a variance arising from circumstances that are the result of willful violations of this ordinance by the applicant subsequent to the adoption of this ordinance from which relief is sought.

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

C. VARIANCE RUNS WITH LAND: A variance applies to the property for which it is granted and not to the individual who applied for it. A variance runs with the land 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 Section 19.0 of this ordinance) and a Site Plan, if applicable, subject to the applicable requirements of Section 9.19, shall be submitted to the board.

   b. Notice of public hearing shall be given in accordance with Section 18.2 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 18.7 CONDITIONAL USE PERMITS: Conditional use permits shall not be issued without the specific approval of the board of adjustment, as provided herein.

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

1. A written application for a conditional use permit (including the required fee per Section 19.0 of this ordinance) and a Site Plan subject to the applicable requirements of Section 9.19, shall be submitted to the board.

2. Notice of public hearing shall be given in accordance with Sections 18.2 and 9.14, B., 6. of this ordinance.
3. The public hearing shall be held. Any person may appear in person, or by agent, or by attorney.

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

SECTION 18.8 DECISIONS OF THE BOARD OF ADJUSTMENT

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

B. A 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 18.9 ACTIONS OF BOARD OF ADJUSTMENT TO BE FURNISHED TO PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY: Pursuant to KRS 147.705, the board of adjustment shall, after final approval of any variance, change from one nonconforming use to another, conditional use permit, and other appeal, furnish, or cause to be furnished, within sixty (60) days after approval, a copy of same to Planning and Development Services of Kenton County.
ARTICLE XIX

SCHEDULE OF FEES

SECTION 19.0: Fees shall be as provided for by separate city ordinance.
ARTICLE XX

MORATORIUM

AN ARTICLE PROVIDING FOR A MORITORIUM ON THE ESTABLISHMENT OF A SEXUALLY ORIENTED BUSINESS AND PROVIDING NO APPLICATION SHALL BE PROCESSED AND NO PERMIT ISSUED FOR THE ESTABLISHMENT OR EXPANSION OF A SEXUALLY ORIENTED BUSINESS, INCLUDING BUT NOT LIMITED TO A SEX SHOP, LINGERIE MODELING STUDIO, SEXUALLY ORIENTED CINEMA, SEXUALLY ORIENTED CABARET, SEXUALLY ORIENTED MEDIA OUTLET, OR BUSINESS CONTAINING A MOTION PICTURE ARCADE.

WHEREAS the Kenton County Planning Commission and the Fiscal Court of Kenton County, together with its several cities, have duly prepared a comprehensive plan in accordance with KRS Chapter 100, specifically “An Update 2000-2021: Northern Kentucky’s Future - A Comprehensive Plan for Development,” adopted by Planning and Development Services of Kenton County and the Kenton County Planning Commission on December 18, 2001;

WHEREAS, Kenton County, and the incorporated municipalities within it, have long sought to regulate sexually oriented businesses within the limits of the Constitution to protect the County’s many residential neighborhoods; and

WHEREAS, the adopted comprehensive plan provides the following policy guidance for regulating such businesses:

Furthermore, the Area-Wide Comprehensive Plan does not identify specific land uses, but instead, categorizes land uses using broad categories. Undesirable land uses, including adult-oriented business may be appropriate within more than one land use category identified within this Plan Update. The following criteria are presented to provide guidance for siting of these uses:

- They should not be near residential areas, schools, churches, child care facilities or other public or semi-public community facilities;
- They should not be within view of the interstate roads.


WHEREAS, recent reviews have found that several of the jurisdictions within Kenton County have no regulations whatsoever to deal with sexually oriented businesses as a specific land use; and

WHEREAS, there are already several sexually oriented businesses in Kenton County; and
WHEREAS, a new sexually oriented cabaret has recently opened in Wilder, which is directly adjacent to Kenton County; and

WHEREAS, planning and building staff in the jurisdictions in Kenton County have received several recent inquiries about the possibility of additional sexually oriented businesses opening in the County; and

WHEREAS, Kentucky Revised Statutes §100.201(1) specifically authorizes the adoption of Interim Zoning Regulations while the planning commission completes additional parts of the plan and/or completes the necessary regulations to implement the plan; and

WHEREAS, the city of Fort Mitchell finds that the adopted comprehensive plan does not provide adequate information to allow the Planning Commission to make recommendations for the appropriate regulation of sexually oriented businesses; and

WHEREAS, the Kentucky General Assembly has adopted and the Governor has approved Kentucky 2003 H.B. 268, “an act relating to licensing massage therapists”; and

WHEREAS, county officials have long noted a difference between legitimate massage therapists and some sexually oriented businesses which present themselves as “massage parlors” or similar establishments;

WHEREAS, the Planning Commission, acting on behalf of and with funding from the Fiscal Court and the several municipalities within the County, has hired national experts in the field as consultants to study the issues of regulating sexually oriented businesses in the County; and

WHEREAS, the consultants have represented to the Planning Commission and representatives of the Fiscal Court and cities that they will deliver their preliminary report within 4 to 6 months and specific regulatory recommendations shortly thereafter; and

WHEREAS, the city of Fort Mitchell finds that the completion of the study of sexually oriented businesses by national experts, and under the guidance of the Planning Commission, is essential to supplement the comprehensive plan; and

WHEREAS, the city of Fort Mitchell finds that it is essential to preserve the status quo and to avoid the addition of a new sexually oriented business in what may prove to be an inappropriate location until the Planning Commission and the city of Fort Mitchell have available to them the results of the study;
NOW THEREFORE, be it RESOLVED by the Kenton County Planning Commission of Kenton County, Kentucky that:

SECTION 1. The following definitions are adopted for purposes of this Article, to supplement the definitions already contained in the zoning ordinances of the city of Fort Mitchell and its several cities within it:

*Lingerie modeling studio* means an establishment or business which provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples or small groups in a room smaller than 600 square feet.

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

*Massage therapy* means the profession in which the practitioner applies massage techniques with the intent of positively affecting the health and well-being of the client, and may adjunctively (i) apply allied modalities, heat, cold, water and topical preparations not classified as prescription drugs, (ii) use hand held tools or devices designed as t-bars or knobbies, and (iii) instruct self care and stress management. "Manual" means by use of hand or body.

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

*Motion picture arcade booth* means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat customers and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, cd-rom, books, magazines or periodicals) for observation by customers therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth”.
Primary live entertainment means that entertainment which characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

Sadomasochistic practices mean flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

Sex shop means an establishment offering goods for sale or rent and that meets any of the following tests:

1. It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items make up more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area; or,
2. More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or,
3. More than five percent (5%) of its gross public floor area is devoted to the display of sexually-oriented toys or novelties.

Sexual conduct means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

Sexual gratification means sexual conduct as defined herein.

Sexually oriented acts means sexual conduct as defined herein.

Sexually oriented business is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented motion picture theater; motion picture arcade; bathhouse; massage parlor or shop; and/or sex shop. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the zoning code or other applicable ordinances.

Sexually oriented cabaret or sex oriented cabaret means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment which constitutes the "primary live entertainment" is distinguished or characterized by an emphasis on the exhibiting of "specific sexual activities" or "specified anatomical areas" for observation by customers therein.
Sexually oriented cinema, sexually oriented motion picture theater, or sex oriented cinema means a cinema or motion picture theater which shows hard-core features on more than half the days that it is open, or which is marketed as or offers features described as “adult”, “XXX”, or sexually oriented.

Sexually oriented media means magazines, books, videotapes, movies, slides, cd-roms or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (separately defined).

Sexually oriented media store or sex oriented media store means an establishment that rents and/or sells media, and that meets any of the following three tests:

1. More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
2. More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
3. It is advertised, marketed, or holds itself out in any forum as “XXX,” “adult,” “sex” or otherwise as a sexually-oriented business.

SECTION 2. That the authority of those persons within each jurisdiction in the city of Fort Mitchell authorized to accept applications and issue building permits is hereby limited as follows: no application shall be processed and no permit issued for the establishment or expansion of a sexually oriented business, including but not limited to a sex shop, lingerie modeling studio, sexually oriented cinema, sexually oriented cabaret, sexually oriented media outlet, or business containing a motion picture arcade.

SECTION 3. No permit, license or other authority shall be issued for the establishment of a massage parlor or similar establishment unless the applicant for such permit or license either: 1) has been licensed by the Kentucky Board of Licensure for Massage Therapy, or, 2) if such board has not been established or has not implemented its licensing procedure, can provide documentation that the applicant can substantially comply with the licensing requirements of Sections 9 and 11 of 2003 Ky. H.B. 268.

SECTION 4. These interim regulations shall go into effect upon adoption and remain in effect for a period concluding on May 15, 2004, or upon the adoption of a new ordinance in response to the study, whichever shall first occur.

SECTION 5. That any section or part of any section or any provision of this Article which is declared invalid by a Court of appropriate jurisdiction, for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Article.
SECTION6. That this Article shall take effect and be in force when passed, published and recorded according to law.
APPENDIX A

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

All new off-street parking facilities shall be paved with asphalt or portland cement concrete and shall be designed and constructed in accordance with the standards and procedures herein established.

A. ASPHALT CONCRETE PAVEMENT

1. General Design Requirements
   a. Asphalt concrete pavements shall consist of specified thickness of asphalt concrete surface course and a base course, or courses, all constructed on prepared subgrade. Required pavement thickness shall be determined from Table A-1 of the appropriate subgrade soil and traffic use.

   b. Paved areas shall be so designed and constructed that water will quickly drain from the surface and be conducted away from the area through approved systems. Transverse and/or longitudinal slopes of not less than 5/8 inch in 10 feet shall be provided. For large paved areas, approved catch basins and storm drainage systems shall be provided.

   c. When the pavement includes a granular base, and the pavement is not constructed over granular subgrade, perimeter subsurface drainage shall be provided to prevent lateral flow of water into the base course and to provide for removal of seepage water that may enter the base.

   d. Successive layers of the pavement shall be offset from the edge of the underlying layer a distance equal to the course thickness of the lower layer, except when abutting existing construction. When the asphalt layers of the pavement abut a building foundation, barrier curb, or similar vertical surface, the abutting surface shall be heavily painted with asphalt prior to construction of the asphalt course. The surface course shall be finished 1/4 inch above adjacent flush construction to permit proper compaction.
2. Construction Materials and Procedures

a. Base courses shall consist of the following materials. Construction procedures shall conform to the requirements applicable to the base course selected.

(1) Asphalt Concrete Base Course - Materials and construction shall conform to the current requirements of the Kentucky Department of Transportation, Bureau of Highways', Specifications for Asphalt Concrete Base Course, Sections 401, 403, except as noted herein.

b. Crushed Stone Base Course - Crushed stone base course shall conform to all the current requirements of the Kentucky Department of Transportation, Bureau of Highways, for Dense Graded Aggregate Base Course, Section 303.

c. Asphalt Concrete Surface Course - Materials and construction shall conform to the current requirements of the Kentucky Department of Transportation, Bureau of Highways, for Asphalt Concrete Surface, Type B, State Highway Designation Section 401, 402.

d. Asphalt Prime and Tack Coat

(1) Asphalt Prime shall conform to the Kentucky Department of Transportation, Bureau of Highways' requirements for Cutback Asphalt Emulsion Primer, Type L, as per Section 407. Prime shall be applied to the surface of granular base course at a rate of 0.25 to 0.50 gallons per square yard, as directed by the legislative body's engineer or inspector.

(2) Tack Coat (SS-1h) shall meet the requirements of the Kentucky Department of Transportation, Bureau of Highways, as per Section 407. It shall be diluted with equal parts of water, when directed by the inspector. Tack coat shall be applied, upon direction of the legislative body's engineer, to the surface of asphalt courses that have become dusty or dry, at a rate of 0.10 gallons per square yard of the diluted SS-1h before the subsequent course is constructed.

B. CONCRETE PAVING FOR PARKING AND ACCESS DRIVE AREAS
1. General Requirements - Thickness of concrete parking and access drives shall be:
   a. A minimum of four (4) inches for driveways and parking areas serving single and two-family dwellings.
   b. A minimum of five (5) inches for passenger cars and panel or pickup trucks serving industrial, commercial, and multi-family areas.
   c. A minimum of six (6) inches for light trucks serving industrial, commercial, and multi-family residential areas.
   d. A minimum of seven (7) inches for heavier commercial or industrial needs.

2. General Requirements - Concrete Paving
   b. Maximum Size of Aggregate - 1-1/4 inches.
   c. Maximum Water Content - 0.49 lb./1 lb. of cement (5.5 gal./bag).
   d. Maximum Slump - five (5) inches when using hand-finishing techniques, three (3) inches when using a mechanical finishing machine.
   e. Strength of Concrete - The concrete shall attain a minimum expected strength of concrete at 28 days of 3,500 pounds per square inch compressive strength and/or 550 pounds per square inch flexural strength "modulus of rupture".
   f. Air Entrainment

<table>
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<tr>
<th>Maximum Size Aggregate (inches)</th>
<th>Entrained Air (Percent)</th>
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<tr>
<td>1-1/4</td>
<td>5 + 1</td>
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<td>3/4, 1</td>
<td>6 + 1</td>
</tr>
<tr>
<td>3/8, 1/2</td>
<td>7-1/2 + 1</td>
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3. Construction Procedures
a. All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or taped, shall be removed and replaced with suitable material, placed and compacted. The subgrade shall be thoroughly compacted with suitable equipment so as to have uniform density at moisture contents of not less than standard optimum (AASHO-T98).

b. Longitudinal joint spacing shall not exceed 15 feet and be designed in accordance with the joint details in Figure A-2.

c. Transverse joint spacings shall be at regular intervals of twenty (20) feet.

d. All transverse construction joints shall be designed in accordance with the joint details in Figure A-2.

e. Form offsets at radius points shall be at least two (2) feet.

f. Pavement joints must be continuous through the curbs.

g. Where curbs are required, they shall be cast integrally.

h. The pavement shall be struck-off, consolidated, and finished, to the grades shown on the plans. All catch basins and manhole castings shall be boxed out and separated from the pavement with expansion joint material. All except premolded or sawed joints shall be edged with a tool having a maximum radius of 1/8 inch. Sawed and formed joints shall be cleaned and sealed before opening to traffic. Final surface texture shall be that obtained with a burlap drag. Curing shall be that obtained with a uniform coverage of white membrane curing compound or by seven-day coverage of white polyethylene or waterproof paper. The completed pavement shall be closed to traffic for at least fourteen (14) days or by the time it has attained a compressive strength of 3,500 pounds per square inch and/or 550 pounds per square inch flexural strength. This traffic restriction shall apply to the contractor's construction equipment and vehicles, as well as general traffic.
# TABLE A-1

THICKNESS REQUIREMENTS OF SURFACE AND BASE COURSES FOR AUTOMOBILE AND TRUCK PARKING FACILITY PAVEMENTS

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>FULL DEPTH ASPHALT CONCRETE</th>
<th>ASPHALT CONCRETE WITH GRANULAR SUBBASE</th>
<th>ASPHALT CONCRETE WITH GRANULAR BASE</th>
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<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) TYPE B (INCH)</td>
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<tr>
<td>Truck Parking Facilities</td>
<td>1-1/2</td>
<td>6-1/2</td>
<td>1-1/2</td>
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</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

TRANSVERSE CONTRACTION 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 FISCAL COURT

SECTION 10.0 CO (CONSERVATION) ZONE

A. PERMITTED USES

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

B. ACCESSORY USES

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

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

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

   a. Boat harbors and marinas;

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

   (1) Boat fueling, service, and repairs;
   (2) Sale of boat supplies;
(3) Grocery store;
(4) Restaurant;

b. Boat landing, docking, and launching facilities;
c. Off-street parking facilities including facilities for temporary parking of boat trailers.

D. AREA AND HEIGHT REGULATIONS

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

E. OTHER DEVELOPMENT CONTROLS

1. A site plan, as regulated by Section 9.19 of this ordinance shall be required for any permitted use or conditional use in this zone.
2. Any activity that may be located in the floodplain of any water course shall be in accordance with the requirements of Section 9.25
3. Dwellings, including cabins, rooming houses, and mobile homes are not permitted in this zone.
4. Temporary camping units, tents, and recreational vehicles, as defined in KRS 219.320 (8) shall be permitted; however, no such units shall be used for year-round habitation.
5. Off-street parking shall be provided for any use within this zone, according to the provisions of Article XI.
6. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
7. No motor vehicle which is inoperable, or mobile home or trailer shall be stored or used for storage in this zone.
8. No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.
SECTION 10.3 R-1A (RESIDENTIAL ONE-A) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, 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: 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.
SECTION 10.5 R-1C (RESIDENTIAL ONE-C) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)

B. ACCESSORY USES

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

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, 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 recreational centers, including public 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 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.
### APPENDIX C

### SUMMARY OF AMENDMENTS

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