OFFICIAL ZONING ORDINANCE

CITY OF
INDEPENDENCE,
KENTUCKY

Prepared by:
Planning and Development Services
of Kenton County

PDS
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE/SECTION</th>
<th>NAME</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ARTICLE I</strong></td>
<td>A ZONING ORDINANCE</td>
<td>1-1</td>
</tr>
<tr>
<td><strong>ARTICLE II</strong></td>
<td>AUTHORITY AND PURPOSE</td>
<td></td>
</tr>
<tr>
<td>Section 2.0</td>
<td>Authority</td>
<td>2-1</td>
</tr>
<tr>
<td>Section 2.1</td>
<td>Purpose</td>
<td>2-1</td>
</tr>
<tr>
<td><strong>ARTICLE III</strong></td>
<td>SHORT TITLE</td>
<td></td>
</tr>
<tr>
<td>Section 3.0</td>
<td>Short Title</td>
<td>3-1</td>
</tr>
<tr>
<td><strong>ARTICLE IV</strong></td>
<td>INTERPRETATION</td>
<td></td>
</tr>
<tr>
<td>Section 4.0</td>
<td>Greater Restriction</td>
<td>4-1</td>
</tr>
<tr>
<td>Section 4.1</td>
<td>Permit Or License In Violation</td>
<td>4-1</td>
</tr>
<tr>
<td><strong>ARTICLE V</strong></td>
<td>CONFLICT</td>
<td></td>
</tr>
<tr>
<td>Section 5.0</td>
<td>Conflict</td>
<td>5-1</td>
</tr>
<tr>
<td><strong>ARTICLE VI</strong></td>
<td>SEVERABILITY CLAUSE</td>
<td></td>
</tr>
<tr>
<td>Section 6.0</td>
<td>Severability Clause</td>
<td>6-1</td>
</tr>
<tr>
<td><strong>ARTICLE VII</strong></td>
<td>DEFINITIONS</td>
<td></td>
</tr>
<tr>
<td>Section 7.0</td>
<td>Words And Phrases</td>
<td>7-1</td>
</tr>
<tr>
<td><strong>ARTICLE VIII</strong></td>
<td>ESTABLISHMENT OF ZONES</td>
<td></td>
</tr>
<tr>
<td>Section 8.0</td>
<td>Zones</td>
<td>8-1</td>
</tr>
<tr>
<td>Section 8.1</td>
<td>Official Zoning Map</td>
<td>8-1</td>
</tr>
<tr>
<td>Section 8.2</td>
<td>Changes On Zoning Map</td>
<td>8-1</td>
</tr>
<tr>
<td>Section 8.3</td>
<td>Replacement Of Official Zoning Map</td>
<td>8-1</td>
</tr>
<tr>
<td>Section 8.4</td>
<td>Rules For Interpretation Of Zone Boundaries</td>
<td>8-2</td>
</tr>
<tr>
<td>Section 8.5</td>
<td>Areas Not Included Within Zones</td>
<td>8-3</td>
</tr>
<tr>
<td><strong>ARTICLE IX</strong></td>
<td>GENERAL REGULATIONS</td>
<td></td>
</tr>
<tr>
<td>Section 9.0</td>
<td>Purpose</td>
<td>9-1</td>
</tr>
<tr>
<td>Section 9.1</td>
<td>Reduction In Building Site Area</td>
<td>9-1</td>
</tr>
<tr>
<td>Section 9.2</td>
<td>Interference With Traffic Signals</td>
<td>9-1</td>
</tr>
<tr>
<td>Section 9.3</td>
<td>Vision Clearance At Corners, Curb Cuts, And Railroad Crossings</td>
<td>9-1</td>
</tr>
<tr>
<td>Section 9.4</td>
<td>Frontage On Corner Lots And Double Frontage Lots</td>
<td>9-1</td>
</tr>
<tr>
<td>Section 9.5</td>
<td>Utilities Location</td>
<td>9-1</td>
</tr>
<tr>
<td>Section 9.6</td>
<td>Railroad Rights-Of-Way Location</td>
<td>9-2</td>
</tr>
<tr>
<td>ARTICLE/SECTION</td>
<td>NAME</td>
<td>PAGE</td>
</tr>
<tr>
<td>-----------------</td>
<td>----------------------------------------------------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>Section 9.7</td>
<td>Excavation, Movement Of Soil, Tree Removal, And Erosion And Sedimentation Control</td>
<td>9-2</td>
</tr>
<tr>
<td>Section 9.8</td>
<td>Unsightly Or Unsanitary Storage</td>
<td>9-3</td>
</tr>
<tr>
<td>Section 9.9</td>
<td>Junkyard Location</td>
<td>9-3</td>
</tr>
<tr>
<td>Section 9.10</td>
<td>Application Of Zoning Regulations</td>
<td>9-3</td>
</tr>
<tr>
<td>Section 9.11</td>
<td>Special Requirements Governing Home Occupations</td>
<td>9-5</td>
</tr>
<tr>
<td>Section 9.12</td>
<td>Nonconforming Lots, Nonconforming Uses, Nonconforming Structures, Repairs And Maintenance, And Nonconforming Signs</td>
<td>9-6</td>
</tr>
<tr>
<td>Section 9.13</td>
<td>Exceptions And Modifications</td>
<td>9-10</td>
</tr>
<tr>
<td>Section 9.14</td>
<td>Conditional Uses</td>
<td>9-11</td>
</tr>
<tr>
<td>Section 9.15</td>
<td>Building Regulations And Water And Sanitary Sewer Service</td>
<td>9-14</td>
</tr>
<tr>
<td>Section 9.16</td>
<td>Move And Set</td>
<td>9-15</td>
</tr>
<tr>
<td>Section 9.17</td>
<td>Landscape Regulations</td>
<td>9-16</td>
</tr>
<tr>
<td>Section 9.18</td>
<td>Outdoor Swimming Pools</td>
<td>9-34</td>
</tr>
<tr>
<td>Section 9.19</td>
<td>Site Plan Requirements</td>
<td>9-35</td>
</tr>
<tr>
<td>Section 9.20</td>
<td>Plan Requirements - Stages I, II, And Record Plat</td>
<td>9-36</td>
</tr>
<tr>
<td>Section 9.21</td>
<td>Regulations Concerning Air Rights</td>
<td>9-40</td>
</tr>
<tr>
<td>Section 9.22</td>
<td>Regulations Concerning Design And Construction Of Improvements</td>
<td>9-41</td>
</tr>
<tr>
<td>Section 9.23</td>
<td>Regulations Pertaining To Parking Or Storing Of Trailers, Mobile Homes, Campers, Inoperable Vehicles, And Other Such Type Equipment</td>
<td>9-41</td>
</tr>
<tr>
<td>Section 9.24</td>
<td>Hillside Development Controls</td>
<td>9-42</td>
</tr>
<tr>
<td>Section 9.25</td>
<td>Flood Protection Development Controls</td>
<td>9-43</td>
</tr>
<tr>
<td>Section 9.26</td>
<td>General Mobile Home Regulations</td>
<td>9-69</td>
</tr>
<tr>
<td>Section 9.27</td>
<td>Sanitary Landfill Regulations</td>
<td>9-69</td>
</tr>
<tr>
<td>Section 9.28</td>
<td>Land Used For Agricultural Purposes</td>
<td>9-70</td>
</tr>
<tr>
<td>Section 9.29</td>
<td>Phased Zoning Regulations</td>
<td>9-70</td>
</tr>
<tr>
<td>Section 9.30</td>
<td>Filing Of Certificate Of Land Use Restriction</td>
<td>9-71</td>
</tr>
<tr>
<td>Section 9.31</td>
<td>Regulations Concerning Television And Radio Stations</td>
<td>9-71</td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS (continued)

<table>
<thead>
<tr>
<th>ARTICLE/SECTION</th>
<th>NAME</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 9.32</td>
<td>Compatibility Standards For Qualified Manufactured Housing</td>
<td>9-72</td>
</tr>
<tr>
<td>Section 9.33</td>
<td>Retirement Community Development Regulations</td>
<td>9-75</td>
</tr>
<tr>
<td>Section 9.34</td>
<td>Regulations Of Sexually Oriented Businesses</td>
<td>9-79</td>
</tr>
<tr>
<td>Section 9.35</td>
<td>Design Standards For Detached Single-Family Residential Dwelling Units</td>
<td>9-102</td>
</tr>
</tbody>
</table>

### ARTICLE X  ZONES

| Section 10.0    | CO (Conservation) Zone                                               | 10-1  |
| Section 10.1    | A-2 (Agricultural Two) Zone                                          | 10-3  |
| Section 10.2    | R-RE (Residential Rural Estate) Zone                                 | 10-6  |
| Section 10.3    | R-1A (Residential One-A) Zone                                       | 10-8  |
| Section 10.4    | R-1B (Residential One-B) Zone                                        | 10-11 |
| Section 10.5    | R-1C (Residential One-C) Zone                                        | 10-14 |
| Section 10.6    | R-1D (Residential One-D) Zone                                        | 10-17 |
| Section 10.7    | R-1DD (Residential One-DD) Zone                                     | 10-20 |
| Section 10.8    | R-1EE (Residential One-EE) Zone                                      | 10-23 |
| Section 10.9    | R-1F (Residential One-F) Zone                                        | 10-26 |
| Section 10.10   | R-2 (Residential Two) Zone                                           | 10-29 |
| Section 10.11   | R-3 (Residential Three) Zone                                         | 10-32 |
| Section 10.12   | PUD (Planned Unit Development) Overlay Zone                         | 10-35 |
| Section 10.13   | MHP (Mobile Home Park) Overlay Zone                                 | 10-40 |
| Section 10.14   | NC (Neighborhood Commercial) Zone                                   | 10-45 |
| Section 10.15   | NSC (Neighborhood Shopping Center) Zone                             | 10-50 |
| Section 10.16   | PO (Professional Office Building) Zone                               | 10-55 |
| Section 10.17   | RC (Rural Commercial) Zone                                           | 10-58 |
| Section 10.18   | IP (Industrial Park) Zone                                            | 10-60 |
| Section 10.19   | RC-2 (Rural Commercial Two) Zone                                     | 10-63 |
| Section 10.20   | DI (Downtown Independence) Zone                                      | 10-66 |
| Section 10.21   | CD-SF (Conservation Subdivision Single-Family) Zone                  | 10-85 |
| Section 10.22   | GMU (Gateway Mixed Use) Zone                                         | 10-92 |

### ARTICLE XI  OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS

| Section 11.0    | General Requirements                                                | 11-1  |
# TABLE OF CONTENTS (continued)

<table>
<thead>
<tr>
<th>ARTICLE/SECTION</th>
<th>NAME</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 11.1</td>
<td>Design And Layout Of Off-Street Parking Areas</td>
<td>11-5</td>
</tr>
<tr>
<td>Section 11.2</td>
<td>Specific Off-Street Parking Requirements</td>
<td>11-7</td>
</tr>
<tr>
<td>Section 11.3</td>
<td>Access Control Regulations</td>
<td>11-13</td>
</tr>
</tbody>
</table>

## ARTICLE XII

OFF-STREET LOADING AND/OR UNLOADING REGULATIONS

| Section 12.0    | General Requirements                                      | 12-1  |
| Section 12.1    | Design And Layout Of Off-Street Loading And/Or Unloading Areas | 12-3  |

## ARTICLE XIII

FENCES, WALLS, AND OBSTRUCTION TO VIEW REGULATIONS

| Section 13.0    | Vision Clearance At Corners And Railroad Crossings        | 13-1  |
| Section 13.1    | Classification Of Fences And Walls                        | 13-1  |
| Section 13.2    | Conservation And Agricultural Zones                       | 13-1  |
| Section 13.3    | Residential Zones                                         | 13-2  |
| Section 13.4    | Commercial And Industrial Zones                           | 13-2  |
| Section 13.5    | Mixed Use Zones                                           | 13-3  |
| Section 13.6    | Measurement Of All Fence And/Or Wall Heights And/Or Locations | 13-3  |
| Section 13.7    | Height Of Any Barbed Wire Or Sharp Pointed Fences          | 13-3  |
| Section 13.8    | Height Of Fences Atop Retaining Walls                     | 13-3  |
| Section 13.9    | Electrified Fences                                        | 13-4  |
| Section 13.10   | Permit Required For Erection Of Fences                    | 13-4  |
| Section 13.11   | Structural Elements Of Fences                             | 13-4  |

## ARTICLE XIV

SIGN REGULATIONS

| Section 14.1    | Short Title                                               | 14-1  |
| Section 14.2    | Purpose And Interests served                              | 14-1  |
| Section 14.3    | Temporary Signs                                           | 14-3  |
| Section 14.4    | Scope, Authority And Applicability                        | 14-4  |
| Section 14.5    | Prohibited Sign Types                                     | 14-8  |
| Section 14.6    | Installation, Design And Construction Standards           | 14-9  |
| Section 14.7    | Signs Allowed In Conservation, Agricultural               |       |
# TABLE OF CONTENTS (continued)

<table>
<thead>
<tr>
<th>ARTICLE/SECTION</th>
<th>NAME</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 14.8</td>
<td>Signs Allowed In Single-Family And Two-Family Residential Districts</td>
<td>14-14</td>
</tr>
<tr>
<td>Section 14.9</td>
<td>Signs Allowed In Multi-Family Residential Districts</td>
<td>14-16</td>
</tr>
<tr>
<td>Section 14.10</td>
<td>Signs Allowed In Office Districts</td>
<td>14-19</td>
</tr>
<tr>
<td>Section 14.11</td>
<td>Signs Allowed In General Business And Commercial Districts</td>
<td>14-21</td>
</tr>
<tr>
<td>Section 14.12</td>
<td>Signs Allowed In Industrial Districts</td>
<td>14-23</td>
</tr>
<tr>
<td>Section 14.13</td>
<td>Signs Allowed In Downtown Districts</td>
<td>14-26</td>
</tr>
<tr>
<td>Section 14.14</td>
<td>Master Signage Plans</td>
<td>14-30</td>
</tr>
<tr>
<td>Section 14.15</td>
<td>Permit Requirements And Procedures</td>
<td>14-34</td>
</tr>
<tr>
<td>Section 14.16</td>
<td>Appeals</td>
<td>14-37</td>
</tr>
<tr>
<td>Section 14.17</td>
<td>Definitions And Measurements</td>
<td>14-38</td>
</tr>
<tr>
<td>Section 14.18</td>
<td>Policies And Rules Of Construction</td>
<td>14-42</td>
</tr>
</tbody>
</table>

**ARTICLE XV**

**PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES**

| Section 15.0    | Application Of Performance Standards                | 15-1 |
| Section 15.1    | Time Schedule For Compliance Of Performance Standards | 15-1 |
| Section 15.2    | Performance Standards                               | 15-1 |

**ARTICLE XVI**

**ADMINISTRATION**

| Section 16.0    | Enforcing Officer                                   | 16-1 |
| Section 16.1    | Zoning Permits                                      | 16-1 |
| Section 16.2    | Building Permits                                    | 16-3 |
| Section 16.3    | Certificate Of Occupancy                            | 16-5 |
| Section 16.4    | Certificate Of Occupancy For Existing Building      | 16-5 |
| Section 16.5    | Certificate Of Occupancy For Lawful Nonconforming Uses And Structures | 16-5 |
| Section 16.6    | Denial Of Certificate Of Occupancy                  | 16-6 |
| Section 16.7    | Certificate Of Occupancy Records                    | 16-6 |
| Section 16.8    | Complaints Regarding Violations                     | 16-6 |
| Section 16.9    | Penalties                                           | 16-6 |
| Section 16.10   | Intent Concerning Determinations Involved In Administration And | |
# TABLE OF CONTENTS (continued)

<table>
<thead>
<tr>
<th>ARTICLE/SECTION</th>
<th>NAME</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Enforcement Of Performance Standards</td>
<td>16-6</td>
</tr>
<tr>
<td>Section 16.11</td>
<td>Duties Of Zoning Administrator Regarding Performance Standards</td>
<td>16-7</td>
</tr>
<tr>
<td></td>
<td><strong>ARTICLE XVII</strong> AMENDMENT PROCEDURE</td>
<td></td>
</tr>
<tr>
<td>Section 17.0</td>
<td>Amendment Procedure</td>
<td>17-1</td>
</tr>
<tr>
<td>Section 17.1</td>
<td>Planning And Development Services Of Kenton County Staff Review And</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recommendation Required Prior To Or At The Scheduled Public Hearing</td>
<td>17-7</td>
</tr>
<tr>
<td>Section 17.2</td>
<td>Actions Of Local Governmental Units To Be Furnished To Planning And</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Development Services Of Kenton County</td>
<td>17-7</td>
</tr>
<tr>
<td></td>
<td><strong>ARTICLE XVIII</strong> BOARD OF ADJUSTMENT</td>
<td></td>
</tr>
<tr>
<td>Section 18.0</td>
<td>Establishment Of Board Of Adjustment; Membership; Appointment; Terms;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vacancies; Oaths; Compensation; Removal; Officers</td>
<td>18-1</td>
</tr>
<tr>
<td>Section 18.1</td>
<td>Meetings Of Boards; Quorum; Minutes; By Laws; Finances; Subpoena</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Power; Administration Of Oaths</td>
<td>18-2</td>
</tr>
<tr>
<td>Section 18.2</td>
<td>Procedure For All Appeals To Board</td>
<td>18-2</td>
</tr>
<tr>
<td>Section 18.3</td>
<td>Appeals From Planning Commission Or Board Of Adjustment Or Legislative</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Body</td>
<td>18-3</td>
</tr>
<tr>
<td>Section 18.4</td>
<td>Stay Of Proceedings</td>
<td>18-4</td>
</tr>
<tr>
<td>Section 18.5</td>
<td>Powers Of Board Of Adjustment</td>
<td>18-4</td>
</tr>
<tr>
<td>Section 18.6</td>
<td>Variances; Change From One Nonconforming Use To Another; Conditions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Governing Applications; Procedures</td>
<td>18-5</td>
</tr>
<tr>
<td>Section 18.7</td>
<td>Conditional Use Permits</td>
<td>18-8</td>
</tr>
<tr>
<td>Section 18.8</td>
<td>Decisions Of The Board Of</td>
<td></td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS (continued)

<table>
<thead>
<tr>
<th>ARTICLE/SECTION</th>
<th>NAME</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjustment</td>
<td>Actions Of Board Of Adjustment To Be Furnished To Planning And Development Services Of Kenton County</td>
<td>18-9</td>
</tr>
<tr>
<td>Section 18.9</td>
<td>SCHEDULE OF FEES</td>
<td>19-1</td>
</tr>
<tr>
<td>Section 19.0</td>
<td>Schedule Of Fees</td>
<td></td>
</tr>
<tr>
<td>APPENDIX A</td>
<td>SPECIFICATIONS FOR PAVING OF OFF-STREET PARKING AND LOADING AND/OR UNLOADING AREAS</td>
<td>A-1</td>
</tr>
<tr>
<td>APPENDIX B</td>
<td>ZONES AS REGULATED BY OTHER LEGISLATIVE BODIES</td>
<td>B-1</td>
</tr>
<tr>
<td>APPENDIX C</td>
<td>SUMMARY OF AMENDMENTS</td>
<td>C-1</td>
</tr>
</tbody>
</table>
ARTICLE I

A ZONING ORDINANCE

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

AUTHORITY AND PURPOSE

SECTION 2.0 AUTHORITY: The City of Independence, 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 Independence, Kentucky and shall be known, referred to, and recited to as the "OFFICIAL ZONING ORDINANCE OF THE CITY OF INDEPENDENCE, 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 Independence, 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.

AMERICAN ASSOCIATION OF NURSERYMEN, INC. (STANDARDS): The Association’s Horticultural Standards Committee maintains and revises horticultural standards (see American Standards for Nursery Stock) to comply with the standards procedures of the American National Standards Institute.

AMERICAN STANDARD FOR NURSERY STOCK (ANSI Z60.1 - 1990): An American National Standard implies a consensus of those substantially concerned with its scope and provisions. An American National Standard is intended as a guide to aid the manufacturer, the consumer, and the general public.

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

APARTMENT HOUSE: See DWELLINGS, MULTI - FAMILY.

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

AUTOMOTIVE PARTS AND ACCESSORIES STORES: Establishments engaged in the retail sale of new automobile parts, accessories, or fluids. Such use may include the minor installation, removal, or replacement of such parts, accessories, or fluids which are sold by the establishment. Such establishments may not include service bays or any type of indoor automobile service.

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

BASAL AREA: The total cross sectional area of a tree trunk measured at Diameter at Breast Height (DBH).

BASEMENT: That portion of a building between floor and ceiling, which is so located that the vertical distance from the average level of the adjoining grade to the floor below is greater than the vertical distance from the average level of the adjoining grade to the ceiling.
BED AND BREAKFAST ESTABLISHMENT: A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.

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

a. a permanent structure sign which is used for the display of offsite commercial messages;

b. a permanent structure sign which constitutes a principal, separate or secondary use, as opposed to an accessory use, of the parcel on which it is located; or

c. an outdoor sign used as advertising for hire, i.e., on which display space is made available to parties, other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel as the sign), in exchange for a rent, fee or other consideration.

BOARD OF ADJUSTMENTS: Board of 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 legislative body's building inspector authorizing the construction or alteration of a specific building, structure, sign, or fence.

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

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

BUILDING SITE: One contiguous piece of land that meets all of the provisions of the legislative body's ordinances, regulations, and codes for building on said site.

CALIPER: The measurement of the tree trunk taken six (6) inches above the ground up to and including four (4) inch caliper size, or twelve (12) inches above the ground for larger trees.

CAMPING/VACATION MOBILE UNIT: Any coach, cabin, house trailer, house car or other vehicle or structure intended for, designed for, and used for temporary human habitation or sleeping purposes, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle.

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

CANOPY COVER: The area that a tree or trees' canopy covers which generally corresponds to a percentage of ground surface area.

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, 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.

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

CURB CUT: Any interruption, or break in the line of a street curb in order to provide vehicular access to a street. In the case of streets without curbs, curb cuts shall represent construction of any vehicular access which connects to said street.

DECIBEL: A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".

DECIDUOUS TREE: Not persistent; annual shedding of leaves.

DEVELOPMENT: Any man made change to improve or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DEVELOPMENT PLAN: Written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking
facilities, signs, drainage of surface water, and all other conditions agreed to by the applicant.

DIAMETER AT BREAST HEIGHT (DBH): The diameter, in inches, of a tree trunk, measured four and one-half (4-1/2) feet above the existing grade.

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

DISTURBED LIMITS: The site area affected by grading changes plus an additional twenty (20) foot area on the perimeter

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

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

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

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

DWELLING, TRAILER: See MOBILE HOME.

DWELLING, TWO - FAMILY: A residential building designed, arranged, or used exclusively by two (2) families, 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.
EASEMENT, LANDSCAPING OR PLANTING: The area in which planting must be installed and the setback for buffering between land uses, zones, vehicular use areas, and public or private streets.

EATING ESTABLISHMENTS -- RESTAURANTS: A restaurant is an establishment selling food items ordered from a menu and prepared on the premises for immediate consumption.

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

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

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

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

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

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.

FLOODPROOFED: Water-tight 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.

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

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

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

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

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

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

FRATERNITY/SORORITY HOUSE: A building used by a fraternity or sorority to provide living quarters for some or all members as well as to provide study, meeting, recreational and other facilities.
FRONTAGE: All the property abutting one (1) side of the right-of-way of a street, measured along the right-of-way line of the street between the intersecting lot lines. In no case shall the line along an alley be considered as acceptable frontage. For purposes of this definition, frontage for a building wall shall be measured for the wall that is most nearly parallel to that street. In no case shall the same building wall be considered to have more than one frontage.

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

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

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

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

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

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

HOUSE TRAILER: See MOBILE HOME.

INTERIOR LANDSCAPING: All landscaping surrounded by the perimeter landscaping, including all vehicular use landscaping.

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

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

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

LAUNDROMAT: A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.
LEASABLE AREA, GROSS: The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

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

LEGISLATIVE BODY: City of Independence, 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, FLAG: Any lot which does not contain the minimum lot width at the minimum front yard setback line.

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 that street right-of-way line toward which the principal or usual entrance to the main building faces.

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

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

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

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

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

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

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

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

MOBILE HOME: A structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act, which is transportable in
Article VII  Definitions

one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Mobile homes must be installed in accordance with KRS 227.570 by a Kentucky certified installer.

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

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

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

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

a. The area shall consist of at least 20 acres that are geographically contiguous;
b. The area shall have direct access from local streets to one or more collector and/or arterial streets;
c. The area shall not be part of another designated neighborhood for which permits for which permanent entrance signs have been issued; and
d. The area shall either have been developed as one planned complex, subdivision or center, or it shall have established its identity as a neighborhood through activities of a community association, neighborhood festivals or other continuing activities separate from the desire for an entrance sign.

NITA measure of luminance. One nit is equal to one candela per square meter (1cd/m²). Ten thousand nits are equal to one 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 540 THz 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.

OUTDOOR DISPLAY AREA: An area utilized to display a variety or types of products sold on the premises.

OWNER - OCCUPANT: The property owner who will occupy the residence.

PARKING AREA, OFF - STREET: An open, surfaced area, other than the right - of - way of a street, alley, or place, used for temporary parking of motor vehicles.

PARKING BUILDING OR GARAGE: A building, or portion thereof, designed, intended, and used exclusively for the temporary parking of motor vehicles which may be publicly or privately owned and/or operated.
PARTICULATE MATTER: Any material, except uncombined water, which exists in a finely divided, suspended form as a liquid or solid at standard conditions.

PDS: Planning and Development Services of Kenton County.

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

PERIMETER LANDSCAPING: The landscaping surrounding a land use or a vehicular use area.

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

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

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

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

RAILROAD RIGHTS - OF - WAY: A strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.
REPLACEMENT TREE: Any tree planted to meet the requirements of this ordinance, either for landscaping or tree density purposes.

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

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

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

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

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

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

SERVICE FACILITIES, PUBLIC UTILITIES: Service facilities include all facilities of public utilities operating under the jurisdiction of the Public Service Commission, or the Department of Motor Transportation, or Federal Power Commission, and common carriers by rail, other than office space, garage and warehouse space and include office space, garage space and warehouse space when such place is incidental to a service facility.

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

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

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

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

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

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

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

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

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

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

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

STREET, PRIVATE: A paved private roadway which affords access to abutting property for private users of such property. For the purposes of density calculations, a private street shall constitute the areas of its paved surface and sidewalks or the private right - of - way if designated on the recorded plat.
STREET, PUBLIC: A public roadway, constructed within the boundaries of an officially deeded and accepted public right - of - way, which affords principal means of access to abutting property. For purposes of density calculations, a public street shall constitute all of the area within the public right - of - way.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. Commercial: a swimming pool operated for profit, open to the public upon payment of a fee.

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

TRAILER: See CAMPING/VACATION MOBILE UNIT.

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

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

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

VEHICULAR USE AREA: Any area containing more than one thousand five hundred (1,500) square feet and used by two or more vehicles for parking, sales, or service, exclusive of driveways.
VIDEO TAPE STORE: An establishment primarily engaged in the sale or rental of video tape programs and films, video set recorders (VCR's) and related equipment and accessories.

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

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

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

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

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

ESTABLISHMENT OF ZONES

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

- CO  CONSERVATION ZONE
- A-2  AGRICULTURAL TWO ZONE
- R-RE RESIDENTIAL RURAL ESTATE ZONE
- R-1A RESIDENTIAL ONE - A ZONE
- R-1B RESIDENTIAL ONE - B ZONE
- R-1C RESIDENTIAL ONE - C ZONE
- R-1D RESIDENTIAL ONE - D ZONE
- R-1DD RESIDENTIAL ONE - DD ZONE
- R-1EE RESIDENTIAL ONE - EE ZONE
- R-1F RESIDENTIAL ONE - F ZONE
- R-2 RESIDENTIAL TWO ZONE
- R-3 RESIDENTIAL THREE ZONE
- PUD PLANNED UNIT DEVELOPMENT OVERLAY ZONE
- MHP MOBILE HOME PARK OVERLAY ZONE
- NC NEIGHBORHOOD COMMERCIAL ZONE
- NSC NEIGHBORHOOD SHOPPING CENTER ZONE
- PO PROFESSIONAL OFFICE BUILDING ZONE
- RC RURAL COMMERCIAL ZONE
- RC-2 RURAL COMMERCIAL TWO ZONE
- IP INDUSTRIAL PARK ZONE
- DI DOWNTOWN ZONE
- CD-SF CONSERVATION DEVELOPMENT SINGLE-FAMILY ZONE
- GMU GATEWAY MIXED USE

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 INDEPENDENCE, KENTUCKY" and shall so remain on file in the offices of Planning and Development Services of Kenton County. A copy shall also be on file in the office as designated by the legislative body.

SECTION 8.2  CHANGES ON ZONING MAP:  Where changes are made in zone boundaries in accordance with the provisions of this ordinance and Kentucky Revised Statutes, such changes shall be made on the Official Zoning Map promptly after the amendment to this ordinance has been approved by the legislative body. PDS shall be provided a certified copy of the amendment to this ordinance in order that the Official Zoning Map may be changed.
No changes of any nature shall be made on the Official Zoning Map which are not in conformity with the procedures set forth in this ordinance.

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

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

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

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

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

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

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

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

G. Boundaries indicated as approximately parallel to features indicated in Rules A through F of this section, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map, if an accurate legal description cannot be determined.
SECTION 8.5 AREAS NOT INCLUDED WITHIN ZONES: When an area is annexed to or otherwise becomes a part of the legislative body, or in any case where property within the legislative body has not been included within a zone, either through error or omission, such property shall be officially included in the CO Zone until otherwise classified.

Within sixty (60) calendar days after an annexed area officially becomes a part of the legislative body, or an error or omission is recognized, the legislative body shall take action to initiate a zone change review of the area in question, as per Article XVII, to insure its appropriate zoning classification in conformity with the officially adopted comprehensive plan.
ARTICLE IX

GENERAL REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9.8 UNSIGHTLY OR UNSANITARY STORAGE: No rubbish, salvage materials, junk, or miscellaneous refuse shall be openly stored or kept in the open, and weeds shall not be allowed to go uncut within any zones, when the same may be construed to be a menace to public health and safety by the appropriate health department, or have a depressing influence upon property values in the neighborhood. 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. Every lot defined as a “flag lot” shall contain one and one-half (1.5) times the Minimum Lot Area, and Minimum Lot Width, respectively, contained within the AREA AND HEIGHT REGULATIONS for each respective zone.

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

1. Private storage buildings, garages, or carports shall not exceed a maximum coverage of ten (10) percent of the available yard area in which the structure is to be located.

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

1. In All Minimum Required Yards - Driveways, providing they are not closer than two (2) feet to the property line to which they run approximately parallel to; steps, four (4) feet or less above grade, projecting not more than four (4) feet into the minimum required yards which are necessary for access to a lot from a street or alley; fire escapes and chimneys, projecting not more than eighteen (18) inches into the minimum required yards; arbors and trellises; flag poles; bird baths; trees; plants; shrubberies; ornaments; utility poles and wires; and outdoor furniture; fences and walls, subject to the requirements in Article XIII; and off-street parking as provided for in Article XI of this ordinance.

2. In Minimum Front Yard Depths - Bay windows, projecting three (3) feet or less into the minimum required yard; overhanging eaves and gutters, projecting not more than three (3) feet into the minimum required front yard; air conditioning equipment; and awnings and canopies, extending not more than four (4) feet into the minimum required front yard.
3. In Minimum Rear Yard Depths - Bay windows, overhanging eaves and gutters, and air conditioning equipment, projecting not more than three (3) feet into the minimum required rear yard; awning and canopies, provided they not extend more than ten (10) feet into the minimum required rear yards.

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

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

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

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

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

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

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

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

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

SECTION 9.12 NONCONFORMING LOTS, NONCONFORMING USES,
NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE, AND
NONCONFORMING SIGNS

A. NONCONFORMING LOTS OF RECORD:

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

2. Nonconforming lots of record which have been approved by the Planning
Commission since January 1, 1967, and which were in conformance with
the area and lot width requirements of the zoning ordinance in effect at the
time of such approval, shall be permitted to be sold and developed as
approved and recorded. In the event that the area cannot be reasonably
served by a public sanitary sewer system as determined by the legislative
body and/or the Northern Kentucky District Board of Health, on-site
sewage disposal may be permitted provided that such a system is
designed and constructed in accordance with the regulations of the
applicable state and local agencies.

3. Nonconforming lots of record established prior to 1967 shall comply with
the following:

a. If four (4) 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.

b. Where more than one (1) but less than four (4) lots of record exist,
having a lot area or lot width less than required by the particular
zone district, development may be permitted on such lots provided
that the lot width and lot area of such lots are not less than twenty-
five (25) percent of the required minimum area and width. When
the lot width and/or area are less than seventy-five (75) percent of the minimum requirement, the lots shall be combined to provide lot areas and widths that are not less than the permitted twenty-five (25) percent variance.

c. 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 in such a manner as to preclude reasonable acquisition of additional area to achieve conformity such as when such lots exist as developed building lots, dedicated rights-of-way or undeveloped parcels which cannot be reasonable obtained in whole or in part; and development proposed on the lot is in conformance with all other requirements 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 or amendment of this ordinance, may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this ordinance.

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

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

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

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

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

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

E. NONCONFORMING SIGNS

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

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

   a. Change in use or sale of the activity being identified that would cause the sign to be altered.
b. Nonuse or abandonment of said nonconforming sign for a period of twelve (12) consecutive months.

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

SECTION 9.13 EXCEPTIONS AND MODIFICATIONS

A. EXCEPTIONS TO HEIGHT LIMITS

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

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

C. FRONT YARD VARIANCE

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

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

D. EXCEPTION TO AREA AND YARD REGULATIONS

1. Where existing or proposed developments within the multi-family (R-2 and R-3) and commercial (NC, PO, SC, and LHS) Zones is to be subdivided, the minimum area and yard requirements may be less than required by this ordinance provided that:
a. The maximum density of the zone is not exceeded and/or the minimum site for the total development must not be less than that required by the respective zone;

b. A community association or other responsible entity is established prior to the approval by the planning commission of any subdivision of land. The "association" shall be obligated and empowered to own, operate, and maintain all common areas (as specifically identified on the submitted site plan required by item c. of this section) including such items as open space, recreational facilities, access drives, parking areas, pedestrian walkways, etc., and all facilities constructed thereon.

c. A site plan, as regulated by the applicable requirements of Section 9.19 of this ordinance, including the proposed area and yard requirements for the development, is submitted for review and approval by the planning commission.

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

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.
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: Except as herein provided, no building may be constructed in any zone unless such building is connected to a public water and central sanitary sewer system of adequate capacity and design, and approved by proper authorities.

1. Those areas within the Rural Focus Area, as identified by the Kenton County Comprehensive Plan may be permitted to utilize on-site subsurface disposal systems provided that such systems shall be designed and constructed in accordance with the regulations of the applicable state and local agencies.

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

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

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

   c. On-site subsurface sewerage systems shall be provided with an aerobic type (aerator) treatment plant which will be built in accordance with the regulations of the applicable state and local agencies and shall remain in operation until a connection is made to a centralized sewer system.

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

3. Where existing or proposed development is presently not served by a public sanitary sewer system, and is 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 development shall be required to connect with the public sanitary sewer system and the private sewage disposal system shall be discontinued.

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

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 LANDSCAPE REGULATIONS

A. PURPOSE: The purpose of these regulations is to promote and to protect the health, safety and welfare of the community through reduction of noise, air, and visual pollution, air temperature and headlight glare and to improve the aesthetic character of the community by improving the appearance of vehicular use areas and property adjoining public/private road rights-of-way and driveways, preserving existing trees, and requiring screening between land uses.
B. WHO PROVIDES LANDSCAPING: Landscaping required to fulfill these regulations shall be provided by the property owner. If an adjacent property has landscaping fulfilling perimeter landscaping requirements, the requirement for perimeter landscaping along the common boundary may be waived if deemed appropriate by the Zoning Administrator.

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

D. LANDSCAPE REQUIREMENTS TABLE: The Landscape Requirements Table (Table 9-1) contains landscape requirements for perimeter, vehicular use or interior landscaping per these regulations.

E. SITES AFFECTED: Landscaping as required in the Landscape Requirements Table (Table 9-1), shall be required as follows:

1. All new building development and construction or development requiring a zoning map amendment, except for single and two-family residential.

2. EXISTING DEVELOPED SITES:
   a. New parking lot construction, including the expansion, moving or relocation of existing parking. This requirement shall only affect those newly paved areas of five (5) spaces or larger, or any paved area larger than 1500 square feet. The number of parking spaces added shall also include any spaces added within one (1) calendar year prior to the building permit application for the new spaces. This requirement shall, in no instance, be deemed as retroactively affecting sites prior to the adoption of this amendment.
   b. Substantial additions to an existing building - Substantial building additions will be defined per the criteria established below:

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

Perimeter landscaping is required between addition and adjoining land use or public/private street, per the landscape requirements.
table. See Figure 9-1 for additional information. If this does not involve new parking lot construction, interior (Vehicular Use Area) landscaping is not required.

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

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

The Planting Manual and Landscape Regulation Guidelines include plant lists which can be used for reference purposes when selecting trees and shrubs to meet the requirements of these regulations. The lists are as follows:

PLANT LIST A: SHADE TREES (Mature height greater than 30 ft.)

PLANT LIST B: FLOWERING AND NON - FLOWERING TREES
(Mature height less than 30 ft. for use under power lines.)

PLANT LIST C: EVERGREEN/BROADLEAF TREES

PLANT LIST D: DECIDUOUS SHRUBS

PLANT LIST E: EVERGREEN/BROADLEAF SHRUBS

PLANT LIST F: STREET TREES

PLANT LIST G: UNACCEPTABLE SHRUBS AND TREES

Please note that with the exception of Plant List G, Unacceptable Plants, the Plant Lists included in the manual are only suggestions of use groups that have been successful in this region for urban landscaping. The choice of plant materials is not limited to those of the lists, but all plants and trees specified on landscape plans that are not included must have proven acceptability in this region. No shrubs and trees on Plant List G will be permitted.

G. MISCELLANEOUS REGULATIONS

1. EASEMENTS, RIGHTS-OF-WAY, AND SETBACKS: Landscaping must be placed in the required area between the property line and the front, rear and side yard setbacks, except as permitted herein. Required landscaping
may be placed wholly or partially in utility or other easements providing all requirements can be fulfilled and approval is granted by the holder of the easements. Trees placed under overhead utility wires must be from List B. The rights-of-way of any public street may also be utilized for the required landscaping provided that approval is granted by the appropriate government. It must be noted that an Encroachment Permit shall be required from the Kentucky Transportation Cabinet to plant within state right-of-way. When rights-of-ways are used for required landscaping it shall be the responsibility of the property owner to maintain said landscaping and to replace any required landscaping subsequently removed by the Kentucky Transportation Cabinet or local legislative bodies.

2. SIGHT TRIANGLE: That area at street or drive intersections where all landscaping is prohibited, except ground covers and trees that are without limbs, with a ground clearance seven feet (see Figure 9-2).

3. JOINT DRIVEWAYS: If two properties share a driveway or vehicular use area and have a written reciprocal access agreement, no vehicular use area screening shall be required along the paved portion of the common boundary. Interior landscape shall be required on the property submitting plans.

4. DUMPSTERS: Shall be screened on at least three (3) sides according to Table 9-2.

When dumpsters located less than ten (10) feet from an unwindowed portion of a building on the same property, landscape screening may be waived by the Zoning Administrator for the side of the dumpster facing that building wall. Fencing shall be required on that side.

5. CONFLICTS IN REQUIREMENTS: When an activity or land use falls under more than one of the categories listed in the table, the most stringent of the requirements shall be applied.

H. LANDSCAPE MATERIALS

1. WALLS AND FENCES: When walls or fences are used to fulfill screening requirements, they shall be indicated on the landscape plan. They are to be of weather-proof materials. This includes the use of synthetic or other construction materials or pressure treated lumber or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with wood or synthetic slat material shall not be used to meet the requirements of these regulations.
2. PLANTS AND TREES: All plants are to be healthy and part of the acceptable plants listed in the Planting Manual. All plants must be replaced if they die. A plant manual should be obtained from the legislative body that outlines recommended plant material.

a. Quality: Plant materials used in conformance with provision of this ordinance shall comply with the American Standards for Nursery Stock (ANSI Z60.1-1990, or most current edition) as prepared and published by the American Association of Nurserymen which is on file at the City Hall. In addition all plant materials shall have passed any inspection required under state and/or local regulations.

b. Deciduous Trees (trees which normally shed their leaves in the fall): Shall be species having an average mature crown spread of greater than fifteen (15) feet in Kenton County and having trunk(s) which can be maintained with a minimum of seven (7) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by a grouping of the same so as to create the equivalent of a fifteen (15) foot crown spread. A minimum of six to eight (6-8) feet overall height or a minimum caliper (trunk diameter, measured by 6 inches above ground for trees up to 4 inches caliper) of at least 1 1/2 inch immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet from such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four (4) inches thick reinforced concrete.

c. Evergreen Trees: Shall be a minimum of five (5) feet high with a minimum caliper of 1-1/2 inches immediately after planting.

d. Shrubs and Hedges: Shall be at least 15" - 20" in average height when installed. All plants shall conform to opacity, mature height, and other requirements within four (4) years after the date of the final approval of each planting or replanting. Privet, Ligustrum species cannot meet the opacity requirements and may not be used to satisfy the requirements of this Article. The height of the planting shall be measured from the level of the surface of the vehicular use area at the edge closest to the screening.

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

3. EARTH MOUNDS: Earth mounds shall be constructed with slopes which allow easy maintenance of grass or other ground cover. Differences in elevation between areas requiring screening does not constitute an earth mound.

4. MAINTENANCE AND INSTALLATION: All landscaping materials shall be installed according to accepted planting procedures (see Planting Manual). The Owner of the property shall be responsible for the continued property maintenance of all landscaping materials, including existing trees, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three months. Topping trees or cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper for the maintenance of trees as required by this Article. Tree pruning cuts shall be made sufficiently close to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub so that closure can readily start under normal conditions. All branches that are so heavy as to cause bark splitting or peeling are to be precut. Violation of these installation and maintenance provisions shall be grounds for the legislative body to refuse a building occupancy permit, require replacement of the landscape material or institute legal proceedings to enforce the provisions of this Article.

I. SUBMISSION REQUIREMENTS

1. LANDSCAPE PLAN CONTENT: The landscape plan shall be drawn to a scale no smaller than 1” = 100’-0” and shall include: all property lines; a north arrow; a scale; all easements; all existing and proposed structures and their uses; dumpsters; all vehicular use areas, labeled as to size and number of parking spaces; the names and addresses of the owners and plan preparers; and either topographic contour or spot elevations where elevation changes occur in areas to be landscaped.
2. TREE PROTECTION PLAN: Identify all trees within the disturbed limits that are to be preserved and are to be part of the required landscaping. Such trees shall be protected during the construction phase, per guidelines in the Planting Manual and Landscape Ordinance Guidelines, Section II, C.

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

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

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

   b. A full cash bond, irrevocable letter of credit (on an approved bank), or other form of acceptable surety has been posted in an amount equal to the cost of contracting the purchase and installation of the landscaping, plus 10%.

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

J. PLANTING ADJUSTMENTS

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

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

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

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

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

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

   b. The strict application of the Landscape Ordinance would deprive the applicant of a reasonable use of the land or create an unnecessary hardship.

   c. Circumstances necessitating an adjustment are not the result of an action by the applicant subsequent to the passage of the Landscape Ordinance.

   d. Adherence to the Landscape Ordinance will adversely affect the health, safety and welfare of the public or will adversely alter the general character of the general vicinity.

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

   f. The existence of significant grade separations between adjoining developments or properties.
g. The horizontal distance between the proposed development and the adjoining property.

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

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

<table>
<thead>
<tr>
<th>DEVELOPING ZONE/USE</th>
<th>ADJOINING ZONE/USE</th>
<th>MINIMUM PLANTING STRIP</th>
<th>PLANT MATERIAL/OPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any commercial or professional office zone or land use, or any conditional use</td>
<td>Any residential zone or land use</td>
<td>20 feet</td>
<td>Choose one of the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1. 1 tree per 35 linear feet, or fraction thereof, from List A* (shade trees), plus double row hedge from List E (evergreen/broadleaf shrubs)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2. 1 tree per 20 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus double row hedge from List E (evergreen/broadleaf shrubs)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3. 1 tree per 40 linear feet, or fraction thereof, from List A (shade trees), plus a hedge from List D, plus a 6 foot wall, fence, or earth mound</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>4. 1 tree per 40 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus a hedge from List D, plus a 6 foot wall, fence, or earth mound</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>5. Double row, staggered planting of trees from List C at 15 feet on center</td>
</tr>
</tbody>
</table>

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

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
<table>
<thead>
<tr>
<th>DEVELOPING ZONE/USE</th>
<th>ADJOINING ZONE/USE</th>
<th>MINIMUM PLANTING STRIP</th>
<th>PLANT MATERIAL/OPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any industrial zone or land use</td>
<td>Any residential zone</td>
<td>75 feet side and rear yard</td>
<td>Double row of staggered trees from List C (evergreen/broadleaf trees) at 15 feet on center, plus a 36 foot wide, 6 foot tall, earthen berm</td>
</tr>
<tr>
<td>Any commercial or professional office zone</td>
<td>Any commercial or professional office zone</td>
<td>50 feet side and rear yard</td>
<td>Double row of staggered trees from List C (evergreen/broadleaf trees) at 15 feet on center</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>STORAGE YARD: A hedge from List E (evergreen/broadleaf shrubs) facing the front yard only and/or any public/private street plus a 6 foot fence or wall</td>
</tr>
</tbody>
</table>

* Plant lists can be found in the "Planting Manual And Landscape Regulation Guidelines".
1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area. Unless concrete wheel stops are used, plants are to be 2 feet from the edge of the pavement.
3. Six inch (minimum) curb required around all landscaped islands.
4. If the vehicle use area is located in the front/side or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
5. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a minimum side slope of 2.5 to 1.
6. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
7. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
<table>
<thead>
<tr>
<th>Developing Zone/Use</th>
<th>Adjoining Zone/Use</th>
<th>Minimum Planting Strip</th>
<th>Plant Material/Options</th>
</tr>
</thead>
</table>
| Any multi-family residential (3 units per building or greater density) zone or land use | Any single family residential zone or land use | 20 feet | Choose one of the following:  
1. 1 tree per 45 linear feet, or fraction thereof, from List A (shade trees), plus a double row hedge from List E (evergreen/broadleaf shrubs)  
2. 1 tree per 20 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus a double row hedge from List E (evergreen/broadleaf shrubs)  
3. A hedge from List D (deciduous shrubs), plus a 6 foot wall, fence, or earth mound  
4. Continuous double row, staggered planting of trees from List C (evergreen/broadleaf trees) at 15 feet on center |
| Any commercial, professional office or industrial zone or land use | The public right-of-way, public or private street | 10% of each yard area must be landscaped | Trees, shrubs, planting beds, and/or perennials in a motif designed by the owner. A minimum of 3 trees shall be planted per 100 linear feet, or fraction thereof, of road frontage. This is not in addition to other required landscaping. |

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

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,600 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front side or rear yard, the required interior vehicular use area landscaping, and the 5-foot perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
Table 9-1 (continued)

<table>
<thead>
<tr>
<th>DEVELOPING ZONE/USE</th>
<th>ADJOINING ZONE/USE</th>
<th>MINIMUM PLANTING STRIP</th>
<th>PLANT MATERIAL/OPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A junk, salvage, refuge, or parts</td>
<td>Any residential zone</td>
<td>75 feet</td>
<td>Choose one of the following:</td>
</tr>
<tr>
<td>yard or recycling center</td>
<td>Any commercial or professional</td>
<td>50 feet</td>
<td>1. 1 tree per 35 feet of linear boundary, or fraction thereof,</td>
</tr>
<tr>
<td></td>
<td>office zone</td>
<td></td>
<td>from either List A (shade trees) or List B (flowering and non-flowering trees), plus a single row hedge from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs), plus a 6 foot wall or fence</td>
</tr>
<tr>
<td></td>
<td>Any industrial zone or street</td>
<td>20 feet</td>
<td>2. A double row, staggered planting of trees from List C (evergreen/broadleaf trees) at 15 feet on center, plus a 6 foot solid fence or wall</td>
</tr>
<tr>
<td></td>
<td>(public or private)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Street trees may be planted along all public or private streets to meet the requirements of these regulations.

4 feet

Choose one of the following:

1. 1 tree every 60 feet on center (maximum) from List A (shade trees)
2. 1 tree every 60 feet on center (maximum) from List F (street trees)
3. 1 tree every 60 feet on center (maximum) from List B (flowering and non-flowering trees)

* Plant lists can be found in the “Planting Manual And Landscape Regulation Guidelines”

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 acres, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side or rear yard, the required interior vehicular use area landscaping and the 5 foot perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
<table>
<thead>
<tr>
<th>DEVELOPING ZONE/USE</th>
<th>ADJOINING ZONE/USE</th>
<th>MINIMUM PLANTING STRIP</th>
<th>PLANT MATERIAL/OPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Vehicular Use Area (VUA) associated with any zone or land use, except single-family</td>
<td>Any public or private street</td>
<td>10 foot perimeter screening easement</td>
<td>Choose one of the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1. 1 tree per 40 linear feet, or fraction thereof, from List A* (shade trees), plus 8 shrubs per 40 linear feet, or fraction thereof, from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2. 1 tree per 25 linear feet, or fraction thereof, from List B (flowering and non-flowering trees), plus 8 shrubs per 40 linear feet, or fraction thereof, from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>If over 25 feet</td>
<td>If the planting strip exceeds 25 feet in width, shrubs are not required</td>
</tr>
<tr>
<td>PLUS -- in all cases</td>
<td>PLUS --</td>
<td>5% interior landscaped area (2)</td>
<td>PLUS --</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 tree per 250 square feet of interior landscaped area from either List A (shade trees) or List B (flowering and non-flowering trees) (1 tree minimum)</td>
</tr>
</tbody>
</table>

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

1. Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
2. Interior requirements are not required on parking lots smaller than 5 spaces, and/or 1,500 square feet of paved area. Interior landscape areas must be 100 square feet minimum in size. Plants may be no closer than 36 inches to pavement in the vehicle use area unless concrete wheel stops are used to prevent plant damage by cars. Six inch (minimum) curb required around all landscaped islands.
3. If the vehicle use area is located in the front, side, or rear yard, the required interior vehicular use area landscaping and the 5 feet perimeter screening easement will be included as counting towards the total front yard landscaping required.
4. In all cases where an earth mound or berm is used, the easement provided must be adequate to accommodate a mound with a maximum side slope of 2.5 to 1.
5. The Zoning Administrator may allow a mixture or combination of tree categories, provided that the required number of trees is provided.
6. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established by the zoning district.
FIGURE 9-1
REQUIRED PERIMETER LANDSCAPING FOR BUILDING ADDITIONS

ADDITION #1
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

Public Or Private Street

Commercial

Residential

Existing Commercial Building

Commercial

Residential

Residential

ADDITION #2
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

Public Or Private Street

Commercial

Residential

Existing Commercial Building

Commercial

Residential

Residential

Building Addition

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

ADDITION #3
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

ADDITION #4
REQUIRES PERIMETER LANDSCAPING AS FOLLOWS

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

1. Local, Subcollector, and Collector Streets: When two city streets intersect or a driveway intersects a city street, the sight triangle shall consist of the area between points twenty-five (25) feet along both streets from the intersection of the edges of the pavement.

2. Arterial or State Maintained Roadways: Where a city street, driveway or other entrance intersects with a state highway, the sight triangle shall consist of the area between a point located along the edge of the state highway pavement the distance an automobile traveling the speed limit can go in six seconds. An Encroachment Permit from the Kentucky Department of Transportation is required to plant in the State Right-of-Way.

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

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

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

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

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

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

2. Swimming pools which are constructed in-ground shall be required to have a fence or wall, including a self-closing and self-latching door or gate, with the latches placed at least four (4) feet above the ground, around the pool or the property on which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than seven (7) feet in height (only classes 1, 3, 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 any openings shall not allow the passage of a four (4) inch diameter sphere.

3. Swimming pools which are located above-ground shall be required to have a fence or wall, including a self-closing and self-latching door or gate, with the latches placed at least four (4) feet above the ground, around the pool or property upon which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than seven (7) feet in height (only classes 1, 3, or 5 are permitted, as regulated by Article XIII of this ordinance). Such fence or wall shall be constructed in such a manner that any openings shall not allow the passage of a four (4) inch diameter sphere. Said wall may be the wall of the above-ground pool, providing that said wall is at least four (4) feet in height above the surrounding ground level.

Any access to above ground pools by means of a ladder or stairway shall be provided with a self-closing and self-latching door or gate, with the latches placed at least four (4) feet above the ground, or some other device that would prevent a small child from gaining access to the pool by means of a ladder.

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

5. All swimming pools and associated equipment shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the city (county). Water used in the swimming pool, which is obtained from other than a public source, shall be approved by the Northern Kentucky District Health Department.
6. All swimming pools existing at the time of adoption of this ordinance, which are unprotected by a surrounding fence or wall, including gates or doors, as regulated herein, shall be required to comply with the provisions of this ordinance section within sixty (60) days after its adoption.

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

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

2. The swimming pool, or the property on which the pool is located, shall be surrounded by a fence or wall, including a self-closing and self-locking door or gate, with the latches placed at least four (4) feet above the ground, (only classes 1, 3, 4, and 5 fences are permitted, as regulated by Article XIII of this ordinance). Such fence or wall shall be at least five (5) feet in height, but not exceeding the height as permitted herein, and of such construction that any openings shall not allow the passage of a four (4) inch diameter sphere.

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

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

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

SECTION 9.19 SITE PLAN REQUIREMENTS: No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel in zones where a site plan is required, except in accordance with the regulations of this section and an approved site plan as hereinafter required. Before a permit is issued for construction, one (1) copy of the site plan of the area at a scale no smaller than one (1) inch to one hundred (100) feet, shall be filed with Planning and Development Services of Kenton County and one (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 including the proposed phasing, as applicable;

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

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

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

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

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

   (4) Nonresidential buildings and uses, in order of priority.

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

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

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

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

   b. All housing units on the subject property:

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

      (2) Attached housing - Location, height, and arrangement of all buildings, indicating the number of units in each building, and, where applicable, location, arrangement and dimensions of all lots;
c. Location, height, arrangement, and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions;

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

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

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

g. All utility lines and easements:

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

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

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

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

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

i. Circulation System:

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

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

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

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

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

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

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

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

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

C. RECORD PLAT REQUIREMENTS: The applicant shall submit a Record Plat, in conformance with the Stage II approved plans. If the Record Plat is submitted in sections, an index shall be developed showing the entire plan area. The particular number of the section, and the relationship of each adjoining section shall be clearly shown by a small key map on each section submitted. The Record Plat shall conform to the applicable requirements of the subdivision regulations unless specifically waived by the Planning Commission. The Record Plat shall identify any proposed phasing of development within the submitted Record Plat area, indicating how such phasing is to be tied into the total area.

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, non-functional, in a state of disrepair, or lacking a valid license, shall be stored in excess of seventy-two (72) hours in any residential zone, unless it is in a completely enclosed building.

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

C. The outside storage of any trailer, recreational vehicle, camper, boat, or similar type equipment shall be regulated as follows:

1. Any of the aforementioned vehicles or similar type of equipment must be owned by the occupier of the residence in question and there must be a paved surface beneath the entire vehicle.

2. 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.

3. The outside storage of any of the aforementioned vehicles or similar type of equipment may be located within the front yard of all lots within the jurisdiction of the legislative body for a period not to exceed seventy-two (72) hours.

4. The outside storage of any of the aforementioned vehicles or similar type of equipment for seventy-two (72) hours or more shall be restricted to the rear yard of all lots within the jurisdiction of the legislative body.

5. The outside storage of any of the aforementioned vehicles or similar type of equipment within the side yard shall be considered a conditional use and subject to the approval of the board of adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance.
Article IX  General Regulations

D. It shall be unlawful to park or to keep any truck with a gross vehicle weight in excess of 18,000 pounds, or any trailer, recreational vehicle, camper, boat, or similar type of equipment with a length in excess of thirty-nine (39) feet, at any place on property located in a residential district zone, except in a completely enclosed garage. It shall also be unlawful to park or keep any semi-tractor trailer, regardless of length, on property located in a residential district zone.

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 three (3) months from the date of adoption of this ordinance to comply with all of the provisions of these sections.

SECTION 9.24  HILLSIDE DEVELOPMENT CONTROLS

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

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

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

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

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

3. The site plan and other information required in this Section shall be reviewed by the engineer and 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 planning commission, or its duly authorized representative, may authorize use of the site in accordance with the submitted plans.

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

SECTION 9.25 FLOOD PROTECTION DEVELOPMENT CONTROLS

A. FINDINGS OF FACT

1. The flood hazard areas of the city of Independence 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.

2. 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.
B. PURPOSE: The purposes of the flood protection development controls are:

1. 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.

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

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

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

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

C. DEFINITIONS: Notwithstanding other definitions within this ordinance, the following definitions shall only apply to this section of the ordinance:

1. Addition (to an existing structure) - Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

2. 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.

3. Area of special flood hazard - The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

4. 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.

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

6. **Basement** - That portion of a structure having its floor subgrade (below ground level) on all four sides.

7. **Breakaway Wall** - A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

8. **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.

9. **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. Included are areas downstream from dams.

10. **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.

11. **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 permanent storage of materials or equipment.
12. Elevated structure - A non-basement structure built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, piling, columns (post and piers), shear walls, or breakaway walls. (See freeboard requirements for residential and non-residential structures.)

13. 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.

14. 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.

15. Enclosure - That portion of a structure below the Base Flood Elevation (BFE) used solely for parking of vehicles, limited storage, or access to the structure.

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

17. 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”.

18. 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 the legislative body based on specific technical base flood elevation data which established the area of special flood hazards.

19. 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).
20. 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 to low risk of flooding.

21. Flood, Flooding, or Flood Water:
   a. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows). See Mudslides.
   b. The condition resulting from flood-related erosion. See flood-related erosion.

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

23. 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) or Federal Insurance Administration (FIA).

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

25. Flood Insurance Study - The report provided by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) 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.

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

27. Floodplain Administrator - The individual appointed by a NFIP participating community to administer and enforce the floodplain management ordinances.

28. 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.

29. 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.

30. 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.

31. Floodproofing Certificate - A certification by a registered professional engineer or architect, on a FEMA-approved 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.

32. 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”.

33. Floodway fringe - That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

34. Floor - The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

35. 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.

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

37. 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).

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

39. 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.

40. Increased Cost of Compliance (ICC) – Increased cost of compliance coverage provides for the payment of a claim for the cost to comply with
State or community floodplain management laws or ordinances after a direct physical loss by flood. When a building covered by a Standard Flood Insurance Policy under the NFIP sustains a loss and the state or community declares the building to be substantially or repetitively damaged, ICC will help pay up to $30,000 for the cost to elevate, floodproof, demolish, or remove the building.

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.

41. **Letter of Map Change (LOMC)** – Is 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 incorrectly 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 – 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.

42. **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.

43. **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.

For a levee system to be recognized, the following criteria must be met:

   a. All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be
Article IX  General Regulations

provided to FEMA by the operator when levee or drainage system recognition is being sought or revised).

b.  All operations must be under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the NFIP.

44. 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.

45. Lowest adjacent grade - The elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a structure’s foundation system.

46. 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.

47. 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).

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

49. 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 a community’s FIRM. For purposes of this ordinance, the term is synonymous with either National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) 1988.
50. 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.

51. 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.

52. 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.

53. 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.)

54. New Construction - Structures for which the start of construction commenced on or after the effective date of these floodplain management regulations and includes any subsequent improvements to such structures.

55. 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 these floodplain management regulations.

56. 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 legend panel for correct datum.)

57. 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.

58. 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 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.

59. 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.

60. Pre-FIRM Construction - Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

61. Post-FIRM Construction - Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

62. Probation - A means of formally notifying participating NFIP communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations. During periods of probation, each insurance policy is subject to a $50 surcharge.

63. Program Deficiency - A defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards or of the standards of 44 CFR 60.3, 60.4, 60.5, and/or 60.6.

64. 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.

65. 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.

66. 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 elevations determined in a FIS.

67. 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.

68. 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.

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

70. Repetitive Loss - Flood-related damages sustained by a structure on two or more separate occasions during a 10-year period where the value of damages equals or exceeds an average of 50% of the current value of the structure, beginning on the date when the damage first occurred, or, four or more flood losses of $1000.00 or more over the life of the structure, or, three or more flood losses over the life of the structure that are equal to or greater than the current value of the structure.

71. 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.

72. 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.

73. 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.

74. Substantial Damage - Means any damage to a building for which the cost of repairs equals or exceeds fifty percent of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

For the purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

a. Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Officer and which are solely 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”.

75. Substantial Improvement - Means any combination of reconstruction, alteration, or improvement to a building, taking place during a 1-year period in which the cumulative percentage of improvement equals or exceeds fifty percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration
of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

The term does not apply to:

a. Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely 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.” Or
c. Any building that has been damaged from any source or is categorized as repetitive loss.

76. 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.

77. 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. New or renewal flood insurance policies are no longer available in suspended communities.

78. Utilities - Includes electrical, heating, ventilation, plumbing, and air conditioning equipment.

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

80. 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.

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

82. 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 river areas.
83. 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.

84. 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.

D. LANDS TO WHICH THIS ORDINANCE APPLIES

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

E. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

1. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Kenton County, dated March 16, 2009, 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, and for those land areas acquired 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.

F. ESTABLISHMENT OF DEVELOPMENT PERMIT

1. 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).

2. Application for a development permit shall be made on forms furnished by the Floodplain Administrator.
G. COMPLIANCE

1. 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.

H. ABROGATION AND GREATER RESTRICTIONS

1. 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.

I. INTERPRETATION

1. 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.

J. WARNING AND DISCLAIMER OF LIABILITY: The degree of flood protection required by this section of the ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This section of the 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 damages. This section of the ordinance shall not create liability on the part of the Local Floodplain Coordinator or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

K. DESIGNATION OF LOCAL FLOODPLAIN COORDINATOR: The legislative body of the City of Independence 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 Coordinator. The city’s zoning administrator is
hereby appointed to administer and implement the provisions of these regulations.

L. PERMIT PROCESS: In addition to the requirements within Article XVI of this ordinance, all applications for a Development Permit shall be made to the Local Floodplain Coordinator 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. Specifically, the following information may be required:

1. Application Stage:
   a. Elevation in relation to Mean Sea Level of the proposed lowest floor (including basement) of all buildings.
   b. Elevation in relation to Mean Sea Level to which any non-residential building will be flood-proofed.
   c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing requirements of this section of the ordinance.
   d. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

2. Construction Stage:
   a. Provide a floor elevation or flood-proofing certificate after the lowest floor, or flood-proofing is completed. Upon placement of the lowest floor or flood-proofing, by whatever construction means, it shall be the duty of the permit holder to submit to the Local Floodplain Coordinator a certificate of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to Mean Sea Level. Said certificate shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same.
   b. When flood-proofing is utilized for a particular building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same. Any work undertaken prior to the submission of the certification shall be at the permit holder’s risk. The Local Floodplain Coordinator shall review the submitted floor elevation survey data. 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, shall be cause to issue a stop work order for the project.
M. DUTIES AND RESPONSIBILITIES OF THE LOCAL FLOODPLAIN COORDINATOR: The duties of the Local Floodplain Coordinator shall include, but not be limited to:

1. Review all development permits to assure that the permit requirements of these regulations have been satisfied.

2. Advise applicants that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

3. Notify adjacent communities and the Kentucky Division of Water prior to any alteration or relocation of the watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5. Verify and record the actual elevation, in relation to Mean Sea Level, of the lowest floor of all new or substantially improved building.

6. Verify and record the actual elevation, in relation to Mean Sea Level, to which the new or substantially improved buildings have been flood-proofed.

7. Obtain certification from a registered professional engineer or architect, when flood-proofing is utilized for a particular building.

8. Provide interpretation as to the exact location of boundaries of the areas of special flood hazard.

9. Obtain, review, and reasonably utilize any base flood elevation and floodway data that may be available from any federal, state or other source, when base flood elevation data or floodway data has not been provided pursuant to these regulations.

10. Maintain all records pertaining to the provisions of these regulations.

N. Areas of land adjacent to streams, rivers, or bodies of water which have a high degree of susceptibility to flooding shall be limited to development according to the following regulations, notwithstanding any other section of this ordinance or any other ordinance adopted by the city.
1. The limits of the floodplain (areas subject to flooding during the occurrence of a 100-year flood) and floodway are identified as Flood Protection Control Areas on the zoning map, pursuant to the Flood Insurance Study prepared by the Federal Emergency Management Agency. This study, along with any accompanying maps and other supporting data, and any revisions thereto, are adopted by reference and declared to be a part of this section of the ordinance.

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

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

3. No person, city, county, or other political subdivision of the state shall commence filling of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier, or obstruction of any sort on any area, including making any alteration or relocation of a waterway, located within the floodway which would result in any increase in flood levels during the occurrence of a 100-year flood discharge. In those cases where a watercourse is to be altered or relocated, the flood carrying capacity of said portion of the waterway affected must be maintained. Plans and specifications for such work shall be submitted to the Local Floodplain Coordinator for review to determine if said encroachment will meet the requirements of this Ordinance. Said plans shall also be submitted to the Kentucky Department of Natural Resources & Environmental Protection, Division of Water Resources, and other applicable agencies, for their review and approval.

4. All land outside the floodway of the bodies of water, but located within the floodplain, may be used for any purpose for which it is zoned, provided that:

   a. Any new residential construction, including any expansion or substantial improvements of existing residential structures as herein defined, within said floodplain, shall have the lowest floor elevated to a minimum of two feet above the level of the 100-year flood. Electrical, heating, ventilation, plumbing, and air conditioning
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. For all new construction and substantial improvement, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage, in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic exit of floodwaters. Designs for meeting this requirement must be certified by a professional engineer or architect.

b. Any new non-residential structures, including any expansion or substantial improvements of non-residential structures, within the floodplain area, shall have the lowest floor elevated to a minimum of two feet above the level of the 100-year flood or together with attendant mechanical, utility, and sanitary facilities shall be designed and floodproofed so that below the 100-year flood level the structure is water tight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effects of frequency certified by a professional engineer or architect. For all new construction and substantial improvement of elevated non-residential structures, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage, in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a professional engineer or architect.

c. For all new construction and substantial improvement of elevated non-residential structures, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a professional engineer or architect or meet the following minimum requirements:

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

(2) The bottom of all openings shall be no higher than one foot above grade; and
(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

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

6. All construction or modification of buildings and structures, including flood-proofing measures and techniques in the flood plain area, as required within this section of the ordinance, shall be in accordance with the applicable design standards of the U.S. Army, Corps of Engineers' publication, entitled "Flood Proofing Regulations", June, 1972 GPO 19730-505-026 Edition, or as amended, and the following requirements:
   a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
   b. All new construction and substantial improvements shall be constructed with materials and mechanical and utility equipment resistant to flood damage.
   c. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
   d. 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
   e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
   f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems' discharges from the systems into flood waters.
   g. On-site waste disposal systems, where permitted, shall be located to avoid impairment to them or contamination from them during flooding.

7. In addition to the above requirements, manufactured homes, as herein defined, shall meet the following standards:
a. No manufactured home or recreational vehicle shall be placed in a floodway.

b. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

(1) Over-the-top ties be provided at each end of the manufactured home, with one additional tie per side at an intermediate location on manufactured homes of less than fifty (50) feet and one additional tie per side for manufactured homes of fifty (50) feet or more;

(2) Frame ties be provided at each corner of the home with four (4) additional ties per side at intermediate points for manufactured homes less than fifty (50) feet long and one additional tie for manufactured homes of fifty (50) feet or longer;

(3) All components of the anchoring system be capable of carrying a force of 4,800 pounds;

(4) Any additions to the manufactured home be similarly anchored.

c. For new manufactured home parks and subdivisions; for expansions to existing manufactured home parks and subdivisions; for existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities, and pads equals or exceeds fifty (50) percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement has commenced; and, for manufactured homes not placed in a manufactured home park or subdivision require:

(1) That all manufactured homes meet all of the requirements for new construction, including elevations and anchoring;

(2) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be a minimum of two feet above the base flood level;

(3) 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 grade;

(4) The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse, and lateral movement;

(5) Adequate surface drainage and access for a hauler are provided;
(6) In the instance of elevation on pilings; (1) lots are large enough to permit steps; (2) piling foundations are placed in stable soil no more than ten (10) feet apart; and (3) reinforcement is provided for pilings more than six (6) feet above the ground level.

8. Recreational vehicles may be permitted to be located within the limits of the floodplain, subject to compliance with the following requirements:

   a. The recreational vehicle must be on the site for less than 180 consecutive days;

   b. The recreational vehicle must be fully licensed and ready for highway use; or

   c. That the recreational vehicle meet the elevation and anchoring requirements for manufactured homes, as set forth in Subsection H., 7., above.

   A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

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

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

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

12. After completion of the first floor elevation, as provided in Subsection (4) of this section, an elevation certificate shall be provided to and maintained in the offices of the Zoning Administrator - Building Official.
13. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any land below the elevation of the 100-year flood level.

14. A zoning permit, as regulated by Section 16.1 of this ordinance shall be required prior to any grading or construction within any area designated as being located within the floodplain.

15. 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.

O. STANDARDS FOR SUBDIVISION PROPOSALS

1. All preliminary 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.

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

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

4. In areas where base flood elevation and floodway data is not available (Zone A or unmapped streams), 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.

5. 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.

P. VARIANCE PROCEDURE:

1. The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of these regulations.
2. The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any requirement, decision, or determination made by the Local Floodplain Coordinator in the enforcement or administration of these regulations.

3. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the appropriate court of law, as provided in the Kentucky Revised Statutes.

4. Variances may be issued for the repair or rehabilitation of historic structures upon determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variation is the minimum to preserve the historic character and design of the structure.

5. 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:

   a. The danger that materials may be swept onto other lands to the injury of others.
   b. The danger to life and property due to flooding or erosion damage.
   c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
   d. The importance of the services provided by the proposed facility to the community.
   e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility.
   f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
   g. The compatibility of the proposed use with existing and anticipated development.
   h. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
   i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
   j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
   k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as water, gas, electrical, and sewer systems, and streets and bridges.
6. Upon consideration of the factors listed in Subsection F., 5., and the purpose of these regulations, the Board of Adjustment may attach such conditions to the granting of the variation as it deems necessary to further the purposes of these regulations.

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

8. Conditions for variances:
   a. Variances shall only be issued upon determination that the variation is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
   b. Variations shall only be issued upon:
      (1) a showing of good and sufficient cause;
      (2) a determination that failure to grant the variance would result in exceptional hardship;
      (3) a determination that granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
   c. 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 building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
   d. The Local Floodplain Coordinator shall maintain the records of all appeals and report any variances to the Federal Emergency Management Agency upon request.

P. SEVERABILITY

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

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

SECTION 9.26 GENERAL MOBILE HOME REGULATIONS

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

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

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

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

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

SECTION 9.27 SANITARY LANDFILL REGULATIONS

A. Minimum Site Area - Fifty (50) acres.

B. The applicable regulations promulgated by the Kentucky Department of Natural Resources and Environmental Protection pertaining to landfill operations shall be strictly adhered to and are made a part of this ordinance.

In addition, all sanitary landfills shall operate in accordance with the performance standards of the Division of Air Pollution, Division of Water Quality, and other applicable performance standards of the state of Kentucky.
C. Screening areas shall be provided along all boundary lines not protected by comparable vegetative screening, in accordance with the applicable requirements of Section 9.17 of this ordinance.

D. Landfill operations shall not be conducted within one hundred (100) feet of any dedicated right-of-way or property line which is the exterior boundary of the landfill, or within three hundred (300) feet of any existing structure regularly occupied or utilized by any person for the conduct of residential, commercial, industrial, and public and semi-public type activities.

E. Site Plan Requirements - Before a permit is issued, a site plan shall be prepared meeting the applicable requirements of Section 9.19 of this ordinance and submitted to the Board of Adjustment for approval. In addition, the following information shall also be submitted:

1. A plan showing the specific reuse of the area after completion of landfill operations including the final grades to be established in meeting the needs of the proposed reuse of the landfill.

SECTION 9.28 LAND USED FOR AGRICULTURAL PURPOSES: Pursuant to KRS 100, any land which is used for agricultural purposes (exclusive of land and buildings used for residents), shall have no regulations, except that:

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

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

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

SECTION 9.29 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 9.30 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 9.31 REGULATIONS CONCERNING TELEVISION AND RADIO STATIONS
A. TELEVISION: Earth stations for the reception and/or transmittal of TV signals, programs, messages, etc., may be installed as accessory structures in any zone, in compliance with the following regulations:

1. Such structures, including support equipment, shall not be permitted within any front yard or side yard (on each side of the lot) in any zone. Such structures may be permitted to extend into the minimum rear yard depth, as defined herein, in all zones, provided that such structures are set back from the rear lot line a minimum of ten (10) feet, and side yard clearances are maintained.

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

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

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

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

1. Such structures, including tower, mast, antenna, guy wires, support equipment, etc., shall not be permitted within any front yard or side yard (on each side of the lot) in any zone. Such structures may be permitted to extend into the minimum rear yard depth, as defined herein, in all zones, provided that such structures are set back from the rear lot line a minimum of ten (10) feet, and side yard clearances are maintained.

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

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

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

SECTION 9.32 COMPATABILITY STANDARDS FOR QUALIFIED MANUFACTURED HOUSING
A. PURPOSE: The purpose of compatibility standards for manufactured housing is:

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

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

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

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

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

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

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

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

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

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

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

a. floor living space and setbacks;
b. siding and exterior materials;
c. roof pitch;
d. square footage;
e. general aesthetic appearance.

6. Compatibility with the orientation and location of existing structures shall be based on the following:

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

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

SECTION 9.33 RETIREMENT COMMUNITY DEVELOPMENT REGULATIONS

A. PURPOSE: The purpose of retirement community development regulations are:

1. To provide appropriate housing alternatives for active adults age fifty-five (55) years and older and elderly persons living independently.

2. To provide an opportunity for people age fifty-five (55) years of age and older to live in a residential neighborhood designed specifically for their needs, equipped with the appropriate amenities and located within reasonable proximity to public transportation services.

3. To permit flexibility in the design, location and sitting of buildings in order to provide for accessible and suitably located open space and amenities, and other common facilities then would otherwise be provided under conventional residential land development procedures.

B. DEFINITIONS: The following definitions shall only apply to this section of the ordinance:

1. Active Adult Community means a community or living facility designed specifically for the interests of persons age fifty-five (55) years of age and older, which typically contains amenities and support services for older adults who are healthy, active, and capable of completely independent living.

2. Elderly means persons age 62 and older, as defined in federal regulations.

3. Independent Living Facilities means housing that groups seniors for the purpose of social interaction and mutual support in a common interest community. Group facilities may be provided on premises for recreation and social interaction, but only limited support services are typically provided.

4. Senior means persons age fifty-five (55) and older.

5. Senior Housing means a variety of housing types designed specifically to meet the varied needs of persons age fifty-five (55) and older. Such housing may include, active adult facilities and independent living facilities.

C. DISTRICT LOCATIONS: Retirement communities shall only be permitted within Residential (R) zones in accordance with the permitted uses listed in Article X,
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 retirement community and its proper integration with the surrounding development, are met. Retirement communities may be established on any parcel, or combination of parcels that meet the following additional requirements:

1. A conceptual circulation plan shall be required, including the layout of the entire area of the retirement community, taking into consideration internal and external pedestrian connectivity, vehicular access and the functional relationship of uses within the retirement community.

2. Proximity of the retirement community to within no more than ¼ mile from public transportation services.

3. Direct access to an arterial or collector road.

D. APPLICATION AND PROCESSING: Stage II Development Plan – A Stage II Plan shall be prepared in accordance with the requirements of Section 9.20, B. and C., and submitted to the planning commission’s duly authorized representative (PDS) for review and approval. The planning commission’s duly authorized representative shall take final action to approve, approve with conditions, or disapprove the Stage II Development Plan. This action letter shall be forwarded to the city’s administrative official, or his/her duly authorized representative.

1. 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 Section 9.20, B., for Stage II plans, and other applicable elements of this ordinance, and other applicable regulations. Upon approval of the Stage II Development Plan, a copy of said plan shall be forwarded to the legislative body who shall grant final approval. Permits shall be granted only in accordance with the approved Stage II Development Plan and other regulations, as may be required by this ordinance.

2. If the development is to be subdivided, then upon approval of the Stage II Development Plan, the planning commission shall review the submitted Record Plan 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 approved Stage II plan.

E. PERMITTED USES: As defined and regulated herein, retirement communities may include the following uses and facilities:
1. All types of residential housing units (attached or detached) may be permitted including but not limited to, One detached single-family residence, and any number of two-family and/or multi-family residential units, but only in accordance with the density requirements of the applicable zoning district.

2. Common areas for use principally by residents and their guests. Such areas may include, dining facilities (with ancillary kitchen facilities), social rooms, chapels, overnight guest accommodations, and indoor and outdoor recreational facilities.

3. Personal services and limited retail facilities intended for the use of residents and their guests, including craft and hobby shops, gift shops, hair stylists and similar activities.

4. Administrative offices, and residence of staff for the management of the senior housing community and ancillary services.

5. Public and semi-public structures and use may be permitted within a retirement community upon the approval of the legislative body. These uses shall be delineated on any development plan and shall be limited to one or more of the following uses:
   a. Churches
   b. Community centers
   c. County clubs
   d. Fire or police stations
   e. Libraries
   f. Parks and open spaces

F. AREA REQUIREMENTS: No retirement community shall be permitted on less than eight (8) acres of land.

G. COMMON OPEN SPACE/RECREATION AREA: At least twenty percent (20%) of the total acreage of the proposed retirement community development shall be retained as common open space. Such open space shall be physically situated so as to be readily accessible, and available to all residents of the retirement community. Common open space areas shall be that part of the total project exclusive of dwellings, streets, parking areas, and other non-open space and indoor recreational facilities.

H. EVALUATION CRITERIA: In considering applications submitted under this section, the planning commission shall take into consideration the public, health, safety and general welfare and the comfort and convenience of the public in
general and the residents of the adjoining areas in particular and shall make any appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance and particularly in regard to achieving:

1. Maximum safety of traffic ingress and egress, minimum impact on the capacity of existing roads and sufficient parking areas to provide for adequate off-street parking.

2. A site layout which would not have an adverse effect upon any properties in adjoining residential zones by impairing the established character or the potential use of properties in such zones.

3. The screening of all parking lots, service areas, and multi-family housing developments from the view of adjacent residential properties and streets.

4. Conformance of the proposed plan with the Goals and Objectives and Development Concepts as contained within the adopted Comprehensive Plan.

5. Conformance of the building and all related signs and structures to the properties of the aesthetic character of the area, as determined by consideration of architecture, building size and type, scale of lot coverage, and consistency of uses in the immediate area.

I. PARKING, REQUIREMENTS, The parking ratios for retirement communities shall be as follows:

Single detached and two-family dwellings: Two (2) spaces per unit
Multi-family dwellings: One (1) space per one (1) bedroom unit
Plus
one (1) space per five (5) units for visitor parking, or one and one half (1.5) spaces for each two (2) or more bedrooms plus 1 space for each five (5) units for visitor parking.

These spaces include garages, paved driveways in front of garages and off street paved parking spaces.

Offices/Service facilities: One (1) space for each two (2) employees on shift of largest employment

Common areas: One (1) space per four (4) seats in the main assembly area, provided however, if assembly areas are for the exclusive
use of the residents, no additional parking is required

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

K. FENCES, WALLS AND SIGNS: The location, height, and type of all fences, walls, and signs, shall be as approved in the plan, as regulated by Article XIII and Signs by Article XIV.

L. RESTRICTIONS:

1. Retirement communities designed for exclusive occupancy by senior citizens, as a minimum, must meet federal regulations for such facilities. In addition, the tenure of residential units within a retirement community shall be at the discretion of the managing entity. All facilities within a single retirement community, including all residential units, shall be under the management of a single entity.

2. If the retirement community applies for Non-Profit status, it will be considered a private entity. The City of Independence will assume no financial responsibility for any streets, sidewalks, street lights, or any other common areas, for construction or maintenance. Future financial responsibility for the above mentioned items will be the sole responsibility of the developer and/or home owners association, if one is formed.

SECTION 9.34 REGULATIONS OF SEXUALLY ORIENTED BUSINESSES

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

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

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

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

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

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

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

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

I. The United States Supreme Court in Renton and other cases has held that a local government may regulate such uses through content-neutral, time, place, and manner restrictions, so long as said regulations are designed to serve the government interest and do not unreasonably omit avenues of communication, and are aimed not at the content of protected speech within said establishments but rather at the secondary effects of said establishments on the surrounding communities.
J. The study by Kelly and Cooper found extensive physical interaction between patrons and dancers at many of the establishments in both Kenton and Campbell Counties.

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

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

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

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

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

A later review, conducted in 1990 by the Newport License Inspector, documented the continued prostitution arrests occurring at several adult dancing establishments. Def. Ex. G. Moreover, the City determined that over $ 70,000 was expended in 1990 to target, patrol and prosecute the illicit behavior occurring in and around the bars. Def. Ex. H.
Several of Newport's citizens, merchants and church groups also opposed the presence of the semi-nude dancing clubs. These groups generally believed that the adult entertainment clubs were "clouds over [the] neighborhood that keep [it] from growing in the [right] direction." See Def. Ex. I (letter to Mayor from Taylors Landing Business District). Complaints commonly expressed were that the seamy establishments deterred other merchants from locating in Newport's business district, deterred shoppers, served a poor example for the City's youth, and generally tarnished the City's image. Id.


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

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

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

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

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


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

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

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

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

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

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

P. The city of Independence 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 Independence to balance the Constitutional rights of businesses that present sexually oriented entertainment with the city of Independence 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 Independence 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 Independence recognizes that some of the cited studies included bars without sexually oriented entertainment among the businesses studied; the city of Independence 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 Independence 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 Independence 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 Independence 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 Independence 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 Independence
finds that the following principles are essential to effective zoning controls of
sexually oriented businesses:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. ESTABLISHMENT – any business regulated by this Section.

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

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

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

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

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

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

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

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

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

24. MEDIA STORE, SEXUALLY ORIENTED – an establishment that rents and/or sells sexually oriented media, and that meets any of the following three tests:

   a. More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or

   b. More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
c. It advertises or holds itself out in any forum as a “XXX,” “adult” or “sex” business, or otherwise as a sexually oriented business, other than sexually oriented media outlet, sexually oriented motion picture theater, or sexually oriented cabaret.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AB. PERMITTED ZONING DISTRICTS:

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

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

AC. ZONING PERMIT: Any application for a sexually oriented business Zoning Permit shall be processed in accordance with Article XVI of the Zoning Ordinance with the following additional requirements:
1. Zoning Permit and License Required
   
a. Permit and license required. Each sexually oriented business or service oriented escort bureau is required to obtain a Zoning Permit under the City of Covington's Zoning Code and License under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. However, no license is required for a media store with some sexually oriented media.

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

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

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

AD. GENERAL STANDARDS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AE. INDIVIDUAL BUSINESS STANDARDS:

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

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

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

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

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

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

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

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

   a. Presentation area. All entertainment shall occur in an unobstructed room of at least 600 square feet of floor area with a person in any part of such room having a clear view of all entertainment areas;
   
   b. Performance stage. All entertainment shall take place on stage elevated at least 24 inches above the surrounding floor area, with a minimum area of 100 square feet, and with a horizontal separation of at least 60 inches between the edge of the stage and the nearest space to which customers have access—the horizontal separation shall be physically enforced by a partial wall, rail, or other physical barrier, which may be located either on the stage (to keep the entertainers back from the edge) or on the floor (to keep the customers back from the stage);
   
   c. Lighting. The lighting level in the area occupied by customers shall be at least 15 footcandles as measured 3 feet from the floor.
   
   d. Seating. Seating shall consist of chairs or open booths; no couches, beds, or loose cushions or mattresses, or of any form shall be provided.

AF. ZONING ADMINISTRATOR REVIEW AND EXPIRATION OF ZONING PERMIT:

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

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

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

AG. APPEAL PROCEDURES:

1. Appeals to Board of Adjustment
   a. Appeals to the Board of Adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. Such appeal shall be taken within 10 calendar days after such action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator, by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. A fee, as required by § 158.007, shall also be paid to the Zoning Administrator at this time. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record on which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the Board, an interested person may appear and enter his or her appearance, and all shall be given an opportunity to be heard.
   b. The Board of Adjustment shall hear the appeal within 30 calendar days of its filing with the Zoning Administrator and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least 7 calendar days prior to the hearing. The affected parties may appear at the hearing in person or by an attorney. The Board of Adjustment shall hear the matter and render a decision within 36 days after the filing of the appeal. If the Board of Adjustment fails to act within such time, the application is deemed denied.
2. Appeals from the Board of Adjustment

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

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

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

SECTION 9.35 DESIGN STANDARDS FOR DETACHED SINGLE-FAMILY RESIDENTIAL DWELLING UNITS

A. PURPOSE: The purpose of these regulations is to create attractive, harmonious residential developments having continuing appeal. The residential design standards are intended to promote harmonious development and add to the visual and/or architectural character of the city.

B. APPLICABILITY: The regulations in this section shall not apply to detached single-family residential dwelling units built on any lot that was existing prior to the adoption of these regulations, nor to any lot that was approved on an active (non-expired) preliminary plat prior to the adoption of these regulations, nor to any subdivisions of five or fewer lots. Additions or alterations to any existing detached single-family residential dwelling that occur after the adoption of these regulations shall conform to the current exterior siding percentages of the
elevation on which the addition or alteration is being completed. Sunrooms and screened-in porches are exempt from this requirement.

C. DESIGN STANDARDS: Building materials and design for detached single-family residential dwelling units shall be limited in the following manner:

1. Exterior walls of all detached single-family residential dwelling units, except foundations, shall not be constructed of concrete or cinder block.
2. The same front elevation cannot be built adjacent to or directly across the street from a single-family residential dwelling with the same front elevation, unless colors, front door or garage doors, window style, gable, or other features are present which result in the front elevation appearing to be different.
3. All windows and doors on the front elevations of a new detached single-family residential dwellings must provide a minimum of 3/4 inch by 3 ½ inch trim surround or decorative shutters. Windows, doors, and garage doors in brick veneer are not required to meet this requirement.
4. All detached single-family residential dwelling units shall have a minimum of fifty (50) percent “approved exterior covering” on the front elevation, excluding doors, windows, garage doors, roofs, exterior trim, and shutters. “Approved exterior covering” shall include, brick veneer, stone (real or cultured), stucco, fiber cement siding products natural wood or wood composite horizontal siding, natural wood or wood composite shingles, natural wood or wood composite shake.
5. Single-family residential dwellings can decrease the amount of “approved exterior covering” on the front elevation to below the fifty (50) percent requirement by incorporating the following architectural design feature options. A combination of design features from lists identified in subsections 9.35, C., 5., a. and 9.35, C., 5., b., can be used to decrease the requirement on the front elevation, but it shall not be decreased below twenty-five (25) percent unless three or more elements from subsection 9.35, C., 5., b., are used.

   a. The following optional design features may be used to decrease the required amount of “approved exterior covering” on the front elevation as described in Section 9.32, C., 4. Each design feature listed in this subsection will reduce the required “approved exterior covering” on the front elevation by five (5) percent. Under no circumstance shall the front elevation of the dwelling unit be decreased below twenty-five (25) percent “approved exterior covering” when incorporating the design features from this subsection, unless three or more elements from subsection 9.35, C., 5., b., are used.
(1) A minimum of three of the following front elevation architectural features. This includes shutters, single window dormers, multi-pane windows, decorative crown over doors, moldings and trim, dentil moldings, quoins, pilasters, cornices, exterior crown molding or window accoutrements that add another architectural element to the house.

(2) An exterior lighting package including, but not limited to, driveway post lamps, landscape lighting, flood/spot lights, wall lanterns, lamps near house, garage entrances, and others as approved by the zoning administrator. All lighting options must be permanently affixed and not temporarily installed. A minimum of three lighting features are required.

(3) A minimum of two window types into the front architecture of the unit. This includes bay windows, oriel windows, round-top windows, transom windows, and others as approved by the zoning administrator.

(4) Minimum of two (2) ridgelines visible from the front of the house.

(5) Minimum of a four (4) foot deep covered entry porch with columns.

(6) Minimum of a two (2) foot deep recessed front entry.

(7) Minimum of a three (3) foot deep covered entry with decorative brackets.

(8) Minimum of a one (1) foot front facing gable with a minimum of an 8:12 pitch roof.

(9) Garage set back a minimum of two (2) feet from the furthest projecting wall on the front elevation.

(10) Windows on garage doors that face any street or right-of-way.

(11) Two or more siding types on the front elevations including, but not limited to, horizontal siding, shake siding, and board and batten siding.

(12) Minimum of one (1) sidelight at the front entry.
(13) Minimum of six (6) windows or more on the front elevation.

(14) Dentil blocks, decorative brackets, crown molding, or similar architectural detailing at eaves on the front elevation.

b. The following optional design features may be used to decrease the required amount of masonry on the front elevation as described in Section 9.35, C., 4. Each design feature listed in this subsection will reduce the required masonry on the front elevation by ten (10) percent.

(1) Attached two car garage with one door or two separate doors and designed or located to reduce the visual impact of garage doors along street frontages. This includes side-loaded garages or front-loaded garages that provide windows or other architectural details that mimic the features of the living portion of the dwelling unit on the side of the garage facing the street.

(2) Roofs made with roof materials such as tile, slate, cedar shake with fire protections, thirty-year or more asphalt shingles, dimensional asphalt, fiberglass, metal standing seam roofs, and others as approved by the zoning administrator.

(3) Two (2) single window dormers or one (1) multi-window dormer.

(4) A usable, fully covered front patio/porch that stretches at least thirty (30) percent of the building frontage with a minimum width of eight feet and a minimum depth of six feet.

(5) Full length chimney constructed of brick or stone and mortar.

(6) The main roof being a hip roof with a minimum of 6:12 pitch on all sides.

D. APPLICATION AND PROCESSING: The applicant shall submit concept designs of the proposed single-family residential dwelling to the zoning administrator with their zoning permit application. The concept designs shall indicate the following:

a. Elevation drawings indicating the materials located on the front elevation.

b. Percentage and type of masonry product located on the front elevation.

c. Specific design standards from the lists in subsections 9.35, C., 5., a., and 9.35, C., 5., b., used in the construction of the single-family residential
dwelling that are being used to meet the requirements of this section of the zoning ordinance.

E. WAIVERS: Waivers to the requirements of Section 9.35 may be requested by the applicant. The Zoning Administrator with the approval of the City’s chief administrative official, or his/her duly authorized representative, may waive or modify, with or without conditions, the requirements of Section 9.35, if it is determined that such action will:

a. Use design features or materials that are unforeseen within these design regulations, but meet the intent of the regulation;

b. Use innovative building materials or site design features that will enhance the use or value of the property to an extent comparable or in excess to the requirements of this section;

F. APPEALS: The applicant can appeal any decision of the zoning administrator or chief administrative official to the Board of Adjustment.
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 A-2 (AGRICULTURAL-TWO) ZONE

A. PERMITTED USES:
   1. Agricultural uses;
   2. Single-family residential dwellings (detached);
   3. Sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any road or highway;
   4. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises;
   5. Stables and riding academies.
   6. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance.

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

C. CONDITIONAL USES: The following uses or any customary accessory buildings and uses, subject to the approval by the board of adjustments, as set forth in Sections 9.14 and 18.7 of this ordinance:
   1. Cemeteries;
   2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
   3. Governmental offices;
   4. Nursery schools;
   5. Police and fire stations, provided they are located adjacent to an arterial street;
   6. Public and parochial schools;
   7. Veterinarians' offices and large and small animal clinics;
   8. Automobile junk yards, as provided for in Section 9.9 of this ordinance, provided all such storage is entirely within an enclosed fence or wall, meeting the requirements of Section 13, or properly screened according to the requirements of Section 9.17;
   9. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
   10. Recreational uses, other than those publicly owned and/or operated, as follows:
a. Golf courses;
b. Country clubs;
c. Swimming pools;
d. Tennis courts/clubs;
e. Fishing lakes;
f. Gun clubs and ranges;

11. Contractors’ offices and storage of machinery and equipment only provided all such storage is entirely within an enclosed fence or wall, meeting the requirements of Section 13, or properly screened according to the requirements of Section 9.17;

12. Sanitary landfills, as regulated by Section 9.27 of this ordinance;

13. Funeral homes, providing they are located adjacent to an arterial street.

14. Bed and breakfast establishments

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

1. Minimum Lot Area - Five (5) acres.
2. Minimum Lot Width at Building Setback Line - Four hundred (400) feet.
3. Minimum Front Yard Depth - Seventy-five (75) feet.
5. Minimum Rear Yard Depth - Thirty-five (35) feet.
6. Maximum Building Height - Thirty-five (35) feet.

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED 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.
5. Minimum Rear Yard Depth - Seventy-five (75) feet.
6. 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 lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
3. The following shall apply to bed and breakfast establishments:
   a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   b. Food service may be provided for resident guests only.
c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.

d. Interior alterations should maintain the unique characteristics of the structure, if possible.

e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.

f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.2 R-RE (RESIDENTIAL RURAL ESTATE) ZONE

A. PERMITTED USES

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

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. Indoor horse arenas and horse stables provided the total acreage of the site is not less than ten (10) acres, and provided the owner obtains and maintains a commercial animal establishment license.
6. Nursery schools;
7. Police and fire stations, provided they are located adjacent to an arterial street
8. Public and parochial schools;
9. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
10. Recreational uses, other than those publicly owned and/or operated as follows:
a. Golf courses;
b. Country clubs;
c. Swimming pools;
d. Tennis courts/clubs;
e. Fishing lakes and clubs;
f. Gun clubs and ranges;

11. Bed and breakfast establishment

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES

1. Minimum lot area - One (1) acre
2. Minimum lot width at building setback line - One hundred (100) 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.
3. The following shall apply to bed and breakfast establishments:
   a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   b. Food service may be provided for resident guests only.
   c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
   d. Interior alterations should maintain the unique characteristics of the structure, if possible.
   e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
   f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.3 R-1A (RESIDENTIAL ONE-A) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 of this ordinance

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article XIII
3. 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. Indoor horse arenas and horse stables provided the total acreage of the site is not less than ten (10) acres, and provided the owner obtains and maintains a commercial animal establishment license.
7. Institutions for higher education, providing they are located adjacent to an arterial street
8. 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
9. Nursery schools;
10. Public and parochial schools;
11. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries;
12. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Golf courses;
   b. Country clubs;
   c. Roller rinks;
   d. Swimming pools;
13. Small animal boarding kennel
14. Bed and breakfast establishment

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

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

1. Minimum lot area (except small animal boarding kennel) - Twenty-two thousand five hundred (22,500) square feet
   Minimum lot area for small animal boarding kennel - Three (3) acres
   In the case of this use, more than one principal building, as herein defined, may be constructed on one lot
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, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be
required to exceed the minimum setback requirement established for this zone.

5. Small animal boarding kennel - All activities related to the operation of a small animal boarding kennel shall be confined to a completely enclosed building and no outside runs or animal pens shall be permitted.

6. The following shall apply to bed and breakfast establishments:
   
a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
b. Food service may be provided for resident guests only.
c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
d. Interior alterations should maintain the unique characteristics of the structure, if possible.
e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.4 R-1B (RESIDENTIAL ONE-B) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in Section 9.32 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. Indoor horse arenas and horse stables provided the total acreage of the site is not less than ten (10) acres, and provided the owner obtains and maintains a commercial animal establishment license.
7. Institutions for higher education, providing they are located adjacent to an arterial street
8. 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
9. Nursery schools;
10. Public and parochial schools;
11. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries;
12. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Golf courses;
   b. Country clubs;
   c. Roller rinks;
   d. Swimming pools;
13. Bed and breakfast establishment

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

1. Minimum lot area - One-half (1/2) acre
2. Minimum lot width at building setback line - One hundred (100) feet
3. Minimum front yard depth - Forty (40) feet
4. Minimum side yard width - Total: Twenty-five (25) feet; One Side: Ten (10) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. The following shall apply to bed and breakfast establishments:
   a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   b. Food service may be provided for resident guests only.
c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.

d. Interior alterations should maintain the unique characteristics of the structure, if possible.

e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.

f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.5 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 9.32 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. Indoor horse arenas and horse stables provided the total acreage of the site is not less than ten (10) acres, and provided the owner obtains and maintains a commercial animal establishment license.
7. Institutions for higher education, providing they are located adjacent to an arterial street
8. 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
9. Nursery schools;
10. Public and parochial schools;
11. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries;
12. Recreational uses other than those publicly owned and/or operated, as follows:
   a. Golf courses;
   b. Country clubs;
   c. Roller rinks;
   d. Swimming pools;
13. Bed and breakfast establishment

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, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. The following shall apply to bed and breakfast establishments:
   a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   b. Food service may be provided for resident guests only.
c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
d. Interior alterations should maintain the unique characteristics of the structure, if possible.
e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.6 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 9.32 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. Banks and other financial institutions, including savings, loan, and finance companies, with drive through windows, providing they are located adjacent to an arterial street and a collector street, and are located within a Community Service Area as defined in the adopted comprehensive plan
2. Cemeteries
3. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
4. Fire and police stations, providing they are located adjacent to an arterial street
5. Funeral homes, provided they are located adjacent to an arterial street
6. Governmental offices
7. Indoor horse arenas and horse stables provided the total acreage of the site is not less than ten (10) acres, and provided the owner obtains and maintains a commercial animal establishment license.
8. Institutions for higher education, providing they are located adjacent to an arterial street
9. 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
10. Nursery schools
11. Public and parochial schools;
12. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
13. Recreational uses other than those publicly owned and/or operated, as follows:
a. Golf courses;
b. Country clubs;
c. Roller rinks;
d. Swimming pools;

14. Bed and breakfast establishment

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

1. Minimum lot area - Nine thousand (9,000) square feet
2. Minimum lot width at building setback line - Seventy (70) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total: Eighteen (18) feet; One Side: Six (6) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. The following shall apply to bed and breakfast establishments:
   
a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   
b. Food service may be provided for resident guests only.
   
c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
   
d. Interior alterations should maintain the unique characteristics of the structure, if possible.
   
e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
   
f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.7 R-1DD (RESIDENTIAL ONE-DD) ZONE

A. PERMITTED USES

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

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article 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. Roller rinks;
   d. Swimming pools;
12. Bed and breakfast establishment

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

1. Minimum lot area -
   - Single-family: Nine thousand (9,000) square feet
   - Two-family: Thirteen thousand five hundred (13,500) square feet

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

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

4. Minimum side yard width -
   - Single-family: Total: Eighteen (18) feet; One Side: Six (6) feet
   - Two-family: 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, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.

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

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

5. The following shall apply to bed and breakfast establishments:
a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
b. Food service may be provided for resident guests only.
c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
d. Interior alterations should maintain the unique characteristics of the structure, if possible.
e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.8 R-1EE (RESIDENTIAL ONE-EE) ZONE

A. PERMITTED USES

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

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by Article 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. Roller rinks;
   d. Swimming pools;
12. Bed and breakfast establishment

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

1. Minimum lot area -
   - Single-family: Seven thousand five hundred (7,500) square feet
   - Two-family: Eleven thousand five hundred (11,500) square feet
2. Minimum lot width at building setback line -
   - Single-family: Sixty (60) feet
   - Two-family: Seventy (70) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total: Fifteen (15) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. The following shall apply to bed and breakfast establishments:
   a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   b. Food service may be provided for resident guests only.
   c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
d. Interior alterations should maintain the unique characteristics of the structure, if possible.

e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.

f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.9  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 9.32 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. Roller rinks;
   d. Swimming pools;
12. Bed and breakfast establishment
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: Ten (10) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. The following shall apply to bed and breakfast establishments:
   a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   b. Food service may be provided for resident guests only.
   c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
d. Interior alterations should maintain the unique characteristics of the structure, if possible.

e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.

f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.10 R-2 (RESIDENTIAL TWO) ZONE

A. PERMITTED USES

1. Two-family residential dwellings
2. Multi-family residential dwellings;
3. Single-family residential dwellings (attached);

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. Roller rinks;
   d. Swimming pools;
12. Bed and breakfast establishment
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 - Twenty thousand (20,000) square feet
2. Maximum density - Ten (10.0) 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
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.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.
6. The following shall apply to bed and breakfast establishments:
a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
b. Food service may be provided for resident guests only.
c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
d. Interior alterations should maintain the unique characteristics of the structure, if possible.
e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.11 R-3 (RESIDENTIAL THREE) 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. Roller rinks;
   d. Swimming pools;
12. Bed and breakfast establishment
D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES: No buildings shall be erected or structurally altered hereafter, except in accordance with the following requirements:

1. Minimum lot area - Twenty thousand (20,000) square feet
2. Maximum density - Twenty (20.0) 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
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.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
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 10.13 of this ordinance.
6. The following shall apply to bed and breakfast establishments:

   a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
   b. Food service may be provided for resident guests only.
   c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
   d. Interior alterations should maintain the unique characteristics of the structure, if possible.
   e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
   f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.12 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. 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 legislative body 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. In approving the Stage II plan, the city may authorize minor adjustments from the Stage I approved plan, without a public hearing. The legislative body shall determine what is a major change considering the spatial relationship of structures, a change in land uses, a change in density, a change in circulation patterns for vehicular and pedestrian traffic, or the change in open space and recreational areas and the like.

In the event that the city legislative body determines the changes are a major nature, the proposed revisions shall be reviewed through the public hearing process as provided under 10.12.

Upon city legislative approval of the Stage II Plan, a copy of said plan shall be forwarded to the city's 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 plat as required by KRS 100.277, the record plat shall be submitted to the legislative body for a determination that any offer of dedications (public ways and/or easements) indicated on the plat would be beneficial to the public interest and suitable for the immediate or future "acceptance for maintenance" by the city as required by KRS 82.400.

Upon submission of the record plat to the legislative body, said original record plat, certified by the planning commission and the mayor of the legislative body, and suitable for recording, shall be forwarded to the offices 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. Self service dispensing of any automotive fuels, excluding automotive servicing
12. 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 shall be made in accordance with the procedure required by this ordinance and any minor amendments may be approved by the city legislative body without a hearing as provided herein and any major changes shall be heard by the city legislative body at a public hearing after due notice.

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 10.13 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 legislative body 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. In approving the Stage II Plan, the city may authorize minor adjustments from the Stage I approved plan without a public hearing. The legislative body shall determine what is a minor change considering the spatial relationship of structures, a change in land use, a change in traffic, or the change in open space and recreational areas and the like.

In the event that the city legislative body determines the changes are of a major nature, the proposed revisions shall be reviewed through the public hearing process as provided under Section 10.13.

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 plat, as required by KRS 100.277, the record plat shall be submitted to the legislative body for a determination that any offer of dedications (public ways
and/or easements) indicated on the plat would be beneficial to the public interest and suitable for the immediate or future "acceptance for maintenance" by the city as required under KRS 83.400.

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 10.14  NC (NEIGHBORHOOD COMMERCIAL) ZONE

A. PERMITTED USES: The following retail and service businesses:

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

B. ACCESSORY USES

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

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

1. Service stations (including auto repairing, providing all repair except that of a minor nature -- e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc. -- is conducted wholly within a completely enclosed building and providing further that such service station is located adjacent to an arterial street, as identified in the adopted comprehensive plan).
2. Miniature golf course (Putt - Putt)
3. Churches and other buildings for the purpose of religious worship, teaching or education. In connection with such uses, and located within the same building, residential dwelling units shall be permitted as an accessory function provided they are located on a second story of the building (not including a basement).
4. Outdoor dining in connection with either: (1) a restaurant without a liquor license; or (2) a restaurant with a restaurant wine and drink license, 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 areas
d. Such areas shall not be permitted to locate within any minimum required front, side, or rear yard, except where a variance has been approved by the Board of Adjustments

e. Outdoor dining areas shall be operated no later than (10:00) o’clock p.m. on Sunday through Thursday inclusive, and no later than eleven (11:00) 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, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of:

(a) outdoor dining facilities
(b) off-street parking and loading and/or unloading areas
(c) outside display area as herein defined, not to exceed five (5) percent of the gross floor area. Businesses involved in the sale of new and used cars may utilize an area larger than five (5) percent for display and sale purposes. Outside display areas shall be kept in a state of good repair at all times. Display areas shall not be situated in a manner as to impair either pedestrian or vehicular traffic
(d) miniature golf course (Putt - Putt)
(e) the outdoor play areas of child day care centers

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

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, T1-11 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 NSC (NEIGHBORHOOD SHOPPING CENTER) ZONE

A. PERMITTED USES: The following retail and service businesses:

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. Clinics – medical or dental
11. Delicatessen
12. Drug store
13. Dry cleaning and laundry pick-up station
14. Eating and drinking places (excluding drive-ins)
15. Florist shop
16. Food store and supermarkets
17. Furniture store
18. Garden supplies
19. Glass, china, or pottery store
20. Haberdashery
21. Hardware store
22. Health spas
23. Hobby shop
24. Household and electrical appliance store, including incidental repair
25. Interior decorating studio
26. Jewelry store, including repair
27. Laundromats and self-service washing and drying
28. Leather goods and luggage store
29. Library
30. Locksmith shop
31. Music, musical instruments, and records, including incidental repair
32. Off-street parking lots and/or garages
33. Offices, including medical and dental
34. Opticians and optical goods
35. Package liquor and wine store, excluding drive-ins
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. Shoe store and shoe repair
42. Sporting goods
43. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
44. Tailor shop
45. Toy store
46. Variety store, including notions and "five and ten" stores

B. ACCESSORY USES

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

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

1. Churches
2. Community centers
3. Nursery school
4. Service stations (including auto repairing, providing all repair except that of a minor nature -- e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc. -- is conducted wholly within a completely enclosed building and providing further that such service station is located adjacent to an arterial street, as identified in the adopted comprehensive plan).
5. Outdoor dining in connection with either: (1) a restaurant without a liquor license; or (2) a restaurant with a restaurant wine and drink license, 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 areas
   d. Such areas shall not be permitted to locate within any minimum required front, side, or rear yard, except where a variance has been approved by the Board of Adjustments
   e. Outdoor dining areas shall be operated no later than (10:00) o’clock p.m. on Sunday through Thursday inclusive, and no later than eleven (11:00) o’clock p.m. on Friday and Saturday.
6. Completely enclosed self-storage units and warehousing businesses.
D. AREA AND HEIGHT REGULATIONS: No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum building site area - Five (5) acres and shall abut a deeded right-of-way. In the case of this zone, more than one principal building, as defined herein, may be permitted to be constructed within the minimum building site area.

2. Minimum yard requirements - Fifty (50) feet for each front, side (on each side of the building), and rear yards, except where the lot abuts an arterial street, as identified in the adopted comprehensive plan, then there shall be a minimum yard requirement of one hundred (100) feet.

3. Maximum building height - Forty (40) feet

E. OTHER DEVELOPMENT CONTROLS

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

2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers, except that nonconforming uses may continue to utilize an existing outside display area not to exceed five (5) percent of the gross floor area of the nonconforming use. Nonconforming uses involved in the sale of new and used cars may continue to use that area which was utilized for the display of automobiles at the time the zoning ordinance was adopted. Such display areas shall be maintained in a state of good repair. Display areas shall not impair the movement of either pedestrian or vehicular movement.

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

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

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

6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of: (1) outdoor dining facilities; (2) off-street parking and loading and/or unloading areas; and (3) outside display area as herein defined, not to exceed five (5) percent of the gross floor area. Businesses involved in the sale of new and used cars may utilize an area larger than five (5) percent for display and sale purposes. Outside display areas shall be kept in a state of good repair at all times. Display areas shall not be situated in a manner as to impair either pedestrian or vehicular traffic; (4) the outdoor play areas of nursery schools; (5) miniature golf course (Putt - Putt); and (6) exterior sales of seasonal garden supplies and plantings.
7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone. Such site plan shall include the layout of the entire area of the proposed shopping center and shall take into consideration good shopping center design (i.e., internal and external good pedestrian and vehicle access) and functional relationships of uses within the shopping center.

8. 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, T1-11 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 10.16  PO (PROFESSIONAL OFFICE BUILDING) ZONE

A.  PERMITTED USES

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

B.  ACCESSORY USES

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

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

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred (100) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Fifteen (15) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Forty (40) feet

D.  OTHER DEVELOPMENT CONTROLS
1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any dedicated street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. A site plan, as regulated by Section 9.19 of this ordinance shall be required for any use in this zone.
6. No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.
7. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking and loading and/or unloading areas.
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, T1-11 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 RC (RURAL COMMERCIAL) ZONE

A. PERMITTED USES

1. Auto repair shops
2. Bakeries
3. Banks
4. Barber and beauty shops
5. Contractors’ offices and storage areas
6. Drug stores
7. Farm equipment - sales and service
8. Food stores and supermarkets
9. Grain, feed and seed stores, including sale of fertilizers, garden supplies, etc.
10. Hardware stores
11. Lumber companies
12. Offices
13. Paint and wallpaper stores
14. Plumbers’ offices and sale of fixtures
15. Police and fire stations
16. Post offices
17. Restaurants and taverns (excluding drive-ins)
18. Service stations
19. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
20. Tobacco warehouses
21. Veterinarian offices, including small and large animal clinics

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

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

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any dedicated street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activity, including storage of materials, permitted in this zone shall be conducted either within a completely enclosed building or within an area screened from view in accordance with Section 9.17 and Article XV of this ordinance, with the exception of off-street parking and loading and/or unloading areas, and display of equipment for sale.
7. A site plan, as regulated by Section 9.19 of this ordinance shall be required for any use in this zone.
SECTION 10.18 IP (INDUSTRIAL PARK) ZONE

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

1. The manufacturing, compounding, processing, packaging, or assembling of the following materials:

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

2. Bottling and canning works
3. Crating services.
4. Fire stations.
5. Indoor athletic facility
6. Industrial engineering consultant offices.
7. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private.
9. Oil processing, including restoration, but not including oil refining
11. Publishing and distribution of books, newspapers, and other printed material.
12. Railroad facilities, exclusive of marshaling yards, maintenance and fueling facilities
13. School for industrial or business training.
14. Warehousing or wholesaling.

B. ACCESSORY USES:

1. Customary accessory structures and uses, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use, such as maintenance shops, power plants, and machine shops;
2. Uses, as listed below, located and entered from within any use permitted in this zone as a convenience to the occupants thereof, and their customers, providing such accessory uses shall not exceed ten (10) percent of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building:
   a. Cafeterias.
   b. Coffee shops or refreshment stands.
   c. Soda or dairy bars.
3. Fences and/or walls, as regulated by Article XIII of this ordinance;
4. Signs - only business and identification signs pertaining to the identification, use or occupation of the building, structure, or premises, as regulated by Article XIV of this ordinance, will be allowed in this zone. Advertising signs, as defined herein, are not permitted in this zone.

C. AREA AND HEIGHT REGULATIONS:

1. Minimum Tract for Development - Twenty-five (25) acres, except where area restrictions are less, as identified in the adopted comprehensive plan; however, development of a smaller tract adjacent to an existing approved site may be permitted providing the proposed development conforms to and extends the original development as if the new site has been a part of the originally approved site plan layout.
2. Minimum Lot Area Within Minimum Tract - One (1) acre.
3. Minimum Lot Width at Building Setback Line - One hundred fifty (150) feet.
4. Minimum front yard depth -
   a. When abutting a major arterial (as defined in the adopted comprehensive plan) - Seventy-five (75) feet
   b. On internal roads - Fifty (50) feet
5. Minimum side yard width -
   a. In internal parts of the park - Twenty-five (25) feet
   b. Where the side yard is adjacent to a major arterial (as defined in the adopted comprehensive plan) - Seventy-five (75) feet

6. Minimum rear yard depth - In internal parts of the park - Fifty (50) feet. No rear yard shall be required where a rail spur line forms the rear property line.

7. Maximum Building Height - Forty (40) feet.

D. OTHER DEVELOPMENT CONTROLS:

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

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

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

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

5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
SECTION 10.19   RC-2 (RURAL COMMERCIAL TWO) ZONE

A. PERMITTED USES

1. Auto, truck, and construction equipment service and repair shops
2. Automobile detailing shop
3. Bakeries
4. Boat and other marine equipment service and repair shops
5. Contractor's offices, building construction, general contractor, plumbing, heating, air conditioning, painting, paper handling, decorating, electrical, masonry, stonework, landscaping, lawn maintenance, tile setting, plastering, carpentering, wood flooring, roofing and sheet metal, water well drilling, septic and other special construction trade offices, supply, storage and accessory storage yards, and related activities, including storage of general construction equipment and vehicles
6. Crating services
7. Drug stores
8. Dry cleaning and laundry facility
9. Farm equipment, sales and service
10. Food stores
11. Garden supplies
12. Grain, feed and seed stores, including sale of fertilizers, garden supplies, etc.
13. Hardware stores
14. Household and electrical appliance repair
15. Lumber companies
16. Machine tool shops
17. Offices
18. Pawn shops
19. Plumbers' offices and sale of fixtures
20. Police and fire stations
21. Post offices
22. Printing, engraving and related reproduction processes
23. Restaurants and taverns (excluding drive-ins)
24. Shooting range (indoor only)
25. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
26. Veterinarian offices, including small and large animal clinics
27. The following sales and/or service facilities:
   a. Electrical machinery, equipment and supplies
   b. Fountain and beverage dispensing equipment
   c. Furniture, metal products and metal finishing, excluding the use of blast furnaces or drop forges
   d. Musical instruments, toys, novelties, jewelry, rubber or metal stamps
e. Office equipment
f. Pottery and figurines, using only previously pulverized clay and kilns fired only with gas or electricity
g. Textile products including canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope, and twine

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

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

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking 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 fenced and secured areas.
3. No lighting shall be permitted which would glare from this zone onto any dedicated street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activity, including storage of materials, permitted in this zone shall be conducted either within a completely enclosed building or within an area screened from view in accordance with Section 9.17 and Article
XV of this ordinance, with the exception of off-street parking and loading and/or unloading areas, and display of equipment for sale.

7. A site plan, as regulated by Section 9.19 of this ordinance shall be required for any use in this zone.
SECTION 10.20 DI (DOWNTOWN INDEPENDENCE) ZONE

A. PURPOSE: The purpose of the Downtown Independence (DI) Zone is to provide for a pedestrian friendly, mixed use corridor that is compatible with adjacent residential neighborhoods and is consistent with the Independence Community Small Area Study’s recommended land use and transportation goals, objectives, policies, and strategies including:

1. Ensuring new development contributes positively to established residential neighborhoods and their character, and provides a transition between commercial development and adjacent residential neighborhoods.
2. Enhancing convenience, ease, and enjoyment of transit, walking, shopping, and public gathering within the downtown.
3. Providing an appropriate mix of commercial, office, and residential uses that work together to create a harmonious streetscape.
4. Establishing building form and architectural standards compatible with the historic character of the area.

This zone is intended to assist in the redevelopment of the Downtown Independence area so that it may serve as a destination for residents and those who work in this area to live, work, and access retail, office, and service uses. The DI Zone regulations promote historically sensitive site design, create a sense of place within the corridor, and provide a livable environment for existing residents while enhancing the value and aesthetics of the surrounding community.

B. CONFLICT

1. In any case where the standards and requirements of the DI Zone conflict with those of other provisions of the Independence Zoning Ordinance, the standards and requirements of the DI Zone shall apply.

2. Illustrations in this Section are intended to illustrate building forms that are typically seen in the existing context and to demonstrate how measurements are made. They do not illustrate the full range of possible building forms or outcomes allowed within the standards. Parking areas that are shown are intended to illustrate general parking locations and access only and do not illustrate off-street parking, landscaping, or buffer requirements. In the event of a conflict between illustrations and standards in the text, the text standards shall apply.
C. HOW TO USE THE DI ZONE

D. APPLICABILITY
The requirements of the DI Zone shall be applied in accordance with Table 10.20-A. Each development shall, in themselves, comply with the regulations, but shall not require the retrofitting of the existing elements to comply with the code. For instance, an addition onto the rear of a building only would not require the front of the building to be retrofitted to meet the transparency, entry features, etc., provisions that would apply only to the front of the building.

The requirements of this section shall not apply to existing single- or two-family homes that are used exclusively for residential purposes. Additions or renovations to such structures or accessory uses are permitted, subject to the zoning requirements contained herein. Existing single- and two-family homes that are partially or fully destroyed may be rebuilt as a matter of right, as long as they are not expanded beyond the footprint of the original structure.
E. APPLICATION AND PROCESSING

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

1. Administrative Approval

   a. Any development that requires an administrative approval in Table 10.20-A will need to submit an application, fees, a site plan as regulated by Section 9.19 of this ordinance, and any other information that is required by the City for zoning and/or building permits.

   b. The City Administrator, or his or her designee, reserves the right to require City Council approval for developments whose scope is deemed to have an important location along the corridor, an

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Table 10.20 – A, Applicability Chart

<table>
<thead>
<tr>
<th>Mixed Use, Commercial, Institutional, and Off-Street Parking</th>
<th>Development Standards</th>
<th>Architectural Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Construction</td>
<td>X X X X X X X X X</td>
<td>X X X X X X X X X X</td>
</tr>
<tr>
<td>Change of Use/Expansion of Use (within an existing building)</td>
<td>X</td>
<td>X X X</td>
</tr>
<tr>
<td>Expansion of Building Area</td>
<td>X X</td>
<td>X X X X X X X X X X X X</td>
</tr>
<tr>
<td>0%-25% Expansion</td>
<td>X X</td>
<td>X X X X X X X X X X</td>
</tr>
<tr>
<td>26%-50% Expansion</td>
<td>X X X X X X X X X X X</td>
<td></td>
</tr>
<tr>
<td>51% or Greater Expansion</td>
<td>X X X X X X X X X X X</td>
<td></td>
</tr>
<tr>
<td>Expansion of Parking Area</td>
<td>X X</td>
<td>X X X</td>
</tr>
<tr>
<td>0%</td>
<td>X X</td>
<td>X X X</td>
</tr>
<tr>
<td>11 or More Spaces</td>
<td>X X</td>
<td>X X X</td>
</tr>
<tr>
<td>Façade Changes (increase or decrease in windows, entry features, or material changes)</td>
<td>X X X X X</td>
<td>X X X</td>
</tr>
<tr>
<td>Single-Family and Two-Family</td>
<td>X X</td>
<td>X X X</td>
</tr>
<tr>
<td>New Construction</td>
<td>X X</td>
<td>X X X</td>
</tr>
<tr>
<td>Change of Use</td>
<td>X</td>
<td>X X X</td>
</tr>
<tr>
<td>Addition of a Detached Accessory Structure Associated with an Existing Use</td>
<td>X</td>
<td>X X X</td>
</tr>
<tr>
<td>Expansion of Existing Structure (addition, deck, sun room, porch)</td>
<td>X</td>
<td>X X X</td>
</tr>
<tr>
<td>Major Subdivision</td>
<td>X X</td>
<td>X X X</td>
</tr>
</tbody>
</table>

---

Independence Zoning Ordinance December 2018 PDS
important significance to the City or region, or a significant impact on the corridor or surrounding areas.

c. Any request for modifications pursuant to Section 10.20, O., must be reviewed and approved by the City Council.

d. Prior to filing for a zoning and/or building permit, the developer, petitioner, applicant, or property owner is encouraged to attend a pre-application meeting with City staff to discuss the proposed development and identify any issues in applying the DI Zone.

2. Stage II Development Plan/City Council Approval

a. Any development referred to the City Council for approval pursuant to Section 10.20, E., 1., b., and c., does not require a Stage II Development Plan. However, the City Council reserves the right to require a Stage II Development Plan if it is deemed to be necessary because of the scope, location, or potential impact of the project.

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

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

No person should rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application meeting as a representation or implication that the proposal ultimately will be approved or rejected in any form.
c. Following the formal submission of a Stage II Development Plan, which shall include elevation views, the KCPC’s duly authorized representative/PDS staff shall prepare a recommendation of approval, approval with conditions, or disapproval. This recommendation shall be forwarded to the Independence City Council.

d. The City Council 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, if applicable.

Upon City Council approval of the Stage II Plan, a copy of said plan shall be forwarded to the city’s 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.

e. Compliance with these regulations shall be evaluated based on the intent of the Ordinance, how well the development conforms to the regulations and whether it is consistent with the city’s goals and plans.

3. Applications for a map amendment to the DI Zone shall include a development plan in accordance with the requirements of Section 9.20, A., Stage I Plan Requirements.
F. REGULATING PLAN

The Regulating Plan is the guiding map for the implementation of the DI. The regulating plan shows the subdistricts that govern the development standards for each property.

**Subdistrict 1: Courthouse Square**
Intended to promote safe, active and pedestrian-scaled commercial streets through the use of shopfront and mixed-use building forms that clearly define and activate the public street edge. Intended to enhance the convenience, ease and enjoyment of transit, and to promote walking, shopping and public gathering along the city's main streets.

**Subdistrict 2 – Transition Mixed Use Corridor**
Create an area that transitions from nearby residential districts to the more urban character of the Courthouse Square subdistrict. Enhance the urban character of Madison Pike/McCullum Pike while promoting sustainable development and design through landscaping, signage, and mixed use development standards that promotes a safe pedestrian environment.
G. BUILDING FORMS

Figure 10.20-2, Residential Building Forms

Figure 10.20-3, Commercial Building Forms

H. DEVELOPMENT STANDARDS

The Development Standards for each Subdistrict are divided into two parts. The tables contain specific development standards for each subdistrict where the building form is permitted. The illustrations are graphical representations of the standards and should be used to facilitate the understanding of each table. The letters in each table correspond to the letters in the accompanying illustrations.

<table>
<thead>
<tr>
<th>Forms - Key</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family</td>
<td>1</td>
</tr>
<tr>
<td>Single Family Attached, Flat Roof</td>
<td>2</td>
</tr>
<tr>
<td>Single Family Attached, Pitched Roof</td>
<td>3</td>
</tr>
<tr>
<td>Mixed Use, Flat Roof</td>
<td>4</td>
</tr>
<tr>
<td>Mixed Use, Pitched Roof</td>
<td>5</td>
</tr>
<tr>
<td>Public-Civic</td>
<td>6</td>
</tr>
<tr>
<td>Commercial, Flat Roof</td>
<td>7</td>
</tr>
<tr>
<td>Commercial, Pitched Roof</td>
<td>8</td>
</tr>
</tbody>
</table>
Table 10.20-B - Standards

**SUBDISTRICT 1 - Courthouse Square**

### Building Placement

<table>
<thead>
<tr>
<th>Setbacks</th>
<th>Min</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Front</td>
<td>0'</td>
<td>15'</td>
</tr>
<tr>
<td>B Side*</td>
<td>0'</td>
<td>15'</td>
</tr>
<tr>
<td>C Rear</td>
<td>15'</td>
<td></td>
</tr>
</tbody>
</table>

*If shared drive is provided, then max is 20'*

### Building Height

<table>
<thead>
<tr>
<th>Min</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>D 2 stories</td>
<td>3 stories</td>
</tr>
</tbody>
</table>

Building height must be comprised of actual stories, not merely façade treatment.

### Façade Transparency Facing a Public Street

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>60% Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper Floors</td>
<td>40% Minimum</td>
</tr>
<tr>
<td>Max length of blank wall</td>
<td>30'</td>
</tr>
</tbody>
</table>

### Building Width/Frontage

75% of primary structure width must be within 15' of front property line. (see figure 10.20-5)

### Required Entry Features (must choose one*)

<table>
<thead>
<tr>
<th>Entry Feature</th>
<th>Building Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canopy</td>
<td>4, 5, 6</td>
</tr>
<tr>
<td>Gallery</td>
<td>4, 6</td>
</tr>
<tr>
<td>Recessed Entry</td>
<td>4, 6</td>
</tr>
<tr>
<td>Corner Entry</td>
<td>4, 5, 6</td>
</tr>
<tr>
<td>Awning</td>
<td>4, 5, 6</td>
</tr>
<tr>
<td>Arcade</td>
<td>4, 5, 6</td>
</tr>
<tr>
<td>Stoop</td>
<td>4, 5</td>
</tr>
</tbody>
</table>

*If outdoor dining area is provided, then Entry Feature is not required

### Off-street Parking

<table>
<thead>
<tr>
<th>Location</th>
<th>Min</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td>15'</td>
</tr>
<tr>
<td>Side Setback</td>
<td>0'</td>
</tr>
<tr>
<td>Rear (adjacent to Residential)</td>
<td>10'</td>
</tr>
<tr>
<td>Rear (adjacent to other than residential)</td>
<td>5'</td>
</tr>
</tbody>
</table>

*Number of off-street parking spaces shall be determined by the applicant as shown on the Stage II Development Plan.

### Building Massing

<table>
<thead>
<tr>
<th>Building Division</th>
<th>Minor</th>
<th>Major</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>20'</td>
<td>50'</td>
</tr>
</tbody>
</table>

Horizontal articulation - see section 10.20.J.1

### Permitted Uses

<table>
<thead>
<tr>
<th>Forms</th>
<th>Permitted Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Animal Services</td>
</tr>
<tr>
<td></td>
<td>Art galleries &amp; studios</td>
</tr>
<tr>
<td></td>
<td>Building maintenance services</td>
</tr>
<tr>
<td></td>
<td>Business equipment sales &amp; services</td>
</tr>
<tr>
<td></td>
<td>Business support services</td>
</tr>
<tr>
<td></td>
<td>Colleges &amp; Universities</td>
</tr>
<tr>
<td></td>
<td>Communication service</td>
</tr>
<tr>
<td></td>
<td>Cultural exhibits &amp; libraries</td>
</tr>
<tr>
<td></td>
<td>Day care</td>
</tr>
<tr>
<td></td>
<td>Eating/drinking establishments</td>
</tr>
<tr>
<td></td>
<td>Entertainment</td>
</tr>
<tr>
<td></td>
<td>Financial Services</td>
</tr>
<tr>
<td></td>
<td>Food &amp; Beverage sales, retail</td>
</tr>
<tr>
<td></td>
<td>Hospital</td>
</tr>
<tr>
<td></td>
<td>Medical service</td>
</tr>
<tr>
<td></td>
<td>Neighborhood retail sales &amp; service</td>
</tr>
<tr>
<td></td>
<td>Office</td>
</tr>
<tr>
<td></td>
<td>Personal improvement service</td>
</tr>
<tr>
<td></td>
<td>Pharmacy/Drug Store</td>
</tr>
<tr>
<td></td>
<td>Postal services</td>
</tr>
<tr>
<td></td>
<td>Religious Assembly</td>
</tr>
<tr>
<td></td>
<td>Laundry service</td>
</tr>
<tr>
<td></td>
<td>Residential (Upper floors only)</td>
</tr>
<tr>
<td></td>
<td>Safety Services</td>
</tr>
<tr>
<td></td>
<td>Schools</td>
</tr>
</tbody>
</table>

**Forms**

4, 5, 6
Figure 10.20-4, Subdistrict 1 Standards

Figure 10.20-5, Building Width/Frontage
### Table 10.20-C - Standards

#### SUBDISTRICT 2 - Transition Mixed Use Corridor

<table>
<thead>
<tr>
<th>Building Placement</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Setbacks</td>
<td>Min (feet)</td>
<td>Max (feet)</td>
</tr>
<tr>
<td><strong>L</strong> Front</td>
<td>0</td>
<td>50</td>
</tr>
<tr>
<td><strong>M</strong> Side</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>N</strong> Side (adjacent to residential)</td>
<td>20</td>
<td>0</td>
</tr>
<tr>
<td><strong>O</strong> Rear</td>
<td>15</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Height</th>
<th>Form</th>
<th>Min</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>P</strong> 1,2,3</td>
<td>1 story</td>
<td>2 stories</td>
<td></td>
</tr>
<tr>
<td>4,5,6,7,8</td>
<td>1 story</td>
<td>3 stories</td>
<td></td>
</tr>
</tbody>
</table>

Building height must be comprised of actual stories, not merely façade treatment.

<table>
<thead>
<tr>
<th>Façade Transparency Facing a Public Street*</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Q</strong> Ground level</td>
<td>50% Min</td>
<td></td>
</tr>
<tr>
<td><strong>R</strong> Upper levels</td>
<td>25% Min</td>
<td></td>
</tr>
<tr>
<td>Max length of blank wall 40 feet</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Excludes residential forms

<table>
<thead>
<tr>
<th>Required Entry Features (must choose one)</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>S</strong> Canopy</td>
<td>4,5,6,7,8</td>
<td></td>
</tr>
<tr>
<td>Gallery</td>
<td>4,6,7</td>
<td></td>
</tr>
<tr>
<td>Recessed Entry</td>
<td>4,6,7,8</td>
<td></td>
</tr>
<tr>
<td>Corner Entry</td>
<td>4,5,6,7,8</td>
<td></td>
</tr>
<tr>
<td>Awning</td>
<td>4,5,6,7,8</td>
<td></td>
</tr>
<tr>
<td>Arcade</td>
<td>4,5,6,7,8</td>
<td></td>
</tr>
<tr>
<td>Porch</td>
<td>1,2,3</td>
<td></td>
</tr>
<tr>
<td>Stoop</td>
<td>1,2,3,4,5</td>
<td></td>
</tr>
</tbody>
</table>

*If outdoor dining area is provided, then Entry Feature is not required

<table>
<thead>
<tr>
<th>Off-street Parking</th>
<th>Location</th>
<th>(feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>T</strong> Front Setback</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td><strong>U</strong> Side Setback</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td><strong>V</strong> Side setback (adjacent to residential)</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td><strong>W</strong> Rear (adjacent to Residential)</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td><strong>X</strong> Rear (adjacent to other than residential)</td>
<td>5</td>
<td>0</td>
</tr>
</tbody>
</table>

*Required number of off-street parking spaces may be reduced by up to 50% of the Specific Off-Street Parking Requirements, as shown in Section 11.2.

<table>
<thead>
<tr>
<th>Building Massing*</th>
<th>Building Division</th>
<th>50’ Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Excludes residential and public-civic forms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Horizontal articulation - see section 10.20.J.1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal Services</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Art galleries &amp; studios</td>
<td>4,5,6,7,8</td>
<td></td>
</tr>
<tr>
<td>Building maintenance services</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Business equipment sales &amp; services</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Business support services</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Colleges &amp; Universities</td>
<td>6,7,8</td>
<td></td>
</tr>
<tr>
<td>Communication service</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Cultural exhibits &amp; libraries</td>
<td>4,5,6</td>
<td></td>
</tr>
<tr>
<td>Day care</td>
<td>4,5,6,7,8</td>
<td></td>
</tr>
<tr>
<td>Eating/drinking establishments (excluding drive-thrus)</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Entertainment</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Financial Services</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Food &amp; Beverage sales, retail</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Funeral &amp; interment services</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Hospital</td>
<td>6,7,8</td>
<td></td>
</tr>
<tr>
<td>Lodge or private club</td>
<td>4,5</td>
<td></td>
</tr>
<tr>
<td>Lodging</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Medical service</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Neighborhood retail sales &amp; service</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Office</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Personal improvement service</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Pharmacy/Drug Store</td>
<td>4,5,7,8</td>
<td></td>
</tr>
<tr>
<td>Postal services</td>
<td>4,5,6,7,8</td>
<td></td>
</tr>
<tr>
<td>Religious Assembly</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Laundry service</td>
<td>4,5,7,8</td>
<td></td>
</tr>
</tbody>
</table>

*Required number of off-street parking spaces may be reduced by up to 50% of the Specific Off-Street Parking Requirements, as shown in Section 11.2.

<table>
<thead>
<tr>
<th>Conditional Uses</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Service stations, including minor repairs conducted within a completely enclosed building</td>
<td>4,5,7,8</td>
<td></td>
</tr>
</tbody>
</table>

*Required number of off-street parking spaces may be reduced by up to 50% of the Specific Off-Street Parking Requirements, as shown in Section 11.2.
I. ACCESSORY USES AND STRUCTURES

1. Accessory uses and structures are regulated by Section 9.10.C of this ordinance.

2. Off-street parking is regulated by Article 11 of this ordinance, except as modified by Tables 10.20-B and 10.20-C.

3. Off-street loading/unloading is regulated by Article 12 of this ordinance.

4. Fences and walls, as regulated by Article 13.

5. Signs, as regulated by Section 14.13 of this ordinance.

J. ARTICULATION (SEE ALSO TABLES 10.20-B AND 10.20-C)

1. Horizontal Articulation

Any building three stories in height shall incorporate horizontal articulation on all street-facing building walls to promote compatibility with adjacent smaller scale buildings, reduce perceived building mass and support an active pedestrian environment at the street level.
a. Horizontal Articulation Elements

Horizontal articulation shall be provided using one or more of the following elements in a band along at least 70% of the horizontal width of any building wall facing a primary or secondary street:

(i) Horizontal molding: A molding, ornamental trim or sill that projects a minimum of 3" from the primary wall surface.
(ii) Stepback: A minimum 3’ horizontal stepback in the vertical wall plane from the floor below.
(iii) Spandrel Beam: A horizontal fascia that defines the structure between two floors.
(iv) Change in Material: A clear change in material, texture or color.

2. Vertical Articulation

All buildings shall incorporate vertical articulation on all street-facing building walls longer than 50 feet to promote compatibility with adjacent smaller scale buildings, reduce perceived building mass and support an active pedestrian environment at the street level. Vertical articulation elements may include wall offsets, pilasters, columns or the appearance of building separation.

K. ROOFS

1. Materials: The only material not permitted is corrugated metal. Standing seam metal roofs are permitted.
2. Configurations and techniques: The only configurations and techniques not permitted are mansard and gambrel roofs. Permitted styles must also comply with building form.

   a. Mechanical equipment on roofs must be screened from view from the ground from all public use areas adjacent to the site in question.

   b. Facades that exceed 100 feet in length measured along the street frontage shall have variations in roofline or rooftop parapet. Possible variations include, but are not limited to: color; height; changes in materials; projections; and changes in layout.

L. ENTRY FEATURES

1. A single entry feature from the required list must be included for the building facade facing the primary street. The required entry feature must meet the design standards for one entry feature as defined below.

   a. Encroachment of required entry feature into required Right-of-Way shall require approval from the appropriate agency.

2. An access ramp may be added to any required entry feature. Such ramps may exceed the maximum permitted width for an entry feature.

3. Front Porch
   A one or two-story structure attached to a building to shelter an entrance or to serve as a semi-enclosed space, roofed and open-sided.

<table>
<thead>
<tr>
<th>PORCH CONFIGURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Width (min)</td>
</tr>
<tr>
<td>2 Depth (min)</td>
</tr>
</tbody>
</table>

4. Stoop
   A stoop is an uncovered set of steps and a landing at an entrance to a building. A stoop may be covered or uncovered.

<table>
<thead>
<tr>
<th>STOOP CONFIGURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Width (min)</td>
</tr>
<tr>
<td>4 Depth (min)</td>
</tr>
</tbody>
</table>
5. **Canopy**
A canopy is a wall-mounted structure providing shade and cover from the weather for a sidewalk, supported by columns or posts that are embedded in the ground.

<table>
<thead>
<tr>
<th>CANOPY CONFIGURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height (min)</td>
</tr>
<tr>
<td>Depth (min)</td>
</tr>
<tr>
<td>Front Setback Encroachment (max)</td>
</tr>
</tbody>
</table>

6. **Gallery**
A gallery is a covered passage extending along the outside wall of a building supported by arches or columns that is open on at least one side.

<table>
<thead>
<tr>
<th>GALLERY CONFIGURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height (min)</td>
</tr>
<tr>
<td>Depth (min)</td>
</tr>
<tr>
<td>Width (min)</td>
</tr>
</tbody>
</table>

7. **Recessed Entry**
A recessed entry is a building entrance inset into and placed behind the plane of the front façade.

8. **Corner Entry**
A corner entrance is an angled street-facing entrance that is located at the corner of the building.

<table>
<thead>
<tr>
<th>CORNER ENTRY CONFIGURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Width (min)</td>
</tr>
<tr>
<td>Depth (min)</td>
</tr>
</tbody>
</table>
9. Awning
A canopy is a wall-mounted structure providing shade and cover from the weather for a sidewalk, supported entirely by the attached building.

<table>
<thead>
<tr>
<th>AWNING CONFIGURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height (min)</td>
</tr>
<tr>
<td>Depth (min)</td>
</tr>
</tbody>
</table>

10. Arcade
An arcade is an opening in a wall that serves as the entrance to an outdoor hallway, which provides entry to businesses or an interior courtyard.

M. OTHER CHARACTER STANDARDS

1. Building Placement Requirements
   a. Exceptions to Building Setbacks along Streets
      i. Articulated Building Street Face
         When a portion of the building is set back farther than the maximum required building setback line in order to provide an articulated or modulated facade, the total area of the space created may not exceed one square foot for every linear foot of building frontage.
b. Exceptions to Required Street Frontage

(i) Pedestrian Access to Off-Street Parking Areas
When outdoor pedestrian access is provided from the street to off-street parking areas, the required street frontage can be reduced by ten (10) percent. The pedestrian access shall remain clear of obstructions.

(ii) Outdoor Eating Areas, Courtyards, Plazas, Pocket Parks, or Greenspace
When an outdoor eating area, courtyard, plaza, pocket park, or greenspace is located to the side of a building, the required street frontage can be reduced by thirty (30) percent at the building setback line.

2. Transparency

Display windows that do not provide visual access into the interior of the building may count toward the minimum transparency percentage, provided that they are at least 2 feet in depth.

3. Off-Street Parking and Loading/Unloading

Off-street parking may be located on another lot than the building or use being served is located, provided that the parking is located within the DI Zone.

An agreement providing for the use of parking, executed by the parties involved, must be filed with the Zoning Administrator, in a form approved by the Zoning Administrator. 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 Article 11, as modified by Tables 10.20-B and 10.20-C.

4. Drive-Through Facilities

Drive-through facilities are permitted in Subdistrict 1 and Subdistrict 2. Drive-through facilities may be permitted for bank and pharmacy uses only.

5. Utilities

All utilities for new developments shall be located underground.

6. Landscaping

a. All landscaping shall be provided per Section 9.17.

7. Outdoor Storage and Activities

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

b. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of:

(i) Outdoor dining facilities
(ii) Off-street parking and loading and/or unloading areas
(iii) Outside display areas to display products directly related to and being sold by the principal use, not to exceed five (5) percent of the gross floor area. Outside display areas shall be kept in a state of good repair at all times. Display areas shall not be situated in a manner as to impair either pedestrian or vehicular traffic
(iv) The outdoor play areas of child day care centers

c. Any property which does not comply with the provisions of this section at the time of adoption of this ordinance, shall be given a period of thirty (30) days from the date of adoption of this ordinance to comply with all of the provisions of this section.

N. LIGHTING

Lighting requirements shall meet the following:

1. General Requirements: Light poles shall be consistent in design with the overall architectural theme of the corridor. Pedestrian-oriented lighting should be at smaller scales to light walkways and plazas while parking
area lighting should be at larger scales to light parking areas and vehicular circulation routes.

2. Continuity: All lighting, including but not limited to building lighting, security lights, and architectural lights should be from the same family of fixtures to maintain continuity throughout the DI Zone.

3. Off-Street Parking Areas and Pedestrian Lighting
   a. Lighting should be used in combination with signage standards and other elements where possible.
   b. Lighting should be coordinated with street tree plantings for proper integration.
   c. Glare Reduction and Lighting Levels
      (i) All non-decorative lighting shall be fully shielded lights that do not emit light rays at angles above the horizontal plane as certified by a photometric test report.
      (ii) Decorative, pedestrian-scale lights are encouraged in areas of pedestrian activity. All decorative lights over ten (10) feet in height shall be fully shielded to avoid light spillage on adjacent property and road rights-of-way.
      (iii) Where lighting abuts a residentially used or zoned property, the maximum illumination at the property line shall not exceed 0.5-foot candles. Where lighting abuts a non-residentially used or zoned property, the maximum illumination at the property line shall not exceed 1-foot candle.
      (iv) Lighting located on the building wall shall be fully shielded to direct the light downward.

4. Prohibited Lighting
   a. Neon accent lighting is prohibited on buildings and structures.
   b. Bare metal light poles and elevated “sonotube” type concrete bases are prohibited.

O. MODIFICATIONS

Modifications from certain standards as found in the DI Zone may be requested from the City Council:

1. Articulation
   Elements of horizontal articulation may be modified to accommodate alternative methods of reducing perceived building mass.

2. Building Massing
a. Major building division may be modified to a maximum of 75 feet.
b. Minor building divisions may be modified to a maximum of 40 feet.

3. Building width/frontage
   Building width/frontage may be modified to a minimum of 50% of the primary structure width to be located within 15’ of the front property line.

4. Façade Transparency
   Modifications to façade transparency may be permitted with the following limitations:
   a. Subdistrict 1:
      (i) Ground level may be reduced to a minimum of 40% transparency.
      (ii) Upper level may be reduced to a minimum of 30% transparency.
   b. Subdistrict 2:
      (i) Ground level may be reduced to a minimum of 40% transparency.
      (ii) Upper level may be reduced to a minimum of 20% transparency.

5. Roofs
   Modifications to roof types and materials may be permitted to accommodate green roofing systems.

6. Entry Features
   Entry features not specifically permitted in a subdistrict or with a specific building form may be permitted.

7. Lighting
   Modifications to lighting requirements may be permitted.
SECTION 10.21 CONSERVATION DEVELOPMENT SINGLE-FAMILY OVERLAY ZONE (CD-SF ZONE)

A. PURPOSE: The CD-SF Overlay Zone provides an alternative option for subdividing property. The purpose of the CD-SF Overlay Zone is to provide for designated open spaces for the protection of natural resources and for a higher development density than standard residential zoning consistent with the recommended land use, objectives, policies, and strategies as stated in the Comprehensive Plan. This includes promoting the environmental, economic, social, and recreational benefits of conservation design through (1) the preservation of critical natural resources such as woodlots, stream buffers, and viewsheds through the clustering of residential units; (2) higher densities to create the synergy of population needed to be supportive of nearby non-residential uses; (3) the use of design flexibility.

Additionally, the purpose of this zone is:

1. To enhance subdivision value and reduce development costs through conservation and cluster design.
2. To promote environmentally-sensitive and efficient use of land by clustering houses, thereby reducing the need for infrastructure and reducing erosion and sedimentation by minimizing land disturbance and removal of vegetation.
3. To provide for more efficient provision of infrastructure through reduction of the amount of pavement for streets and materials for utilities.
4. To create, promote, and preserve interconnected green space as a means to; (a) promote convenient walkable connections; (b) reduce reliance on automobiles; (c) provide a nonstructural stormwater runoff and watershed protection measure and; (d) provide contiguous green space as habitat and for water quality protection.
5. To help ensure interaction within the community by orienting houses closer to the street and providing public gathering spaces, parks, and community facilities.
6. To promote community character and diversity by allowing for increased housing density through the encouragement of a mix of housing styles and types, and provision of open space.

B. APPLICABILITY:

1. The CD-SF Overlay Zone regulations apply only if the subdivider of property chooses to follow these regulations. Otherwise, the subdivision of land shall meet the requirements of the underlying zone.

C. APPLICATION AND PROCESSING: Developments within the CD-SF Overlay Zone require review and approval in accordance with the following procedures:
1. Pre-application meeting: Prior to filing for development plan review, the developer, petitioner, applicant, or property owner shall attend a pre-application meeting. The pre-application meeting is intended to be an informal meeting with the City staff and with the Kenton County Planning Commission’s duly authorized representative/PDS staff to discuss the development review process and the requirements of the zoning ordinance.

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

No person should rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application meeting as a representation or implication that the proposal ultimately will be approved or rejected in any form.

2. Applications for a map amendment to the CD-SF Overlay Zone shall include a development plan in accordance with the requirements of Section 9.20, A., Stage I Plan Requirements.

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

4. The City Council 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, if applicable.

Upon City Council approval of the Stage II Plan, a copy of said plan shall be forwarded to the city’s 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.

5. Compliance with the Ordinance: Compliance with these regulations shall be evaluated based on the intent of the Ordinance, how well the development conforms to the regulations and whether it is consistent with the city’s goals and plans.

D. PERMITTED USES: Single-family residential dwelling units (attached or detached).

For the purposes of the CD-SF Overlay Zone, an attached single-family dwelling unit is defined as a single dwelling unit located on its own lot that shares one or more common or adjacent walls with one or more dwelling units. An attached dwelling unit does not share common floor/ceilings with other dwelling units. An attached dwelling unit is also called a “townhouse” or a “rowhouse”.

E. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as approved on the Stage II development plan;
3. Home occupations, subject to the restrictions and limitations established in Section 9.11 of this ordinance
4. Signs as approved on the Stage II development plan

F. DENSITY AND OPEN SPACE STANDARDS:

1. The base density of dwelling units in a CD-SF Overlay development shall be determined from the development of a Yield Plan. Yield Plans illustrate the maximum number of lots that can be created in a conventional subdivision based on the underlying zone and density requirements. This density shall be applied to the total project area excluding the land devoted to streets (public and private). Yield Plans do not have to meet formal design plan requirements but must be capable of being constructed given site features and all applicable regulations. The Yield Plan must be reviewed and approved at the pre-application meeting prior to the submittal of a Stage II development plan.

2. The required amount of open space as well as the maximum net density of a development shall be as follows:

<table>
<thead>
<tr>
<th>Minimum % Open Space</th>
<th>R-1C Density (max)</th>
<th>R-1D density (max)</th>
<th>Any other Residential Zone (max)</th>
</tr>
</thead>
<tbody>
<tr>
<td>30%</td>
<td>No Bonus</td>
<td>No Bonus</td>
<td>No Bonus</td>
</tr>
<tr>
<td>40%</td>
<td>Yield Plan + 10%</td>
<td>Yield Plan + 10%</td>
<td>Yield Plan + 10%</td>
</tr>
<tr>
<td>50%</td>
<td>Yield Plan + 25%</td>
<td>Yield Plan + 25%</td>
<td>Yield Plan + 25%</td>
</tr>
</tbody>
</table>
Net density shall be determined by the total number of dwelling units divided by the project area, excluding the land devoted to streets (public and private).

3. OPEN SPACE REQUIREMENTS/NATURAL RESOURCE PROTECTION
   a. Open space areas are to remain undisturbed unless designated for active or passive open space purposes on the Stage II development plan.
   b. The natural resources of the development area shall be designated within the open space requirement and permanently protected as shown on the Stage II development plan. Designated open space within the development area should be designated prior to the placement of roadways, infrastructure, parcels, or structures and shall include the protection of blueline streams, the riparian areas surrounding blueline streams, and tree canopy when possible.
   c. No higher development use – dedicated open space areas shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the City’s Legal Counsel and duly recorded in the office of the Kenton County Clerk.

4. MAINTENANCE AND OWNERSHIP OF OPEN SPACE
   a. A detailed ownership and management plan for the open space areas shall be filed with the Stage II development plan for any proposed CD-SF Overlay Zone development. The plan shall:
      i. Identify the owner, entity responsible for maintenance, and long-term funding strategies such as homeowners’ fees or assessments.
      ii. Demonstrate the financial feasibility of the ownership and maintenance program.
      iii. Specify guidelines for how the maintenance of the conservation areas and any facilities eligible for location in the conservation areas will occur.
   b. Any management organization shall be bona fide and in perpetual existence and the conveyance instrument shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its function (Management Entity). Options for ownership and management of preserved area may include:
i. Fee Simple dedication to the City of Independence or other public entity subject to acceptance by and at the sole discretion of the City of Independence or other public entity.

ii. Creation of or dedication to a Homeowners Association capable of carrying out the ownership and management plan. The Association’s bylaws or code of regulations specify the following requirements:

   (1) Membership in the Association shall be mandatory for all purchasers of lots in the development or units in the condominium.
   (2) The Association shall be responsible for maintenance, control, and insurance of common areas, including the dedicated open space areas.
   (3) Establishment of an endowment where the principal generates sufficient annual interest to cover the yearly costs of ownership and maintenance of the preserved area.
   (4) The Association shall be managed by a reputable, professional management company specializing in management of homeowner’s associations, as determined by the City Council.

iii. Dedication to a private or not-for-profit entity such as a land trust or similar conservation-oriented organization with the legal authority and financial capacity to accept such dedications.

iv. A permanent conservation easement or an equivalent legal tool (such as a restrictive covenant for conservation purposes) in favor of either:

   (1) A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
   (2) A governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance. If the entity accepting the easement is not the City of Independence, then a third right of enforcement favoring the City of Independence shall be included in the easement.
The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the open space.

v. It shall be a violation of this zoning ordinance in the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition according to the Management Plan. If the zoning administrator finds that any of the provisions of this ordinance are being violated, they shall take such action as is permitted by law.

G. HEIGHT, YARD, AND SETBACK REQUIREMENTS

1. Requirements for individual lots shall be as approved on the Stage II development plan.
2. Minimum site perimeter setback – Fifty (50) feet. The minimum site perimeter setback shall only count towards the required open space if recorded on the plat as dedicated conservation easement. The perimeter setback may be located on private property, provided that no permitted use is located within the perimeter setback. Customary accessory structures may be located within the perimeter setback, subject to all the other requirements of this zoning ordinance.

H. REVIEW GUIDELINES: When evaluating a proposed development within the CD-SF Overlay Zone, the City Council shall base their decision on the following criteria:

1. Lots and buildings should be grouped together to minimize the disturbance to woodlands, wetlands, grasslands, mature trees, and steep slopes; protect riparian areas and their stream buffer areas; and retain and protect the existing natural cover and wooded areas to protect and enhance greenway resources. The preservation and protection of natural cover is preferable, but may be supplemented by additional landscaping where necessary.
2. A mix of housing types and styles is encouraged to accommodate different lifestyles and markets.
3. Exterior building materials shall feature no more than 25% vinyl siding (or similar plastic based siding). Aluminum siding is prohibited.
4. The arrangement of streets in new developments shall make provision for the proper continuation of existing streets in adjoining areas, unless determined otherwise by the City Council. Where adjoining areas are not subdivided and are appropriate for future subdivision, arrangement of streets in new developments shall make provision for the proper projection
of streets to those adjoining areas in a manner which shall provide for the practical development of the adjacent property.

5. Open space areas shall be contiguous throughout the site forming an open space network, which includes open space that is protected by conservation easements or other equivalent legal tool. Smaller pockets of open space may be permitted, if, in the opinion of the City Council, the design of the overall development still meets the intent of the CD-SF Overlay Zone.

6. When passive and/or active open space is proposed, reasonable access should be provided for the residents within the development.

7. Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local or regional recreational paths.

I. AMENDMENTS: Any amendments to plans shall be made in accordance with the procedure required by this ordinance. The City’s zoning administrator may authorize minor adjustments to the approved Stage II Development 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.
SECTION 10.22 GATEWAY MIXED USE ZONE (GMU Zone)

A. PURPOSE: The purpose of the Gateway Mixed Use Zone is to implement the Comprehensive Plan, specifically the recommended land use, objectives, strategies and policies contained within the Independence Community Small Area Study. The intent of the Gateway Mixed Use Zone is to promote integrated development oriented at a pedestrian scale which provides for a mixture of land uses. This district should produce development that creates an attractive environment and destination for commerce, employment, living, interaction, dining and entertainment and for the residents, workers, and visitors of the City of Independence. The Gateway Mixed Use Zone provides standards which promote development designs which will create a sense of place and identity serving as a gateway to the downtown area of the city through the provision of the following:

1. Encouraging a mixture of land uses in either a horizontal or vertical development pattern;
2. An integrated internal street network which facilitates effective and efficient automobile and pedestrian movement;
3. Multiple parking locations and options, including on-street parking, dispersed throughout the development and arranged in a manner that promotes pedestrian movement;
4. Building sizes, heights, and locations arranged within a walkable environment featuring a high level of integration with the exterior streetscape, street network, and parking locations;
5. Streetscapes which contain a variety of amenities that create a sense of place and promote social interaction, outdoor activity and assembly;
6. Proper integration with land uses in the surrounding area;
7. Incentives for mixed use development which implement the key objectives of this classification. Incentives include increased building footprint, increased height, and reduced off-street parking standards for mixed use developments.

B. APPLICABILITY: The requirements of this section shall not apply to existing single- or two-family homes that are used exclusively for residential purposes. Additions or renovations to such structures or accessory uses are permitted, subject to the zoning requirements contained in the R-1D Zone. Existing single- and two-family homes that are partially or fully destroyed may be rebuilt as a matter of right, as long as they are not expanded beyond the footprint of the original structure.

C. APPLICATION AND PROCESSING: Developments within the GMU Zone require review and approval in accordance with the following procedures:

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

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

No person should rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application meeting as a representation or implication that the proposal ultimately will be approved or rejected in any form.

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

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

4. The City Council 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, if applicable.

Upon City Council approval of the Stage II Plan, a copy of said plan shall be forwarded to the city’s 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.
5. Compliance with the Ordinance: Compliance with these regulations shall be evaluated based on the intent of the Ordinance, how well the development conforms to the regulations and whether it is consistent with the city’s goals and plans.

D. PERMITTED USES AND DENSITIES:

1. Residential – Residential uses shall not be less than 7 dwelling units per net acre nor exceed 14 dwelling units per net acre.
   a. Attached single-family
   b. Multi-family
   c. Detached single-family residential existing at the time of adoption of these regulations

2. Office
   a. Administrative offices, including public and semi-public, civic, educational, religious, or charitable organizations
   b. Business offices
   c. Medical and dental clinics
   d. Medical laboratories
   e. Professional offices including, but not limited to, offices for doctors, dentists, optometrists, opticians, lawyers, accountants, architects, engineers, planners, landscape architects, surveyors, insurance agents, advertising agencies
   f. Radio and television broadcasting studios
   g. Research and development laboratories

3. Commercial Retail Sales and Service
   a. Animal clinic, excluding boarding and outside runs
   b. Apparel shop
   c. Art supplies
   d. Bakery and bakery goods store, provided the products are sold exclusively on the premises
   e. Banks and other financial institutions, including savings, loan, and finance companies with or without drive-thru’s, but not including payday loan or currency exchange (check cashing) facilities
   f. Barber and beauty shops
   g. Book, stationery, or gift shop
   h. Camera and photographic supplies
   i. Candy store, soda fountain, ice cream store, excluding drive-ins
   j. Child day care center
   k. Copy, printing, packaging and shipping store
   l. Delicatessen
m. Drug store/pharmacy with or without drive-thrus
n. Eating and drinking places (excluding drive-in’s and drive-thru’s)
o. Florist shop
p. Food stores and markets
q. Furniture store
r. Garden supplies
s. Glass, china, or pottery store
t. Hardware store
u. Health spas
v. Hobby shop
w. Household and electrical appliance store, including incidental repair
x. Interior decorating studio
y. Jewelry store, including repair
z. Leather goods and luggage store
aa. Locksmith shop
bb. Music, musical instruments, and records, including incidental repair
cc. Opticians and optical goods
dd. Office supply store
ee. Package liquor and wine store
ff. Paint and wallpaper store
gg. Personal improvement service
hh. Pet shop, excluding boarding and outside runs
ii. Radio and television store, including repair
jj. Shoe store and shoe repair
kk. Sporting goods
ll. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
mm. Tailor shop
nn. Toy store
oo. Variety store, including notions and "five and ten" stores

4. Public and Civic

a. Cultural exhibits and libraries
b. Schools, colleges and universities
c. Police and fire stations

5. Institutional

a. Nursing homes

E. DRIVE-THRUS: Drive-thru facilities are limited to 3 lanes. (see Section 10.22, J., 1., e.)

F. 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

G. SITE AND BUILDING STANDARDS:

1. MINIMUM DEVELOPMENT AREA: 5 acres. However, development of a smaller tract adjacent to an existing GMU 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.

2. MINIMUM SITE PERIMETER AND FRONT, SIDE, AND REAR YARDS SETBACKS: The minimum site perimeter setbacks shall be 50 feet when adjacent to a Single-Family Residential Zone.

   The minimum front, side, and rear yard setbacks internal to the development shall be as in the approved Stage II Development Plan.

3. MAXIMUM PERMITTED BUILDING FOOTPRINT AND TENANT SIZE:
   a. The maximum building footprint of a building with a single land use category (i.e. all offices, all residential, all commercial, etc.) shall be 18,000 square feet.
   b. The maximum building footprint for a building with 2 or more land use categories, mixed either horizontally or vertically, shall be 30,000 square feet.
   c. The maximum size of a single tenant shall not exceed 25,000 square feet.

4. MAXIMUM PERMITTED BUILDING HEIGHT: The maximum height of a building with a single land use category shall be two (2) stories or thirty-five (35) feet.

   The maximum height of a building with 2 or more land use categories, either mixed horizontally or vertically, shall be three (3) stories or fifty (50) feet.

5. BUILDING ARCHITECTURE
   a. Changes in façades shall occur a maximum of every 100 feet. (see Section 10.22, J., 4., b.)
   b. Ground floor transparency of at least 40% is required for all walls with a customer entrance for all Commercial Retail Sales and Service uses. (see Figure 10.22-1, item)
   c. Mansard roofs and corrugated metal roofs are not permitted. Metal standing seam roofs are an allowable roof type. A mansard roof is a
6. OFF-STREET PARKING AND ACCESS CONTROL: Off-street parking facilities and access control shall be provided in accordance with Article XI of this ordinance, in addition to the following additional regulations:

a. Off-street parking areas within the GMU Zone are encouraged to utilize shared or cooperative parking in order to minimize the amount of constructed impervious surface as well as to use the land area to its highest and best use. Whichever method results in the greatest reduction may be used to determine the minimum number of required off-street parking spaces.

(1) Shared parking is a type of parking management in which parking spaces are shared by more than one user, which allows parking facilities to be used more efficiently. Shared parking takes advantage of the fact that most parking spaces are only used part time by a particular motorist or group, and many parking facilities have a significant portion of unused spaces, with utilization patterns that follow predictable daily, weekly and annual cycles.

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, 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.
SHAREDPARKINGCREDITTABLE

<table>
<thead>
<tr>
<th>LAND USE TYPE</th>
<th>Time Of Operation</th>
<th></th>
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<tr>
<td>Indoor Theater/CommercialRecreational Establishment</td>
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<td>80%</td>
<td>100%</td>
</tr>
<tr>
<td>Religious Assembly</td>
<td>10%</td>
<td>80%</td>
<td>100%</td>
<td>80%</td>
</tr>
</tbody>
</table>

(2) Cooperative parking represents an arrangement whereby 2 or more uses from the same land use category provide their required off-street parking in the same parking lot, thereby reducing the number of individual parking lots and the number of curb cuts required to serve such lots. Reduced off-street parking requirements are available as an incentive for providing cooperative parking.

The following reductions in the number of off-street parking spaces required are allowed when multiple commercial uses provide their off-street parking in the same parking lot, as follows:

(a) a 20% reduction is allowed when 4 or more individual uses are involved;
(b) a 15% reduction is allowed when 3 individual uses are involved; and
(c) a 10% reduction is allowed when 2 individual uses are involved.

c. The primary entrance to all developments shall have a boulevard entrance. All boulevard entrances shall have a minimum throat length of 50 feet. The center median shall be a minimum of 10 feet wide and set back at least 65 feet from the edge of the intersecting roadway. (see Section 10.22, J., 1., f.)

7. OFF-STREET LOADING AND/OR UNLOADING: All loading and/or unloading areas shall be provided in accordance with Article XII of this ordinance.
8. SCREENING AND LANDSCAPING: Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance.

9. LIGHTING: Lighting requirements shall meet the following:
   a. Light poles shall not exceed thirty (30) feet in height.
   b. All non-decorative lighting shall be fully shielded lights that do not emit light rays at angles above the horizontal plane.
   c. Decorative, pedestrian-scale lights are permitted in areas of pedestrian activity. All decorative lights over ten (10) feet in height shall be fully shielded to avoid light spillage on adjacent property and road rights-of-way.
   d. Where lighting abuts a residentially used or zoned property, the maximum illumination at the property line shall not exceed 0.5-foot candles. Where lighting abuts a non-residentially used or zoned property, the maximum illumination at the property line shall not exceed 1-foot candle.
   e. Lighting located on the building wall shall be fully shielded to direct the light downward.

H. PUBLIC AMENITIES (see Section 10.22, J., 5., a.):
   a. Every development within the GMU Zone that is less than 10 acres shall provide 1 major public amenity.
   b. Every development within the GMU Zone that is more than 10 acres shall provide at least 2 major public amenities.

I. OUTDOOR STORAGE AND ACTIVITIES

1. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
2. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of:
   a. Outdoor dining facilities
   b. Off-street parking and loading and/or unloading areas
   c. Outside display areas to display products directly related to and being sold by the principal use, not to exceed five (5) percent of the gross floor area. Outside display areas shall be kept in a state of good repair at all times. Display areas shall not be situated in a manner as to impair either pedestrian or vehicular traffic
   d. The outdoor play areas of child day care centers
3. Any property which does not comply with the provisions of this section at the time of adoption of this ordinance, shall be given a period of thirty (30)
days from the date of adoption of this ordinance to comply with all of the provisions of this section.

J. REVIEW GUIDELINES: When evaluating a proposed development within the GMU Zone, the City Council shall base their decision on the following criteria. The Council should give consideration to allow maximum flexibility, individuality, and creativity in proposed developments if the Council finds that the proposed plans are still generally consistent with the Review Guidelines and meet the intent of the GMU Zone.

1. Internal Street and Off-Street Parking Network
   
   Intent: The internal street and off-street parking network provides the foundation for development within the GMU Zone. In keeping with the intent and purpose of this zone, the central elements that should be addressed and provided by the internal street and off-street parking network include the following: provide convenient and safe access; accommodate multi-modal movement and transportation within the development; provide smooth transitions between different areas of the development; provide interconnectivity between destinations, parking areas, and the pedestrian network within the development; and provide connections to adjacent areas surrounding the development.

   a. All streets, private or public, must conform to the street and right-of-way standards within the Kenton County Subdivision Regulations.
   b. The arrangement of streets in new developments shall provide for reasonable access to adjoining tracts, through connections between streets, logical distribution of traffic patterns, and convenient and efficient access for emergency vehicles, street maintenance, school buses, postal delivery, and other essential services. (see Figure 10.22-4, item)
   c. Large expanses of parking typically associated with standard big box development are discouraged. Parking areas should be dispersed in smaller areas throughout the development, including to the rear and side of buildings and structures within the development. (see Figure 10.22-4, item)
   d. Provision of multiple types of parking, specifically angled, on-street (within the development), or parallel parking is encouraged to reduce the amount of impervious surface and provide complete neighborhood streets. (see Figure 10.22-4, item)
   e. Drive-thru facilities should be integrated into the overall site design so they don’t inhibit the movement and flow of the internal street network and the pedestrian network. Effort should be made to locate drive-thru facilities at the rear of buildings and out of view from public amenities.
2. Pedestrian Network

*Intent:* The pedestrian network should facilitate pedestrian movement within the development and be designed in a manner that promotes walkability, social interaction and connectivity between areas and destinations creating a sense of place, identity, and character within the development area. Essential elements of the pedestrian network include the provision of a network of walking areas along the internal and external portions of the development to provide convenient access and connectivity between the parking areas, destinations within the development, and to the surrounding areas.

a. All sidewalks must conform to the construction standards within the Kenton County Subdivision Regulations.

b. Landscape features, including but not limited to trees, planting boxes, planting strips, landscaped berms, shrubs, and other types of features should be used along the sidewalks to separate the vehicular traffic from pedestrians. (see Figure 10.22-4, item)

c. Brick or stamped asphalt or concrete should be used for all crosswalks or pedestrian paths within an off-street parking area.

d. Bicycle lanes that are striped into the roadway are encouraged. If bicycle lanes are provided, then bicycle parking in the form of bicycle racks or storage facilities should also be provided.

e. Connections should be provided between the internal pedestrian network, off-street parking areas, the external pedestrian network, and to the surrounding areas. (see Figure 10.22-4, item)

3. Building Location and Orientation

*Intent:* The siting and orientation of buildings within the GMU Zone shall promote pedestrian movement, social interaction, and other outdoor activities such as dining, assembly, and shopping. Proper building location is important in order to provide the sense of place outlined within the intent and purpose of this zone. Essential elements for siting buildings within the design of the development include framing and creating a pedestrian friendly public realm, providing convenient access to all areas of the development, and creating a desirable transition between open spaces, parking areas, pedestrian and assembly areas.

a. Buildings should be located within close proximity to one another in order to promote and provide connectivity between all areas within the development. (see Figure 10.22-4, item)

b. The location and orientation of buildings should immediately front the pedestrian network. Exceptions can be made for architectural
features or spaces for public gathering. Such features or spaces may include, but are not limited to, a plaza, patio, outdoor dining or seating area, arcade, etc. (see Figure 10.22-4, item  )

c. Buildings should be oriented to provide pedestrian access between destinations, parking areas, and external pedestrian walkways. (see Figure 10.22-4, item  )

4. Building Architecture

Intent: Building designs are encouraged that create a unique and attractive image for each business, while providing a sense of cohesiveness within a development. High design standards and creativity are encouraged. It is not the intent of these regulations to prohibit national building identity, but to integrate those designs and maintain a general theme within the development.

a. All buildings shall be considered four-sided buildings, and should utilize consistent materials on all four sides.

b. Long, unbroken building facades are not permitted. Changes in roof styles, materials, setbacks, and/or colors should be used to break up the façade. (see Figure 10.22-1, item  )

c. The use of parapets, towers, and other elements should be used to break up continuous stretches of roofs. (see Figure 10.22-1, item  )

c. All mechanical equipment located on roofs should be adequately screened from the view of adjacent properties and rights-of-way. (see Figure 10.22-1, item  )

d. Building colors should be complimentary to one another and should not contain excessively bright or distracting colors. Bright colors may be used only when those colors are an integral part of a nationally recognized corporate logo or image.

e. Building finishes shall be natural materials such as wood, stone, or brick. Composite or manufactured materials, including but not limited to EIFS, which provide the same styling and texture as natural materials shall be permitted.
5. Public Amenities

*Intent: Public amenities are intended to be resources, conveniences, facilities or benefits offered to the general public for their use and/or enjoyment. Public amenities should be an asset to both the community and to the development they serve.*

a. Major public amenities should be located at important nodes where there is the most activity. They should be used as a focal point within the development. Major public amenities include, but are not limited to:

1. Plaza
2. Pocket Park
3. Water Feature
4. Playground
5. Multimodal/walking paths within the development
6. Entry Feature – Distinctive elements located at or near the entrance to a development that communicate the nature and character of the development. (see Figure 10.22-2)
(7) Community Gateway Feature – Distinctive elements that identify the community and/or convey the community character. They are typically located and oriented towards commuters on the adjacent roadway system. (see Figure 10.22-3)

(8) Any amenity not specifically listed herein but deemed appropriate by the Independence City Council.

b. Developments that are located at major intersections should incorporate a community gateway feature.

c. Public amenities should be at a size, scale, and location within the site to be accessible and useable. Isolated public amenities should be avoided by connecting them to the pedestrian network and locating them within the development as opposed to along the fringes.

d. Minor public amenities should be provided along the pedestrian network. Minor public amenities include, but are not limited to:

   (1) Benches
   (2) Trash cans
   (3) Rain shelters
   (4) Drinking fountains
   (5) Bike racks
   (6) Any amenity not specifically listed herein but deemed appropriate by the Independence City Council.

6. Signage and Lighting
**Intent:** Signage and lighting should be planned and designed to be compatible with the buildings on the site, thus enhancing the appearance of the site and of the streetscape within and adjacent to the site.

a. Exterior lighting fixtures should be unified throughout the development.
b. The materials and types of signs used within the development shall be a consistent architectural style throughout the development.
c. Bright colors may be used when those colors are an integral part of a nationally recognized corporate logo or image.
**Figure 10.22-4**

*Example for illustrative purposes only*
ARTICLE XI

OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS

In all zones, off-street parking facilities for the storage or parking of motor vehicles for use of occupants, employees, and patrons of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this ordinance, shall be provided and maintained as herein prescribed. However, where a building permit has been issued prior to the date of adoption of this ordinance, and provided that construction has not begun within ninety (90) consecutive calendar days of such effective date, off-street parking facilities in the amounts required by this ordinance shall prevail.

SECTION 11.0 GENERAL REQUIREMENTS

A. COMPUTATION OF PARKING SPACES: In determining the number of parking spaces required, if such spaces result in fractional parts thereof, the number of said spaces required shall be construed to be the next highest whole number.

B. ADDITIONAL PARKING SPACES TO BE PROVIDED: Whenever the intensity of use of any building, structure, or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, change of use, or other units of measurement specified herein, additional parking spaces shall be provided in the amounts hereafter specified for that use, if the existing parking space is inadequate to serve such increase in intensity of use.

C. LOCATION OF OFF-STREET PARKING FACILITIES

1. Off-street parking facilities shall be located as follows:
   a. Single-Family Residential Zones - (A-1, A-2, R-RE, R-1A, R-1B, R-1C, R-1D, R-1DD, R-1EE, R-1F, R-1G): Off-street parking may be permitted in driveways in the front, side, and rear yards of permitted uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking located in the rear yard shall be set back a minimum of ten (10) feet from the rear lot line. No off-street parking area, located in the front yard in a single-family residential zone, may exceed four hundred (400) square feet (two parking spaces) except, however, the zoning administrator may allow additional off-street parking spaces to be located thereon, provided that the additional parking spaces will not cause the ratio of unpaved area to paved area (parking and driveway areas) in the front yard to be less than 3:1.
b. Multi-Family Residential Zones - (R-2, R-3): Off-street parking may be permitted in side or rear yards of permitted uses in these zones, provided that off-street parking facilities shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in required front yards, only if approved according to an approved development plan.

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

d. Commercial and Industrial Zones –

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

(2) IP Zone: Off-street parking may be permitted in rear yards, provided that all 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 front and side yards, provided that all minimum required front and side yard setback 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 uses, 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 a reasonable walking distance of the use or building being served and available at all times without restrictions for said purposes.

D. COLLECTIVE PARKING PROVISION: Collective off-street parking facilities may be provided, however, the area for such parking facilities shall not be less than would otherwise be individually required.

E. 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.

**SHAREDPARKING CREDITTABLE**

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<thead>
<tr>
<th>LAND USE TYPE</th>
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<th></th>
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<td>10%</td>
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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.

F. DRIVEWAYS NOT COMPUTED AS PART OF REQUIRED PARKING AREA: Entrances, exits, or driveways shall not be computed as any part of a required parking lot or area, except in the case of single-family residential zones, where access driveways may be used for parking.

G. OFF-STREET PARKING SPACE TO BE USED FOR PARKING ONLY: Any vehicle parking space shall be used for parking only. Any other use of such space, including repair work or servicing of any kind, other than in an emergency, or the requirement of any payment for the use of such space, shall be deemed to constitute a separate commercial, use in violation of the provisions of this ordinance.

H. NO BUILDING TO BE ERECTED IN OFF-STREET PARKING SPACE: No building of any kind shall be erected in any off-street parking lot except a parking garage containing parking spaces equal to the requirements set forth in this section of the ordinance or a shelter house/booth for a parking attendant, provided the number of required spaces are not reduced.

I. PARKING PLAN APPROVAL REQUIRED: Plans for all parking lot facilities, including parking garages, shall be submitted to the zoning administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the city. Such plans shall show the number of spaces and arrangements of parking aisles, location of access points onto adjacent streets, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location of shelters for parking attendant, locations of signs, typical cross-sections of pavement, including base and sub-base, proposed grade of parking lot, storm drainage facilities, location and type of lighting facilities, and such other information or plans as the circumstances may warrant. Where such parking plans include provisions for access points to adjacent streets, then said plans shall also be prepared in accordance with the requirements of Section 11.2.
SECTION 11.1 DESIGN AND LAYOUT OF OFF-STREET PARKING AREAS

A. SIZE OF OFF-STREET PARKING SPACES: For the purposes of this ordinance, one (1) parking space shall be a minimum of nine (9) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles. Such parking space shall have a vertical clearance of at least seven (7) feet.

B. WIDTH OF ACCESS DRIVES: All off-street parking areas shall be laid out with the following minimum aisle or access drive widths:

1. Ninety (90) degrees (perpendicular) parking -- Twenty-two (22) feet (either one or two way circulation)
2. Sixty (60) degree (angle) parking -- Fifteen (15) feet (one way circulation only)
3. Forty-five (45) degree (angle) parking -- Twelve (12) feet (one way circulation only)
4. Thirty (30) degree (angle) parking -- Eleven (11) feet (one way circulation only)
5. Zero degree (parallel) parking -- Twelve (12) feet (one way circulation)

When any combination of these types of parking is used (facing the same aisle) the most restricted aisle or access drive width requirements shall prevail. In addition, a two (2) foot overhang may be permitted on the external sides of a parking area.

If the width of the parking space is increased over nine (9) feet, the drive aisle width can be decreased proportionally (two (2) foot width in drive aisle per one (1) foot increase in space width) except that a drive aisle for two-way traffic may not be decreased below twenty (20) feet in width and a drive aisle for one-way traffic may not be decreased below eleven (11) feet in width.

C. ACCESS TO OFF-STREET PARKING SPACES: Each required parking space shall be connected with a deeded public right-of-way by means of aisles or access drives as required by Section 11.1, B. The parking area shall be so designed to ensure that all maneuvering into and out of each parking space shall take place entirely within property lines of lots, garages, and/or storage areas.

D. OFF-STREET PARKING AREAS IN MULTI-FAMILY, COMMERCIAL, 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 applicable standards (adopted by the legislative body) as identified in Appendix A.
SECTION 11.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS: The amount of off-street parking space required for uses, buildings, or additions, and changes in intensity of uses thereto, shall be determined according to the following requirements, and the space, so required, shall be stated in the application for a zoning and building permit and shall be reserved for such use. Where more than one use is located in the same building each individual use shall be in accordance with the off-street parking requirements of this section of the ordinance.

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<tr>
<th>TYPES OF USES</th>
<th>REQUIRED NUMBER OF SPACES</th>
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<tbody>
<tr>
<td>A. Airport, railroad passenger stations and</td>
<td>One (1) parking space for each four (4) seating accommodations for waiting passengers,</td>
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<tr>
<td>bus terminal</td>
<td>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</td>
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<td></td>
<td>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</td>
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<td>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)</td>
</tr>
<tr>
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<td>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,</td>
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<td>plus one (1) parking space for each employee.</td>
</tr>
<tr>
<td>TYPES OF USES</td>
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<td>--------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<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>
<tr>
<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
</tr>
<tr>
<td>--------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>M. Establishments for sale and consumption on the premises of alcoholic beverages, food, refreshments, or for take home food service</td>
<td>One (1) parking space for each two (2) employees on shift of largest employment plus one parking space for each:</td>
</tr>
<tr>
<td>N. Fire stations</td>
<td>One (1) parking space for each person on duty on largest shift.</td>
</tr>
<tr>
<td>O. Hospitals</td>
<td>One (1) parking space for each two (2) beds, plus one (1) parking space for each two (2) employees or staff members, including nurses, on shift of largest employment, plus one (1) parking space per doctor.</td>
</tr>
<tr>
<td>P. Laundromats</td>
<td>One (1) parking space for each two (2) washing machines, plus one (1) parking space for each employee.</td>
</tr>
<tr>
<td>Q. Libraries, museums, and art galleries</td>
<td>One (1) parking space for each four (4) seats in rooms for public assembly or one (1) parking space for each fifty (50) square feet of gross floor area for use by the public, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
</tr>
</tbody>
</table>
### Types of Uses

<table>
<thead>
<tr>
<th>Types of Uses</th>
<th>Required Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>R. Medical offices and/or clinics</td>
<td>Five (5) parking spaces for each practitioner, plus one (1) parking space per each two (2) employees, or one (1) parking space for each two hundred (200) square feet of gross floor area in the building, plus one (1) parking space for each two (2) employees, whichever is greater.</td>
</tr>
<tr>
<td>S. Mortuaries or funeral homes</td>
<td>One (1) parking space for each four (4) seats in the main chapel or public assembly area, based on maximum seating capacity, plus one (1) parking space for each funeral vehicle and employee, or in the case of no fixed seats, one (1) parking space for each fifty (50) square feet of floor area in parlor or service rooms, or one (1) parking space for each four (4) persons, based on design capacity of the building, whichever is greater, plus one (1) parking space for each funeral vehicle and employee.</td>
</tr>
<tr>
<td>T. Offices for professional, business, and financial, real estate, and business purposes, other than medical offices and/or clinics</td>
<td>Three (3) parking spaces for each one thousand (1000) square feet of gross leasable area</td>
</tr>
<tr>
<td>U. Post offices</td>
<td>One (1) parking space for each two hundred (200) square feet of gross floor area, plus one (1) parking space for each two (2) employees on shift of largest employment, plus one (1) parking space for each vehicle operating from the premises.</td>
</tr>
<tr>
<td>V. Private clubs, boarding houses, and lodge halls</td>
<td>One (1) parking space for each guest sleeping room, or one (1) parking space for each four (4) fixed seats in the main assembly area, whichever is greater, plus one (1) parking space for each two (2) employees, or in the case of no fixed seats, one (1) parking space for each two (2) employees.</td>
</tr>
<tr>
<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
</tr>
<tr>
<td>--------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>W. Retail and personal service stores</td>
<td>Four (4) parking spaces per one thousand (1,000) square feet of gross leasable area.</td>
</tr>
<tr>
<td>X. Schools - elementary, junior high, and equivalent, private or parochial schools</td>
<td>One (1) parking space per teacher and administrator or one (1) space for each four (4) seats in the auditorium, stadium, and other places of assembly or facilities available to the public, based on maximum seating capacity, whichever is greater.</td>
</tr>
<tr>
<td>Y. Schools - senior high, trade and vocational, colleges and universities, and equivalent, private or parochial</td>
<td>Six (6) parking spaces for each room to be used for class instruction or administrative offices, or one (1) parking space for each four (4) seats in the auditorium, stadium, and other places of assembly or facilities available to the public, based on maximum seating capacity, whichever is greater.</td>
</tr>
<tr>
<td>Z. Shopping centers</td>
<td>Four (4) spaces per one thousand (1,000) square feet of gross leasable area.</td>
</tr>
<tr>
<td>AA. Stadium and sports arenas</td>
<td>One (1) parking space for each four (4) seats, based on maximum seating capacity, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
</tr>
<tr>
<td>BB. Theaters, auditoriums, churches, and places of assembly with fixed seats</td>
<td>One (1) parking space for each four (4) seats, based on maximum seating capacity, plus one (1) additional parking space for each two (2) employees on shift of largest employment.</td>
</tr>
<tr>
<td>CC. Theaters, auditoriums, churches, and places of assembly without fixed seats</td>
<td>One (1) parking space per four (4) people in designed capacity of building, or one (1) parking space per one hundred (100) square feet in main auditorium or assembly area, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.</td>
</tr>
<tr>
<td>TYPES OF USES</td>
<td>REQUIRED NUMBER OF SPACES</td>
</tr>
<tr>
<td>---------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>DD. 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>
<tr>
<td>EE. Industrial establishments, including manufacturing, research, and testing laboratories</td>
<td>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.</td>
</tr>
<tr>
<td>FF. Wholesale establishments, warehouses, and storage buildings</td>
<td>One (1) parking space for each employee, plus one (1) parking space for each company vehicle operating from the premises.</td>
</tr>
<tr>
<td>GG. All other uses not listed herein</td>
<td>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).</td>
</tr>
</tbody>
</table>
SECTION 11.3 ACCESS CONTROL REGULATIONS

In order to promote greater safety of passage between highway and land, improve the convenience and ease of movement of travelers on the highway, permit reasonable speeds and economy of travel, and increase and protect the capacity of the highway, the location and design of access points shall be in accordance with the following access control requirements. These requirements shall apply to all arterial and collector type streets, as identified in the adopted comprehensive plan.

A. PROVISION OF RESERVED TURNING LANES: At those access points where vehicles turning to and from the arterial and collector streets will affect the roadway capacity, reserved turn lanes shall be constructed by the developer.

B. PROVISION OF FRONTAGE ROAD: Where possible, provision for the construction of a frontage road shall be made. However, access to the arterial or collector streets via an intersecting street or a common driveway shall be investigated if such a design is not reasonable.

C. COORDINATION OF ACCESS POINTS: Major Access points on opposite sides of the arterial and collector streets shall be located opposite each other, otherwise turning movement restrictions may be imposed by the planning commission or zoning administrator, whichever is applicable. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with, and between, adjacent properties developed (present or future) for similar uses. As a condition of approval for construction, use, or reuse of any access road, the zoning administrator may require that unobstructed and unencumbered access, in accordance with the provisions of this ordinance, be provided from any such access point to adjacent properties.

D. SPACING RESTRICTIONS FOR SIGNALIZED ACCESS POINTS: Access points which will warrant signalization shall be spaced a minimum distance of one quarter (1/4) mile apart. The exact location of the signal light shall be determined by a traffic engineering study which shall at least account for the following variables:

1. Speed
2. Traffic signal phasing
3. Traffic signal cycle length
4. Roadway geometrics
5. Accident experience

Provision for all turning movements to maintain the design capacity of the roadway shall be required.
E. SIGHT DISTANCE: The location of access points shall comply with safe sight distance requirements, as provided in Table 1. The centerline of all access points shall intersect as nearly at a ninety (90) degree angle as possible, but in no case shall the angle of intersection be less than seventy-five (75) degrees or greater than one hundred five (105) degrees, unless approved by the planning commission or zoning administrator, whichever is applicable, due to certain exceptional conditions.

F. LOCATION OF UNSIGNALIZED ACCESS POINTS

1. Arterial Streets

   a. Unsignalized access points shall be spaced a minimum distance of six hundred (600) feet apart. Turning restrictions and/or reserved lanes may be required.

   b. One (1) access point per existing tract will be permitted. However, if the spacing requirements for a direct access point onto an arterial street (as provided in F., 1., a., above) cannot be met, then an access point may be located on a frontage road, or on an intersecting local street, or share a common driveway that meets the spacing requirements. In order for the intersecting local street or frontage road to function properly, access onto them should be controlled as follows:

      (1) Access points onto local streets intersecting an arterial street shall be spaced a minimum distance of one hundred (100) feet, measured from point of curb return to point of curb return, from the arterial street.

      (2) In areas zoned to permit commercial, industrial, 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.,
Article XI   Off-Street Parking And Access Control Regulations

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>DL DR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passenger Car</td>
<td>150</td>
<td>130</td>
<td>130</td>
<td>360</td>
<td>260</td>
</tr>
<tr>
<td>DL DR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note</td>
<td>300</td>
<td>200</td>
<td>200</td>
<td>500</td>
<td>400</td>
</tr>
</tbody>
</table>

D=Distance along major road from access point to allow vehicle to enter safely.

Figures given are measured from a vehicle ten (10) feet back of the pavement edge.

Figures given are in feet.

Values are for urban conditions. On rural streets, distances are to be increased by ten (10) percent to allow for greater reaction time.

The sight distances apply when street grades are zero (0) percent to three (3) percent, either up or down. When an upgrade is steeper than three (3) percent, adjustments are to be made to compensate for the longer time required to reach the speed of highway traffic. The less than shown when the highway is descending. Adjustment factors apply to grades only in that portion of the road between the access points and the downstream point at which a vehicle emerging from the access points has been able to accelerate to within ten (10) mile 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 percent to six (6) percent, sight distances should be reduced by a factor of 0.5.

When the criteria for sight distances to the right cannot be met, the need can be eliminated by prohibiting left turns by exiting vehicles.
TABLE 1B
LEFT TURN SIGHT DISTANCE FOR VEHICLES ENTERING ACCESS POINTS
see Figure 1B

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>20 MPH</th>
<th>30 MPH</th>
<th>40 MPH</th>
<th>50 MPH</th>
<th>60 MPH</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lane</td>
<td>Lane</td>
<td>Lane</td>
<td>Lane</td>
<td>Lane</td>
</tr>
<tr>
<td>Passenger Car</td>
<td>150</td>
<td>160</td>
<td>170</td>
<td>230</td>
<td>250</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></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 (3) percent, adjustments are to be made to compensate for the longer time required to reach the speed of highway traffic. The less than shown when the highway is descending. Adjustment factors apply to grades only in that portion of the road between the access points and the downstream point at which a vehicle emerging from the access points has been able to accelerate to within ten (10) miles per hour of the route speed.

When the street, in the section to be used for acceleration after leaving the access point, ascends at three (3) percent to four (4) percent, then sight distances in the direction of approaching ascending traffic are to be increased by a factor of 1.4. When the access: 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 0.8. If the road descends at 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

12-1
are needed to accommodate the facilities than could be reasonably provided, the zoning administrator shall require that additional parking areas, properly designed to handle the parking of necessary trucks, including the maneuvering of the trucks to and from the space, be provided for the storage of trucks waiting to be loaded and/or unloaded.

3. If, after approval by the zoning administrator of the number of spaces and any storage of truck parking needed to accommodate the loading and/or unloading of trucks for a specific use, a need exists, based on operation of the specific use, to provide additional off-street loading and/or unloading spaces or storage of trucks than was previously determined, the zoning administrator may require that corrective action be taken to eliminate any deficiencies as follows:

a. limit the time and interval of arrival and departure of trucks, commensurate with the need
b. require necessary additional loading and/or unloading spaces, or require that adequate parking areas be provided for the storage of trucks waiting to be loaded and/or unloaded

B. ADDITIONAL LOADING AND/OR UNLOADING SPACES TO BE PROVIDED: Whenever the intensity of any use of a building, or premises is increased through addition of gross floor area, change of use, or increased activity, additional loading and/or unloading spaces shall be provided in accordance with the requirements of Section 12.0, A., above, if it is determined by the zoning administrator that the existing spaces are not adequate to serve such increase in intensity.

C. LOCATION OF OFF-STREET LOADING AND/OR UNLOADING AREA: All loading and/or unloading spaces shall be located on the same lot as the use served. However, permitted uses located in industrial zones may provide parking areas for the storage of trucks waiting to be loaded and/or unloaded within three hundred (300) feet from each lot served, upon the approval of the zoning administrator, provided that said off-street storage of trucks are unable to be provided on the same lot, or contiguous to the same lot, as the use being served and further provided that said storage of trucks is located in the same zone as the use being served. Loading and/or unloading areas may be located in the side and minimum required rear yards, provided that all loading and/or unloading facilities shall be set back a minimum of ten (10) feet from the rear lot line and minimum side yard clearances are maintained.

D. DRIVEWAYS NOT COMPUTED AS PART OF REQUIRED LOADING AND/OR UNLOADING AREA: Entrances, exits, or driveways shall not be computed as
any part of a required loading and/or unloading space.

E. OFF-STREET LOADING AND/OR UNLOADING SPACE TO BE USED FOR LOADING AND/OR UNLOADING ONLY: Any loading and/or unloading space shall be used for loading and/or unloading only. Any other use of such space, including repair work or servicing of any kind, other than in an emergency, or the requirement of any payment for the use of such space, shall be in violation of the provisions of this ordinance.

F. NO BUILDING TO BE ERECTED IN OFF-STREET LOADING AND/OR UNLOADING SPACE: No building of any kind shall be erected in any off-street loading and/or unloading space.

G. OFF-STREET LOADING AND/OR UNLOADING SPACE SHALL NOT BE REDUCED: The required parking spaces, as set forth and designated in this ordinance, shall not be reduced, except as provided for in this ordinance.

H. LOADING AND/OR UNLOADING PLAN APPROVAL REQUIRED: Plans for all loading and/or unloading facilities shall be submitted to the zoning administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the legislative body. Such plans shall show the number and location of loading and/or unloading spaces, including necessary maneuvering of trucks, and dock and apron approach, and arrangements of access aisles, location of access points onto adjacent streets, provisions for truck circulation, location of curbs on or adjacent to the property, utilities, location of signs, typical cross-sections of pavement, including base and subbase, proposed grade of lot, storm drainage facilities, location and type of lighting facilities, and such other information or plans as the circumstances may warrant. Where such loading and/or unloading plans include provisions for access points to adjacent streets, then said plans shall also be prepared in accordance with the requirements of Section 11.2.

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 the standards (adopted by the legislative body) as identified in Appendix A.

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

F. SCREENING AND LANDSCAPING: All loading and/or unloading areas, including storage of parked trucks, shall be effectively screened on each side adjoining or fronting on any property situated in a residential zone, as regulated by Section 9.17 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.
ARTICLE XIII

FENCES, WALLS, AND OBSTRUCTION TO VIEW REGULATIONS

SECTION 13.0 VISION CLEARANCE AT CORNERS AND RAILROAD CROSSINGS:
Except as herein provided, no fence, wall, hedge, or other obstruction, above a height of thirty-six (36) inches, as measured above the curb level, shall be erected, placed, maintained, or continued in any zone, within that triangular portion of a corner lot formed by measuring fifty (50) feet from the intersection of the right-of-way lines of two (2) streets or of the right-of-way line of a street intersection with a railroad right-of-way line and joining these points with a straight line. No type of tree, shrub 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 engineer, whichever is applicable.
SECTION 13.3 RESIDENTIAL ZONES

A. Fences and/or walls within all residential (R) zones, including their applicable overlay zone, shall conform to the following requirements:

1. Except as herein provided, the requirements for the Residential (R) Zones for residential uses only, are as set forth and depicted on Figure 1 of this ordinance. A class 4 fence may be installed at any place on property that has a water body with a minimum water surface area of one (1) acre, the purpose of which is to enclose or provide security.

2. The location, height, and type of all fences and/or walls within any area zoned with a PUD or MHP Overlay shall be as approved by the planning commission.

3. 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.

   a. Classes 1, 2, 3, 4, 5, 6 fences and/or walls may be erected in side or rear yards, up to a maximum height of seventy-two (72) inches, provided, however, for the following exceptions:

      (1) General purpose recreational areas may be enclosed with fences and/or walls of Class 1, 2, 3, 4, 5, 6, or 7, up to a maximum height of ninety-six (96) inches.

      (2) Class 3 fences (or a combination of 3 And 7) may be erected to enclose tennis courts or as backstops for baseball and/or softball fields, up to a maximum height of one hundred forty-four (144) inches.

      (3) In the case of corner lots, as governed by Section 13.0, fences of class 2 or 3 only may be erected, as regulated by the applicable provisions of this section.

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 class 1, 2, 3, 4, 5, or 6 may be erected in side and rear yards of commercial zones, up to a maximum height of seventy-two (72) inches. In the case of corner lots, as governed by Section 13.0, fences of class 2 or 3 only, may be erected up to a maximum height of seventy-two (72) inches. In minimum front yards, fences of classes 1, 2, 3, 4, 5, or 6 may be erected up to a maximum height of 48 inches (except as noted in Section 13.0).

B. Except as noted in Section 13.0, fences of classes 1, 2, 3, 4, 5, or 6 may be erected up to a maximum height of 84 inches in all industrial zones in side and rear yards and not more than 48 inches in height in the minimum front yard depth. Except for the I-P Zone, classes 2 or 3 fences may be erected up to a maximum height of 72 inches in the minimum front yard depth in all industrial zones.

SECTION 13.5 MIXED USE ZONES

A. In any zone where both residential and non-residential uses are allowed, the fence, wall, and obstruction to view regulation and responsibilities applicable to any particular parcel or land use shall be determined as follows: (1) if specific fence, wall, and obstruction to view regulations are provided in the zoning district, those regulations shall be applied; or (2) if no fence, wall, and obstruction to view regulations are provided in the zoning district, residential uses shall be treated as if they were located in a zone where a use of that type would be allowed as a matter of right, and nonresidential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit.

SECTION 13.6 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 13.7 HEIGHT OF ANY BARBED WIRE OR SHARP POINTED FENCES

A. 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 13.8 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 13.9 ELECTRIFIED FENCES: No fence carrying an electrical charge shall be permitted in any zone except when such fence is used in conjunction with an agricultural use and provided the fence is not located along the perimeter with adjacent property.

SECTION 13.10 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 13.11 STRUCTURAL ELEMENTS OF FENCES: Fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side which faces the property owned by the person building the fence.
ARTICLE XIV

SIGN REGULATIONS

SECTION 14.1 SHORT TITLE: This Article shall be known as the Sign Article of the City of Independence.

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 Independence. 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 Independence 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 Independence), 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 Independence in particular, there are other considerations that the City of Independence 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 Independence 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 Independence 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 Independence 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 Independence 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 Independence to remove them or force their removal.
11. The City of Independence 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 Independence City Council members and their professional staff members that property owners are judicious and appropriate in posting such signs. The City of Independence 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 Independence has recognized the multiple values of signs in the built environment, Independence officials after consultation with the Planning Commission and representatives of cities and towns in Kenton 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 Independence. 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 Independence 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 Independence, including its many valued businesses and the tens of thousands of visitors who arrive or pass through the City of Independence each month.

SECTION 14.3 TEMPORARY SIGNS

Temporary Signs on non-residential lots shall be permitted as follows

A. Temporary signs bearing a non-commercial message shall be permitted, subject to the following regulations:

1. Each occupied lot shall be allowed ten (10) temporary signs. Each sign shall not exceed six (6) square feet in area and not exceed six (6) feet in height.
2. Each occupied lot shall be allowed two (2) temporary signs. Each sign shall not exceed thirty-two (32) square feet in area and not exceed six (6) feet in height.
3. Signs must be detached and shall not 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.
4. Signs shall be set back a minimum of ten (10) feet from any property line.
5. Signs shall not be separately illuminated.
6. If the message relates to an event, such sign shall be removed within seven (7) days following the conclusion of the event.

B. Temporary signs bearing a commercial message shall be permitted as follows:
1. Each occupied lot shall be permitted one (1) temporary sign not exceeding twelve (12) square feet in area.
2. The sign shall be attached at all four corners or otherwise firmly affixed to a wall of the principal building or it may be freestanding.
3. If it is freestanding, it shall be supported by one or more posts or similar devices in the ground and shall not exceed six (6) feet in height.
4. In no case shall such a sign be affixed to a tree or other natural feature, a fence, a utility pole, or a fixture or structure on the property other than the principal building.
5. If freestanding, it shall be set back a minimum of ten (10) feet from any property line.
6. It shall not be separately illuminated.
7. If the message relates to an event, such sign shall be removed within seven (7) days following the conclusion of the event.
8. The commercial message shall be related to a commercial activity lawfully conducted on the lot where the sign is located; the sale or lease of the premises shall be considered a lawful use of any premises for purposes of this regulation.

SECTION 14.4 SCOPE, AUTHORITY AND APPLICABILITY

A. SCOPE: This Article is adopted pursuant to KRS 100.

B. AUTHORITY: This Article regulates signs, as defined herein, when mounted, located, or displayed on property located within the incorporated limits of the City of Independence, on land that is either private land or public land over which the City of Independence 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 Independence, except as otherwise provided herein. All signs displayed in the City of Independence shall comply with all requirements of this Article and all other applicable law. Permits shall be required for all signs in the City of Independence, 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 Independence, 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 Independence; and
4. Signs on vehicles and watercraft which are regularly used in the operation of a business; signs on vehicles which are parked for long periods of time, which are not operational and/or which are not regularly used in the operation of a business at the same location where the vehicle is most frequently parked shall be considered detached signs and subject to regulation under this Article. For purposes of this subsection, a “long period of time” shall be a continuous period of 15 days or separate periods that total 20 days or more out of any 30-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 by employees or officials of the City of Independence, Kenton County, a state or federal agency in the course of their governmental duties;
3. Signs required by a state or federal statute;
4. Signs required by an order of a court of competent jurisdiction;
5. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the use and/or provide contact information regarding the facility; and
6. Signs installed by a transit company with a franchise or other right to operate in the City of Independence, where such signs are installed along its routes and relate to schedules or other information about the transit route.

G. SIGNS ALLOWED WITHOUT A PERMIT: The following signs or sign-like devices are allowed in all zoning districts without a sign permit and are not to be included in determination of the allowable numbers, type and area of a sign that requires a sign permit. If a sign otherwise falling under this Section is electrified, it will require an electrical permit. Signs subject to this Section shall conform to the requirements specified:

1. Address Numbers used for the purpose of identifying the address of any building shall not be counted toward allowed sign area;
2. Detached signs smaller than four square feet in area and less than four feet in height, of which not more than 25 percent may be used for a commercial message (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 so as to be part of the building or when
constructed of bronze or other incombustible material, provided that no such sign shall exceed six square feet in area nor shall any such sign be separately illuminated;
8. Symbols that do not bear or include any commercial message and that are integrated into the architecture of a building;
9. Gravestones, when erected in a lawful cemetery or graveyard; and
10. Graphic images which are visible only from aircraft flying above.

H. OTHER ACTIONS ALLOWED WITHOUT A PERMIT: The following signs and actions related to signs shall be exempt from the permit requirements of this Article but shall be subject to all other standards of this Article.

1. Changing of the advertising copy or message on an existing painted or printed sign, marquee, changeable copy sign or a similar compliant sign, whether electrical, illuminated, electronic message center or non-illuminated painted message, provided that the copy on an electronic message board shall not change more frequently than allowed under Section 14.6, 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 at all times 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, banners, streamers, balloons, and similar devices;
5. Animated, projecting, revolving, and moving signs, including those which create the appearance of animation, projection, revolving or other movement, or utilize flashing or intermittent lights, or lights of changing degrees of intensity; automatic changeable copy signs that conform with section 14.6, D. are not subject to this limitation;
6. Signs which are not traffic, control or safety signals, but by their shape, color, or manner of mounting or display, appear to be traffic, control or safety signals, and thus create confusion for drivers and pedestrians, as well as signs which create or constitute traffic hazards;
7. Signs on vacant lots in non-residential zones larger than 12 square feet;
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 thirty (30) seconds, unless specifically addressed elsewhere in these articles.

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 50 or more square feet of sign area shall not be erected within 500 feet of property falling in one of the City of Independence 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 50 square feet of sign area shall not be erected within 200 feet of property falling in one of the City of Independence or other jurisdiction’s residential zoning districts, although this restriction shall not apply to mixed use districts and commercial districts allowing residential use.

(3) A sign on which the electronic or electro-mechanical message board includes less than 20 square feet of sign area shall not be erected within 100 feet of property zoned and used exclusively for single family uses; it is the express intent of this provision to allow the use of such technology on signs for institutional uses located in residential districts, provided that the required separation is maintained between the sign and any property zoned and exclusively used for a single-family use.

SECTION 14.7 SIGNS ALLOWED IN CONSERVATION, AGRICULTURAL AND RURAL DISTRICTS (CO, A-2, 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 occupied lot shall be allowed a total of twelve (12) detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of twelve (12) 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 sale of more than ninety percent (90%) of the lots in the subdivision.

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. Such signs may include a masonry wall, landscaping or other similar materials or features. This may include changeable copy signs, not to exceed sixty percent (60%) 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>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>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. TRAFFIC CONTROL 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-1A, R-1B, R-1C, R-1D, R-1DD, R-1EE, and R-1F Zones)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be separately illuminated.

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

B. DETACHED SIGNS

1. Each occupied lot in a residential district shall be allowed a total of twelve (12) detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of twelve (12) detached signs at any time), each not exceeding six (6) square feet in area and not exceeding six (6) feet in height. Such signs shall not be illuminated. The permanent sign shall not contain a commercial message, and no more than two (2) signs on a lot in a residential district at any one time, including all wall signs, detached signs, temporary signs, and others, may contain commercial messages. The only commercial messages allowed on such signs are messages related to commercial activity lawfully conducted on the premises, including the lawful, occasional sale of personal property (such as through a garage sale or yard sale) or the sale, rental or lease of the premises.

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

C. TEMPORARY SUBDIVISION SIGNS

1. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign at each principal entrance to a subdivision is allowed. There shall in no case be more than one such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not
be illuminated and shall not exceed thirty-two (32) square feet in area. Such sign shall be removed upon the sale of more than ninety percent (90%) of the lots in the subdivision.

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 sixty percent (60%) of the sign area. Such signs may be illuminated.

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

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.
F. OTHER SIGNS

1. 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-3 Zones)

A. WALL SIGNS

1. One wall sign, not exceeding one (1) square foot in area, is allowed for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises, including a lawful home occupation. The sign shall not be separately illuminated.

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

3. For any building containing three or more dwelling units sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance. Such sign shall bear no commercial message. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message.

B. DETACHED SIGNS

1. Permanent detached signs are allowed in these zoning districts subject to the following limitations. The principal detached sign may contain a commercial message related to the rental, lease or occupancy of the
Article XIV  Sign Regulations  14-17

premises. No other commercial message is allowed on the permanent signs allowed under this table.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Directory</th>
<th>Additional</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage per site</td>
<td>One per vehicle entrance</td>
<td>One per public entrance per building</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
<td>Six square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>6 feet</td>
<td>4 feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest property line</td>
<td>5 feet from front property line; 10 feet from any other property line</td>
<td>15 feet</td>
<td>25 feet</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, direct or concealed source</td>
<td>Concealed source only</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>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 twelve (12) detached signs, including not more than one permanent detached sign, and temporary detached signs (up to a total of twelve (12) 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 sale of more than ninety percent (90%) of the lots in the subdivision.

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 sixty percent (60%) of the sign area. Such signs may be illuminated.

2. Each such use shall also be allowed one wall sign for each public entrance to a building; such wall signs shall not exceed four (4) square feet each and shall not be illuminated.
3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th>Wall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</td>
</tr>
<tr>
<td>Maximum number</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Maximum Letter Size</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

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 Zone)

A. WINDOW AND WALL SIGNS

1. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Area limit only</td>
<td>One per building street frontage</td>
<td>N/A</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>No separate illumination</td>
<td>Indirect white light</td>
<td>N/A</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
</tbody>
</table>

For any building containing three or more offices or other tenants sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance. Such sign shall bear no commercial message
related to activities, goods or services not offered on the premises. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message related to commercial activities not conducted on the premises.

B DETACHED SIGNS

1. Permanent detached signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th>Principal</th>
<th>Directory</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage per site</td>
<td>One per vehicle entrance</td>
</tr>
<tr>
<td>Maximum size</td>
<td>25 square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>8 feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest property line</td>
<td>5 feet from front property line; 10 feet from any other property line</td>
<td>15 feet</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>External or internal, direct or concealed source</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 25 percent of sign face</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 sixty percent (60%) 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>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</td>
</tr>
<tr>
<td>Maximum number</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Maximum Letter Size</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

E. OTHER SIGNS

1. 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, NSC, GMU, RC, and RC-2 Zoning Districts

   a. Window and permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>25 percent of window area on that building</td>
<td>Two (2) square feet of sign area per lineal foot of building</td>
</tr>
</tbody>
</table>
### B. POLE OR GROUND SIGNS

1. NC, NSC, GMU, RC, and RC-2 Zoning Districts

   a. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th>Principal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
</tr>
<tr>
<td>Maximum size</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>20 feet</td>
</tr>
<tr>
<td>Minimum setback from nearest</td>
<td>25 feet</td>
</tr>
<tr>
<td>right-of-way</td>
<td></td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>Five feet from any other property line;</td>
</tr>
<tr>
<td></td>
<td>50 feet from nearest single-family</td>
</tr>
<tr>
<td></td>
<td>residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 25</td>
</tr>
<tr>
<td></td>
<td>percent of sign face</td>
</tr>
</tbody>
</table>

### C. WALL SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. For any building containing three or more uses of any type sharing a common entrance or hallway, one additional wall sign shall be allowed at each public entrance providing access to such uses. Such sign shall bear no commercial message related to activities, goods or services not offered on the premises. The sign shall not be legible from the public right-of-way. The sign shall not be separately illuminated. The sign shall not be more than four square feet in area. The purpose of this section is to allow for directory signs, listing tenants or occupants, but the sign may bear any message other than a commercial message not related to commercial activities on the premises.
D. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed fifty (50) square feet in area. This may include changeable copy signs, not to exceed sixty percent (60%) of the sign area. Such signs may be illuminated.

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

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</td>
</tr>
<tr>
<td>Maximum number</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Maximum Letter Size</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>

E. OTHER SIGNS

1. 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 SIGNS ALLOWED IN INDUSTRIAL DISTRICTS (IP Zone)

A. WALL SIGNS
1. Permanent wall signs are allowed for nonresidential uses in these districts, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th></th>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>Not allowed</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Not allowed</td>
<td>One per street frontage</td>
<td>N/A</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Not allowed</td>
<td>Illumination from a concealed source only</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>

B. POLE OR PRINCIPAL GROUND SIGNS

1. Pole or principal ground signs are allowed in these zoning districts subject to the following limitations.

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Directory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number</td>
<td>One per street frontage</td>
<td>One per vehicle entrance and one per public entrance per building</td>
</tr>
<tr>
<td>Maximum size</td>
<td>IP: 40 square feet</td>
<td>Six square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>IP: 10 feet</td>
<td>Six feet</td>
</tr>
<tr>
<td>Minimum setback, principal right-of-way</td>
<td>15 feet</td>
<td>15 feet</td>
</tr>
<tr>
<td>Minimum setback, other</td>
<td>20 feet from any other property line; 100 feet from nearest single-family residential district</td>
<td>20 feet from any other property line; 50 feet from nearest single-family residential district</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Automatic allowed; may cover up to 25 percent of sign face allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

C. DETACHED SIGNS NOT LEGIBLE FROM THE RIGHT-OF-WAY

1. To improve wayfinding on multi-user sites, the following detached signs are allowed in addition to those allowed under subsection B of this Section. One detached sign not legible from the right-of-way, not exceeding twenty (20) square feet in area and not exceeding six feet in
height shall be allowed for each four separate nonresidential uses or per vehicle entrance, whichever is less. One additional such sign shall be allowed for each two drive-through lanes. Such sign shall be set back from the public right-of-way a minimum of fifty (50) feet, from any other property line a minimum of thirty (30) feet, and from a residential zoning district a minimum of fifty (50) feet. Such sign shall not contain changeable copy and the sign may be internally illuminated or externally illuminated from an exposed or concealed source.

D. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed fifty (50) square feet in area. This may include changeable copy signs, not to exceed sixty percent (60%) of the sign area. Such signs may be illuminated.

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

3. A permanent wall sign is allowed for institutional uses in these districts, subject to the following limits. No sign shall extend above the top of the wall of the building, including parapets and architectural extensions.

<table>
<thead>
<tr>
<th>Wall</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located, with a maximum size of 150 square feet</td>
</tr>
<tr>
<td>Maximum number</td>
<td>One per building street frontage</td>
</tr>
<tr>
<td>Permitted illumination</td>
<td>Concealed source only</td>
</tr>
<tr>
<td>Changeable copy</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Maximum Letter Size</td>
<td>Thirty-six (36) inches</td>
</tr>
</tbody>
</table>
E. OTHER SIGNS

1. 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 14.13 SIGNS ALLOWED IN DOWNTOWN DISTRICTS (DI Zone)

A. WALL AND WINDOW SIGNS (Subdistricts 1 and 2)

1. Window and permanent wall signs are allowed for nonresidential uses in this district, subject to the following limits. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions. No cabinet-type wall signs are permitted.

<table>
<thead>
<tr>
<th></th>
<th>Window</th>
<th>Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>25 percent of window area on that building wall</td>
<td>See total</td>
<td>Two (2) square feet of sign area per lineal foot of building width on the side of building on which sign is located</td>
</tr>
<tr>
<td>Maximum number</td>
<td>Area limit only</td>
<td>One per 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>Changeable copy</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
</tbody>
</table>

2. Wall signs on canopies, awnings, and galleries are permitted subject to the following standards:
   
   a. One canopy, awning, or gallery sign is permitted per business;
   b. The sign must be at least 8 feet above grade;
   c. The sign must not exceed 2 square feet of sign area per lineal foot of building width on the side of the building that the sign is located;
   d. If a canopy, awning, or gallery sign is used, then a separate wall sign for the same business is not permitted; and

B. PROJECTING SIGNS (Subdistricts 1 and 2)

1. In addition to permitted wall signs, but as an alternative to a ground sign, each business establishment with a ground-floor entrance in these zoning districts shall be allowed a projecting sign, subject to the following standards and limitations:

<table>
<thead>
<tr>
<th></th>
<th>Projecting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size</td>
<td>36 square feet or the maximum size possible in conformance with other standards in this</td>
</tr>
</tbody>
</table>
### Projecting

| Maximum number | One per business establishment with a ground-floor entrance |
| Height of bottom of sign | Not less than seven feet or more than nine feet, measured from sidewalk |
| Maximum height of top of sign | 16 feet above sidewalk, or bottom of second-floor window(s) or top of wall, whichever is less |
| Permitted illumination | Internal, external, direct, indirect, exposed or any combination |
| Changeable copy | Not permitted |
| Maximum projection from face of building | Six feet, or two-thirds of the distance from the façade of the building to the street-side edge of the sidewalk, whichever is less |

#### a. Cumulative Area Limitation

1. The total area of any wall and/or window signs and any projecting sign on one street frontage of a building shall not exceed two square feet of sign area per lineal foot of building frontage.

#### b. Other Limitations

1. A projecting sign shall be placed on the middle 10 percent of the building face where the sign is to be installed, measured horizontally, provided it does not interfere with any architectural feature of the building, and the sign may not be closer than 15 feet to another projecting sign, except on a corner lot, where a projecting sign may be placed at the corner of the building.
Article XIV  Sign Regulations

(2) A projecting sign may not project over a street, alley or driveway.

(3) An application for a permit for a projecting sign shall bear the seal of an architect or engineer registered in the Commonwealth of Kentucky.

C. GROUND SIGNS (Subdistrict 2 only)

1. Intent/Purpose
   a. The downtown district generally consists of buildings that are built at or near the sidewalk, leaving no space for a ground sign. This section is intended to apply to those establishments that have lawfully been set back far enough from one or more right-of-way lines, thus making it more difficult for drivers and pedestrians to see wall signs on the building.

2. Where Allowed
   a. Any site on which the principal building is set back twenty (20) or more feet from a right-of-way line along the entire length of the building facing that right-of-way shall be allowed ground sign in accordance with this Section, except that no site may have both a principal ground sign and a projecting sign on the same street frontage. One ground sign, not exceeding 25 square feet in area and 6 feet in height is allowed per street frontage of a nonresidential building. Such sign shall be set back from the public right-of-way a minimum of five feet, from any other property line a minimum of five feet, and from a residential zoning district a minimum of 50 feet. Such sign may include automatic changeable copy, not to exceed twenty-five percent (25%) of the sign area. Signs not containing changeable copy may be illuminated only from a concealed source.

D. SIDEWALK SIGNS (Subdistrict 1 and 2)

1. Sidewalk signs shall be allowed, subject to the following standards and limitations:
   a. One such sign shall be allowed for each business establishment with a public entrance onto a public sidewalk, provided that such sign can be placed in a way that conforms with the other standards of this subsection;
   b. The sidewalk sign shall be placed only on the sidewalk directly in front of the establishment;
c. A sidewalk sign shall be an A-frame or other self-supporting design, without separate structural members;
d. A sidewalk sign shall not be more than four feet in height or two feet in width;
e. A sidewalk sign shall be placed so that it does not block any public entrance or required emergency exit from a building and so that, when considering the sign in combination with other obstacles such as parking meters, street signs, newspaper vending boxes, fire hydrants, planters and bus stop benches, there is a clear passage of at least six feet;
f. A sidewalk sign may have two faces, neither of which shall exceed six square feet in area. If a sidewalk sign of this size cannot be placed in front of the establishment in such a way that it meets the requirements of the immediately preceding paragraph, then the sidewalk sign shall be reduced in size to allow such standards to be met, or no sidewalk sign shall be allowed;
g. A sidewalk sign may contain provisions for manual changing of copy, including blackboards and whiteboards, but shall not include electronic changeable copy;
h. A sidewalk sign may be placed on the sidewalk only during hours when the establishment to which it pertains is open for business; a sidewalk sign located in front of a business that is not open shall be considered an abandoned sign and may be removed by City of Independence without notice and without liability for its value;
i. A sidewalk sign may not be separately illuminated or electrified in any way; and
j. A sidewalk sign may bear any noncommercial message or a commercial message related to goods or services available in the premises that fronts on the sidewalk.

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
Article XIV  Sign Regulations

forty (40) square feet in area. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated. Where the physical characteristics of the site or the application of setback and clear site triangle provisions do not permit a detached sign, the institutional use shall be allowed an additional wall sign equal in size to the detached sign to which it would otherwise be entitled.

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 14.14  MASTER SIGNAGE PLANS

A. PURPOSE AND INTENT

1. It is the purpose of the City of Independence 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 Independence 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 Independence 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 Independence 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 Independence, that, to the extent that it can guide the scope of review of a court considering an appeal, a court considering an appeal under this Section reverse or remand the decision of the Zoning Administrator only if it finds that such action is arbitrary and capricious.

B. APPLICABILITY

1. The owner of any site that includes more than one tenant or occupant shall apply for approval of a Master Signage Plan before applying for a sign permit for any detached sign.

C. PROCEDURE

1. The submittal of a Master Signage Plan shall be considered a Stage II Development Plan.
2. The owner(s) shall apply to the planning commission’s duly authorized representative.
3. Where an application for approval of a Master Signage Plan is submitted simultaneously or as part of another Stage II Development Plan, the two shall be processed together. Where an application includes properties not under common ownership, all property owners shall sign the application or shall submit documents granting the applicant the authority to process such an application.
4. The planning commission’s duly authorized representative shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of this Section, for Master Signage Plans, other applicable elements of this Article, and other applicable regulations, and its conformity with any approved Stage I Development Plan for the property. In approving the Master Signage Plan, the planning commission’s duly authorized representative may authorize minor adjustments from the Stage I Development Plan.
5. If a Master Signage Plan application is denied, the applicant may submit a new application with a revised plan at any time.
6. Any person aggrieved by the action of the planning commission’s duly authorized representative on a Master Signage Plan may appeal the decision by filing an application with the Planning Commission.

D. APPLICATION CONTENTS

1. The application for approval of a Master Signage Plan shall contain at least the following information. Where the application is submitted simultaneously with an application for a Stage II Development Plan
approval, the Master Signage Plan may refer to portions of the Stage II Development Plan application or approved Stage I Development Plan for related requirements:

a. If the site has not been improved, all information required by Section 9.20, B. for a Stage II Development Plan;

b. If the site has been improved, as-built conditions, showing all buildings and other improvements and all parking areas and vehicle entrances;

c. A proposed design plan showing signage design at a scale of ½” = 1 ft.

d. Computation of the maximum area for all signs, the height of signs and the number of detached signs allowed on the development site(s) included in the plan under this Article, including incentives authorized below;

e. For properties with multiple tenants or multiple occupants entitled to signs, an allocation of the allowed signage among the eligible tenants or users;

f. An accurate indication on the plot plan of the current or proposed location of each present and future sign of any type, whether requiring a permit or not, except that signs not requiring permits need not be shown;

g. The color schemes and design features (excluding specific messages) for proposed signs; and

h. The signatures of all owners or their authorized agents in such form as the legislative body may require.

E. AMENDMENTS

1. A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms to all requirements of this Section in effect at the time of submittal.

F. PROVISIONS FOR NONCONFORMING SIGNS

1. A Master Signage Plan for a property already containing signs on the date of submission of the application shall include a schedule for bringing all signs on the development site into conformance with the Master Signage Plan by a specified date. The conformance schedule included in such Master Signage Plan shall be considered a condition of approval of the Master Signage Plan.

G. CRITERIA FOR APPROVAL
1. A Master Signage Plan shall be approved if and only if the planning commission’s duly authorized representative finds that the proposed plan meets all of the standards set out in this Article. If the planning commission’s duly authorized representative finds that the proposed plan substantially meets such standards, it may approve the proposed plan subject to conditions that will cause it to meet these standards. Otherwise, the planning commission's duly authorized representative shall deny the application for plan approval:

a. Each proposed sign conforms with all applicable standards of this Article;
b. The total amount of signage proposed for any building, wall, site, or portion of a site, conforms with all applicable standards of this Article;
c. The proposed plan contains all of the information required by subsection D of this Section

d. The proposed allocation of allowed signage among eligible tenants, which shall be proportional to one of or a combination of the following criteria:

   (1) The number of public entrances to space leased to or controlled by each tenant or occupant;
   (2) The linear feet of frontage of the space leased to or controlled by each tenant or occupant along the wall(s) containing public entrances; and/or
   (3) The façade area of the building elevation(s) containing the public entrances to the spaces leased to or controlled by each tenant or occupant.

e. All proposed signs shall be part of a common design scheme, meeting at least the following criteria:

   (1) The materials and design of all wall signs shall follow one design scheme;
   (2) The materials and design of freestanding signs bearing commercial messages shall follow one design scheme, which may or may not be the same as the design scheme for wall signs;
   (3) Each design scheme shall require consistency among signs for at least three of the following criteria: lighting design; color schemes; materials; shape; proportion; and/or type faces;
   (4) If the design schemes for the wall signs and freestanding signs are different, they shall have in common at least two of
the following criteria: lighting design; color schemes; materials; proportion; and

(5) The design scheme for freestanding signs shall use building materials, colors and, where applicable, architectural design features consistent with the materials, colors and architectural design features of the principal building on the site.

H. EFFECT

1. After approval of a Master Signage Plan, no permit shall be issued for a sign on the site(s) subject to the Master Signage Plan except in accordance with such plan, and no sign shall be erected, placed, painted, or maintained, except in accordance with such plan, and such plan may be enforced in the same way as any provision of this Article. In case of any conflict between a provision of a Master Signage Plan and one or more provisions of this Article, this Article shall prevail.

I. SPECIAL SEVERABILITY PROVISIONS

1. The severability provisions of Section 14.18. A., 11., are limited by this subsection. If any procedural aspect of this Section is found by a court of competent jurisdiction to be unconstitutional, it is the intent of the City of Independence 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 Independence that such part be stricken and that the rest of this Section remain in full force and effect, in accordance with the principles set out in more detail in Section 14.18, A., 11.

SECTION 14.15 PERMIT REQUIREMENTS AND PROCEDURES

A. Unless a particular sign is exempt from the permit requirement under an explicit provision of this Article or other applicable law, then a permit for such sign is required.

1. WHEN REQUIRED

   a. Replacements
(1) If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location, subject to all requirements enumerated herein.

b. Maintenance

(1) If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.

c. Relocation of Signs

(1) If any sign is removed from one location and erected at a new location, a new permit shall be obtained.

d. Alteration

(1) Alteration or enlargement of any sign shall require a permit the same as for a new sign. Any change in technology for a sign shall be considered an alteration; this shall expressly apply but not be limited to the conversion of a sign to changeable copy technology of any type.

2. APPLICATION

a. No permit shall be granted until and after an application has been filed with the designated administrative official, showing the plans and specifications, including application fees, dimensions, materials, and details of construction of the proposed structure and meeting all provisions of this Article.

3. APPLICATION FORM

a. The Zoning Administrator shall prepare and provide a form to be used as an application for a sign permit. The same form may constitute a permit, when duly approved. Multiple signs may be listed on a single permit only when they are all on the same lot or parcel, or are part of a single, comprehensive development.

4. INFORMATION ON APPLICATION

a. The sign application form shall include the following information:
(1) Name and contact information for the applicant, and if separate, the name, address and consent of the property owner;

(2) Street address and Property Identification Number (PIDN) of the site;

(3) Accurate site plan to scale describing the design, dimensions, proposed placement, structural and electrical characteristics and appearance of the sign(s), including the location of existing buildings, signs and other structures on the same site as the proposed sign(s);

(4) If the plans and drawings require an engineer’s or architect’s seal, signature or certificate, such shall show current Kentucky registration or licensure;

(5) Any signs or other structures to be removed or relocated;

(6) Dimensions and heights of all existing and proposed sign(s);

(7) Information regarding electrification, trenching, demolition, plumbing, temporary street closure, or encroachment into the public right of way;

(8) Any known uncorrected violations of zoning laws on the site;

(9) Name, address and any licensing/bonding information for any sign contractors;

(10) Technical drawings, specifications, structural safety calculations for the sign structure;

(11) If the sign is subject to any of the safety codes (building, electrical, etc.), then all information required to determine compliance with such codes or to satisfy the requirements of such codes;

(12) The length of each occupant’s/tenant/s lineal wall frontage;

(13) Workers’ compensation and liability documents and occupational licenses for all contractor’s.

5. INITIAL REVIEW

a. Unless a given sign is exempt from the permit requirement, all sign permit applications shall be reviewed by the Zoning Administrator, and approved or denied on the basis of whether the proposed sign satisfies all requirements of this Article, and all other applicable laws, rules and regulations. If it does, then the permit shall be issued. If it does not, then the denial notice shall specify the point(s) of noncompliance. Decisions on sign permit applications shall be made in writing by the Zoning Administrator, and are subject to the appeal procedures provided herein. When applicable, permits under building and electrical codes then in effect are also required; sign permits may be approved subject to compliance with building and electrical code requirements.
6. **COMPLETENESS**

   a. Initial review of an application will be for the purpose of determining if the application is complete. If the application is found incomplete, written notice of the finding of incompleteness will be given to the applicant within fifteen working days of submission, detailing the points of incompleteness. Notice is deemed effective when mailed or personally delivered. After notice of incompleteness, the applicant shall have thirty calendar days in which to resubmit the application, with all noted items of incompleteness cured. If the application is resubmitted within that time, no additional fee shall be required, and the application, if complete, shall then be processed in accordance with this Section. If no notice of incompleteness is timely provided, the application shall be deemed complete as of the last day on which the notice of incompleteness could have been given.

7. **TIME FOR DECISION**

   a. The Zoning Administrator shall render a decision on each complete sign permit application within five working days of when the application was complete.

8. **NONCOMPLIANCE WITH PERMIT**

   a. All signs shall conform to the requirements of the permit, and all other applicable laws. Any sign not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed as a misrepresentation of facts on the application and a violation of this Article. Any noncomplying sign which is not removed or corrected within the required time shall be a deemed public nuisances and a violation of the zoning ordinance, and may be abated in the same manner as any public nuisance or zoning ordinance violation.

**SECTION 14.16 APPEALS**

A. Decisions on sign permit applications, as well as directives, orders, notices and all other sign-related decisions of the Zoning Administrator may be appealed to the Board of Adjustment.

   1. **INITIATION OF APPEAL**
a. An appeal under this Article may be initiated by following the procedures set forth in KRS §100.261, within the time allowed by that section.

2. HEARING ON APPEAL
   a. Within 60 working days of timely receipt of a notice of appeal, the Board of Adjustment shall hear the appeal in an open, public, duly noticed hearing. The appellant and all other persons wishing to be heard shall be allowed to present evidence and argument. The Board will base its decision on the law and the evidence presented at the hearing. The Board will issue a written decision within 30 calendar days of the hearing, and the written decision shall state the decision and the facts and law supporting the decision.

3. WAIVER OF TIME
   a. Any of the timeliness requirements of this Section may be waived by the appellant.

4. JUDICIAL REVIEW
   a. The decision of the Board of Adjustment is final. Further review may be had in Kenton County Circuit Court, pursuant to the Kentucky law of civil procedure.

5. STATUS PENDING APPEAL
   a. While any sign related matter is on appeal, the status quo of the subject sign(s) shall be maintained, except when, by virtue of physical condition, the sign poses an immediate threat to the public health, safety and welfare, in which case the threat may be abated in the same manner as any other immediate threat to the public health, safety and welfare.

SECTION 14.17 DEFINITIONS AND MEASUREMENTS

A. MEASUREMENTS

1. Area of Signs Other than Wall Signs
   a. The gross surface area of a sign, except wall signs, is the entire area contained within a single continuous perimeter enclosing the extreme limits of such sign. For detached signs composed of more than one sign cabinet or module, the gross surface area shall
include the sum of the area in each cabinet or module only. If a sign has more than one face, the gross surface area shall be equal to the maximum area of the sign face or faces visible from any ground position along any public right-of-way at any one time.
b. The perimeter of a sign will not include lighting fixtures, pole covers, landscaping, framing, decorative roofing, moldings or aprons or other architectural or decorative embellishments, provided they contain no written copy, logos or symbols.

2. Area of Wall Signs

a. The gross surface area of a wall sign is the entire area contained within a single continuous perimeter composed of any straight line geometric figure(s) which encloses the extreme limits of the advertising message(s). If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, color or embellishment, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter. The combined area of the individual figures shall be considered the total sign area.

3. Computation of Area of Multifaced Signs

a. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.
4. Measurement of Height of Sign

a. Sign height shall be measured from the elevation at the base of the sign to the highest point of the highest element of the sign, excluding any incidental structural element, such as an uplift cable for a projecting sign. Where the sign is located on a mound or berm, the average elevation of the land 20 feet to each side of the sign shall be used as a basis for measuring height.
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 Independence 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 Independence 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 Independence, 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 Independence 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 Independence affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this Article. The City of Independence 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 Independence message neutrality and message substitution policies. Where a particular type of sign is proposed in a permit application, and the type is neither expressly allowed nor prohibited by this Article, or whenever a sign does not qualify as a “structure” as defined in the building code then in effect, then the Zoning Administrator shall approve, conditionally approve or disapprove the application based on the most similar sign type that is expressly regulated by this Article, in light of the policies stated in this Section.

7. NONCOMMUNICATIVE ASPECTS

a. All rules and regulations concerning the non-communicative aspects of signs, such as location, size, height, illumination, spacing, orientation, etc., stand enforceable independently of any permit or approval process.

8. MIXED USE ZONES AND OVERLAY ZONES

a. In any zone where both residential and non residential uses are allowed, the sign-related rights and responsibilities applicable to any particular parcel or land use shall be determined as follows: (1) if specific sign regulations are provided in the zoning district, those regulations shall be applied; or (2) if no sign regulations are provided in the zoning district, residential uses shall be treated as if they were located in a zone where a use of that type would be allowed as a matter of right, and nonresidential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or similar discretionary process.

9. PROPERTY OWNER’S CONSENT

a. No sign may be displayed without the consent of the legal owner(s) of the property on which the sign is mounted or displayed. For purposes of this policy, “owner” means the holder of the legal title to the property and all parties and persons holding a present right to possession, control or use of the property. The signature of the property owner or authorized agent will be required on all applications for sign permits.

10. LEGAL NATURE OF SIGN RIGHTS
a. As to all signs attached to real property, the signage rights, duties and obligations arising from this Article attach to and travel with the land or other property on which a sign is mounted or displayed. This provision does not modify or affect the law of fixtures, sign-related provisions in private leases regarding signs (so long as they are not in conflict with this Article or other law), or the ownership of sign structures. This provision does not apply to hand held signs or other images which are aspects of personal appearance.

11. SEVERABILITY

a. Generally

(1) If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as limited by Section 14.18, A., 11., b.

b. Severability Where Less Speech Results

(1) Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section or elsewhere in this Article or this Code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article is declared unconstitutional, such declaration shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise additional standards.

c. Severability of Provisions Pertaining to Prohibited Signs

(1) Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section, or elsewhere in this Article or in this Code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or any other laws declared unconstitutional by valid judgment or decree of any court of competent jurisdiction, the declaration of such
unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under Section 14.5 of this Article. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or of any part of the Zoning Ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as expressly provided in Section 14.18, A., 11., b.

d. Severability of Prohibition on Off-premise Signs

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

PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES

SECTION 15.0 APPLICATION OF PERFORMANCE STANDARDS: After the effective date of this ordinance, any use established or changed to, and any building, structure, or tract of land, developed, constructed, or used for any permitted or permissible principal or accessory use in all industrial zones (I-P, I-1, I-2, I-4 and I-5), shall comply with all of the performance standards herein set forth for the district involved. If any existing use, or building, or other structure is extended, enlarged, or reconstructed, the performance standards for the district involved shall apply with respect to such extended, enlarged, or reconstructed portion, or portions, of such use, or building, or other structure.

SECTION 15.1 TIME SCHEDULE FOR COMPLIANCE OF PERFORMANCE STANDARDS: Except for standards regulated and enforced by the state of Kentucky, compliance with the provisions of this article of the ordinance shall be according to the following time schedule:

A. All new installations shall comply as of going into operation.

B. All existing installations not in compliance, as of the effective date of this ordinance, shall be in compliance within one (1) calendar year of the effective date of this ordinance, unless the owner or person responsible for the operation of the installation shall have submitted to the zoning administrator a program and schedule for achieving compliance. Such program and schedule to contain a date on or before which full compliance will be attained and such other information as the zoning administrator may require. If approved by the zoning administrator, such date will be the date on which the person shall comply.

The zoning administrator may require persons submitting such program to submit subsequent periodic reports on progress in achieving compliance.

SECTION 15.2 PERFORMANCE STANDARDS

A. BUILDING ENCLOSURES: Every use permitted in the 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 type 1 or type 2 sound level meter shall be employed that conforms to specifications published by the American National Standards Institute (specifications for Sound Level Meters S1.4 - 1971, or the latest edition of such standards, shall be used). In the enforcement of the regulation, noises produced by the operation of motor vehicles or other transportation facilities shall not be included in determining the maximum permitted decibel level. The sound pressure of noise radiated continuously from any activity shall not exceed the value given in Tables 1 and 2 of this section, at the location of any receiving land use. If the noise is not smooth and continuous, one or more of the corrections in Table 2 of this section shall be added or subtracted from each of the decibel levels given in Table 1 of this ordinance.

In all districts, industrial noise shall be muffled so as not to become objectionable due to intermittence, beat, frequency, or shrillness.

D. ODOROUS MATTER: No emission of odorous matter shall be allowed in excess of ambient air quality standards, as set forth by regulations adopted by the Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution, Cincinnati Air Quality Region.

E. HUMIDITY, HEAT OR GLARE: In the I-P 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 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 and 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 (DECIBELS) AT SPECIFIED POINTS OF MEASUREMENT FOR NOISE RADIATED CONTINUOUSLY FROM A FACILITY

<table>
<thead>
<tr>
<th>RECEIVING LAND USE</th>
<th>7:00 A.M. - 10:00 P.M.</th>
<th>10:00 P.M. - 7:00 A.M.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>55</td>
<td>50</td>
</tr>
<tr>
<td>Commercial and Industrial Park</td>
<td>60</td>
<td>55</td>
</tr>
<tr>
<td>Industrial</td>
<td>65</td>
<td>65</td>
</tr>
</tbody>
</table>

TABLE 2

CORRECTION IN MAXIMUM PERMITTED SOUND PRESSURE LEVEL IN DECIBELS TO BE APPLIED TO TABLE 1

<table>
<thead>
<tr>
<th>TYPE OF OPERATION OF CHARACTER OF NOISE</th>
<th>CORRECTION IN DECIBELS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise source operates less than twenty (20) percent of any one hour period</td>
<td>plus 5*</td>
</tr>
<tr>
<td>Noise source operates less than five (5) percent of any one hour period</td>
<td>plus 10*</td>
</tr>
<tr>
<td>Noise source operates less than one (1) percent of any one hour period</td>
<td>plus 15*</td>
</tr>
<tr>
<td>Noise of impulse character (hammering, etc.)</td>
<td>minus 5</td>
</tr>
<tr>
<td>Noise of periodic character (hum, screech, etc.)</td>
<td>minus 5</td>
</tr>
</tbody>
</table>

* Apply one of these corrections only
ARTICLE XVI
ADMINISTRATION

SECTION 16.0 ENFORCING OFFICER: A zoning administrator (official or officials appointed by the legislative body for carrying out the provisions and enforcement of this ordinance) shall administer and enforce this ordinance. He may be provided with assistance of such other persons as the legislative body directs.

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

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

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

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

SECTION 16.1 ZONING PERMITS: Zoning permits shall be issued in accordance with the following provisions:

A. ZONING PERMIT REQUIRED: No land shall be used, or building or other structure shall be erected, moved, added to, structurally altered, or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit, issued by the zoning administrator. No zoning permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the board of adjustment.

B. APPLICATION FOR ZONING PERMITS: All applications for zoning permits shall be accompanied by:

1. A completed application form, provided by the zoning administrator (in duplicate - See Appendix A).

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

3. An approved Development Plan or site plan, if required by this ordinance, or

4. A plot plan, in duplicate, drawn at a scale of not less than one (1) inch to fifty (50) feet, showing the following information as required by this ordinance.

   a. The location of every existing and proposed building, including dimensions and height, and the number, size, and type of dwelling units.
   b. All property lines, shape and dimensions of the lot to be built upon.
   c. Lot width at building setback line.
   d. Minimum front and rear yard depths and side yard widths.
   e. Existing topography, with a maximum of five (5) foot contour intervals.
   f. Total lot area, in square feet.
   g. Location and dimensions of all access points, driveways, off-street parking spaces.
   h. A drainage plan of the lot and its relationship to adjacent properties, including spot elevations of the proposed finished grade, and provisions for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
   i. All sidewalks, walkways, and open spaces.
   j. Location, type, and height of all walls, fences, and screen plantings.
   k. Location of all existing and proposed streets, including rights-of-way and pavement widths.
   l. All existing and proposed water, and sanitary, and storm sewer facilities to serve the lot, indicating all pipe sizes, types, and grades.

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

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

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

SECTION 16.2 BUILDING PERMITS: Building permits shall be issued in accordance with the following provisions:

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

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

1. A completed application form, provided by the building inspector.
2. An approved zoning permit.
3. The required fee for a building permit, as provided for in Section 19.0 of this ordinance.
4. An approved Development Plan or Site Plan, if required by this ordinance; or
5. Plans in duplicate approved by the zoning administrator and including any additional information required by the building code and/or building inspector, as may be necessary to determine conformance with, and provide for the enforcement of, the building code and the Kentucky Revised Statutes.
C. ISSUANCE OF BUILDING PERMIT: The building inspector shall either approve or disapprove the application. If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the building inspector's signature. The other copy, similarly marked, shall be retained by the building inspector.

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

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

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

F. EXPIRATION OF BUILDING PERMIT: If the work described in any building permit has not begun within ninety (90) consecutive calendar days from the date of issuance thereof, said permit shall expire and be canceled by the building inspector and no construction shall be permitted until a new building permit has been obtained, except, 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 whether such use conforms with the provisions of this ordinance.

SECTION 16.5 CERTIFICATE OF OCCUPANCY FOR LAWFUL NONCONFORMING USES AND STRUCTURES: A certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created by this ordinance. A fee, as provided for in Section 19.0 of this ordinance, shall be charged for said certificate.

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

It shall be the duty of the building inspector to issue a certificate of occupancy for lawful nonconforming uses upon application and such certificate shall identify the extent to which the nonconforming use exists at the time of issuance of such certificate.
SECTION 16.6 DENIAL OF CERTIFICATE OF OCCUPANCY: Except as herein stated, a certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance and to plans for which the building permit was issued.

SECTION 16.7 CERTIFICATE OF OCCUPANCY RECORDS: A record of all certificates of occupancy shall be kept on file in the offices of the building inspector and copies shall be furnished, on request, to any person having a proprietary building affected by such certificate of occupancy.

SECTION 16.8 COMPLAINTS REGARDING VIOLATIONS: Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and bases thereof, shall be filed with the zoning administrator. The zoning administrator shall record properly such complaint, immediately investigate, and take action thereon, as provided by this ordinance and the Kentucky Revised Statutes.

SECTION 16.9 PENALTIES: Any person or entity who violates any of the provisions of this ordinance, shall upon conviction be fined not less than ten (10) dollars but no more than five hundred (500) dollars for each conviction. Each day of violation shall constitute a separate offense.

SECTION 16.10 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS: It is the intent of this ordinance that:

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

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

1. Causing corrections in apparent violations of performance standards;

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

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

SECTION 16.11 DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE STANDARDS: If, in the judgment of the zoning administrator, there is probable violation of the performance standards as set forth, the following procedures shall be followed:

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

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

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

D. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice and the alleged violation is not corrected to the satisfaction of the zoning administrator within the established time limit, he shall proceed to take, or cause to be taken, such action as is warranted by continuation of a violation after notice to cease.

E. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of
the zoning administrator, but requesting additional time, the zoning administrator may grant an extension if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.

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

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

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

AMENDMENT PROCEDURE

SECTION 17.0 AMENDMENT PROCEDURE

A. FILING OF AMENDMENT APPLICATION: All applications for amendments to this ordinance shall be filed with Planning and Development Services of Kenton County. Planning and Development Services of Kenton County staff shall immediately notify the city promptly forwarding the application to the local planning commission. A public hearing shall be scheduled to be held within forty-five (45) days of the date of receipt of the application by Planning and Development Services of Kenton County. The fee required for applying for such amendment shall be as provided for by the local planning commission and/or the legislative body.

B. PLANNING COMMISSION REVIEW REQUIRED: A proposal for a zoning map amendment to this ordinance may originate with the planning commission, any fiscal court or legislative body, or with an owner of the property in question. A proposal to amend the text of this ordinance may originate with the planning commission or with any fiscal court or legislative body. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission for its action before adoption.

C. PUBLIC HEARING REQUIRED, NOTICE GIVEN

1. The planning commission shall hold at least one public hearing on the proposed amendment, at which hearing parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, but may be published two or more times, in a newspaper of general circulation in the county, provided that one publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.

2. In addition to the public notice requirements prescribed herein, when the planning commission, fiscal court, or legislative body originates a proposal to amend the zoning map, notice of the public hearing before the planning commission, fiscal court, or legislative body shall be given at least thirty (30) days in advance of the hearing, by first class mail, to an owner of
every parcel of property, the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner.

D. OTHER HEARING REQUIREMENTS, ZONING MAP AMENDMENT: In addition to the public hearing notice required in Section 17.0, C., above, the following notices shall also be given when a proposal is submitted by a property owner to amend the official zoning map:

1. Notice of the hearing shall be posted conspicuously on the property, the classification of which is proposed to be changed, for fourteen (14) consecutive days immediately prior to the hearing. Said posting shall consist of one or more signs, constructed of durable material, and clearly depicting the following information: the words “ZONING CHANGE” (three (3) inch high lettering); current zoning classification of property and proposed zoning classification (three (3) inch high lettering); date, place, and time of public hearing (one (1) inch high lettering); and address, including telephone number, of the planning commission where additional information regarding hearing may be obtained; and

2. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, with certification by the commission secretary, or other officer of the planning commission, that the notice was mailed to an owner of every parcel of property adjoining the property, the classification of which is proposed to be changed. Where said property adjoins a street or alley, property abutting the opposite side of such street or alley shall be considered adjoining property. It shall be the duty of the person(s) proposing the amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more coowners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

3. All procedures for public notice and publication, as well as for adoption, shall be the same as for the original enactment of a zoning regulation, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to
locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

E. FINDINGS NECESSARY FOR MAP AMENDMENT: Before any map amendment is granted, the planning commission, or legislative body, must find that the amendment is in agreement with the adopted comprehensive plan, or in the absence of such a finding, that one or more of the following apply, including the making of a written report, setting forth explicitly, the reasons and substantiation as to how each would apply, and such finding and report shall be recorded in the minutes and records of the planning commission or legislative body.

1. That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and

2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

F. MINIMUM SIZE OF NEW ZONES: No amendment to this ordinance shall be adopted whereby the zoning classification of an area is changed unless the total area being applied for meets the following requirements as to minimum size: the zoning map shall not be amended, changed, or modified in such manner as to create a free standing zone of less than five (5) acres, except where specific area restrictions are stipulated in this ordinance, or as outlined in the adopted comprehensive plan by the planning commission. For the purpose of computing the total size of an area to be rezoned for compliance herewith, there shall be added to such area: (1) the area of public rights-of-way interior to the area being changed; (2) one-half the area of public rights-of-way abutting the area being changed; and (3) the area of any land which is contiguous to the area being changed (including land located outside the jurisdiction of the legislative body but contiguous thereto and which land already bears the zoning classification sought for the area being changed). For the purpose of this section, neither continuity nor abutment shall be destroyed by the existence of a street, alley, or city’s corporation line.

G. PLANNING COMMISSION ACTION

1. MAP AMENDMENT: Following the public hearing held by the planning
commission on a proposed map amendment, the commission shall, within sixty (60) calendar days from the date of its receipt, make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the legislative body, including a statement setting forth explicitly the reasons and substantiation for such action and, in the case of a map amendment, the submission of a written report as required in Section 17.0, E., above. 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, HC, etc.) multi-family residential zone (i.e., R-2, R-3, etc.), or industrial zone (i.e., IP, I-1, I-2, etc.) shall be made in accordance with all applicable requirements of this ordinance, including the following:

1. APPLICATION AND PROCESSING: Application for a zoning map amendment shall be processed in two stages:
   
a. Application for a zoning amendment shall be filed with the zoning administrator as required by Section 17.0, A., and shall include a Development Plan in accordance with the applicable requirements of Section 9.20, A., of this ordinance. The zoning administrator may waive the submission of such data involving detailed engineering study until such time as the zoning amendment has been granted.

   b. The planning commission shall hold a public hearing on the proposed application and review said application with regard to the required elements of the Development Plan, and other applicable requirements of this section. Upon holding such a hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with condition(s), or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Development Plan and the bases for their recommendation.

   c. The legislative body shall, within forty-five (45) consecutive days after receiving the recommendations of the planning commission, review said recommendations and take action to approve or disapprove the proposed Development Plan. Such approval may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose different conditions than were reviewed and recommended by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendations, in accordance with the process required for the initial review.

Approval of the zoning map amendment shall require that development be in accordance with the approved Development Plan. Additionally, upon approval of the zoning map amendment, the official zoning map shall be amended for the area as shown on
the approved development plan.

d. The legislative body shall forward a copy of the approved Development Plan to the zoning administrator, or the city's duly authorized representative, for further processing, in accordance with the applicable requirements of this ordinance.

e. If the detailed engineering data required under Section 9.19 had been waived by the zoning administrator in the initial submission of the Development Plan, then such data shall be submitted for review in accordance with the requirement of Section 9.19 before a permit may be issued for construction.

The zoning administrator, in reviewing the Site Plan, may authorize minor adjustments from the approved development plan, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and/or pedestrian), decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

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

3. EXPIRATION: The zoning map amendment shall be subject to the time constraints as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said zoning map amendment should revert to its original designation. A public hearing may be initiated if substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Development Plan by the legislative body, provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Development Plan obsolete. The amount of construction that constitutes initiating substantial construction shall be as approved in the Development Plan.
SECTION 17.1 PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY
STAFF REVIEW AND RECOMMENDATION REQUIRED PRIOR TO OR AT THE
SCHEDULED PUBLIC HEARING: Planning and Development Services of Kenton
County staff, pursuant to KRS 147.673, shall review and make recommendations upon
all applications to the local planning commission and the applicant, along with
supporting information and comprehensive plan documentation, prior to or at the
scheduled public hearing.

SECTION 17.2 ACTIONS OF LOCAL GOVERNMENTAL UNITS TO BE FURNISHED
TO PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY: Pursuant to
KRS 147.705, the legislative body shall, after final adoption of any zoning ordinance or
resolution, including amendments thereto, furnish, or cause to be furnished, within sixty
(60) days after adoption, a copy of same to Planning and Development Services of
Kenton County.
ARTICLE XVIII

BOARD OF ADJUSTMENT

SECTION 18.0 ESTABLISHMENT OF BOARD OF ADJUSTMENT; MEMBERSHIP; APPOINTMENT; TERMS; VACANCIES; OATHS; COMPENSATION; REMOVAL; OFFICERS

A. A board of adjustment is hereby established.

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.

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 thirty (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 thirty (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 thirty (30) consecutive calendar days shall become final. After the appeal is taken, the procedure shall be governed by the rules of civil procedure. When an appeal has been filed, the clerk of the circuit court shall issue a summons to all parties, including the planning commission in all cases, and shall cause it to be delivered for service as in any other law action.

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 adequate sewage treatment facilities (e.g., septic tank, aerobic system, treatment plants, sewer lines, etc.) exist to serve the new nonconforming use, or that the necessary improvements to the sewage treatment facilities will be provided, in conjunction with the new nonconforming use, to avoid any health hazard;
(4) 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 by the legislative body.
ARTICLE XX

MORATORIUM

AN ARTICLE PROVIDING FOR A MORATORIUM ON THE ESTABLISHMENT OF A SEXUALLY ORIENTED BUSINESS AND PROVIDING NO APPLICATION SHALL BE PROCESSED AND NO PERMIT ISSUED FOR THE ESTABLISHMENT OR EXPANSION OF A SEXUALLY ORIENTED BUSINESS, INCLUDING BUT NOT LIMITED TO A SEX SHOP, LINGERIE MODELING STUDIO, SEXUALLY ORIENTED CINEMA, SEXUALLY ORIENTED CABARET, SEXUALLY ORIENTED MEDIA OUTLET, OR BUSINESS CONTAINING A MOTION PICTURE ARCADE.

WHEREAS the Kenton County Planning Commission and the Fiscal Court of Kenton County, together with its several cities, have duly prepared a comprehensive plan in accordance with KRS Chapter 100, specifically “An Update 2000-2021: Northern Kentucky’s Future - A Comprehensive Plan for Development,” adopted by Planning and Development Services of Kenton County and the Kenton County Planning Commission on December 18, 2001;

WHEREAS, Kenton County, and the incorporated municipalities within it, have long sought to regulate sexually oriented businesses within the limits of the Constitution to protect the County’s many residential neighborhoods; and

WHEREAS, the adopted comprehensive plan provides the following policy guidance for regulating such businesses:

Furthermore, the Area-Wide Comprehensive Plan does not identify specific land uses, but instead, categorizes land uses using broad categories. Undesirable land uses, including adult-oriented business may be appropriate within more than one land use category identified within this Plan Update. The following criteria are presented to provide guidance for siting of these uses:

- They should not be near residential areas, schools, churches, child care facilities or other public or semi-public community facilities;
- They should not be within view of the interstate roads.


WHEREAS, recent reviews have found that several of the jurisdictions within Kenton County have no regulations whatsoever to deal with sexually oriented businesses as a specific land use; and

WHEREAS, there are already several sexually oriented businesses in Kenton County; and
WHEREAS, a new sexually oriented cabaret has recently opened in Wilder, which is directly adjacent to Kenton County; and

WHEREAS, planning and building staff in the jurisdictions in Kenton County have received several recent inquiries about the possibility of additional sexually oriented businesses opening in the County; and

WHEREAS, Kentucky Revised Statutes §100.201(1) specifically authorizes the adoption of Interim Zoning Regulations while the planning commission completes additional parts of the plan and/or completes the necessary regulations to implement the plan; and

WHEREAS, the city of Independence 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 Independence 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 Independence 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 Independence 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 Independence 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”.

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*Independence Zoning Ordinance*  
*September 2003*  
*PDS*
**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 a an establishment offering goods for sale or rent and that meets any of the following tests:

1. It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items make up more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area; or,
2. More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or,
3. More than five percent (5%) of its gross public floor area is devoted to the display of sexually-oriented toys or novelties.

**Sexual conduct** means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

**Sexual gratification** means sexual conduct as defined herein.

**Sexually oriented acts** means sexual conduct as defined herein.

**Sexually oriented business** is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented motion picture theater; motion picture arcade; bathhouse; massage parlor or shop; and/or sex shop. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the zoning code or other applicable ordinances.

**Sexually oriented cabaret** or **sex oriented cabaret** means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment which constitutes the "primary live entertainment" is distinguished or characterized by an emphasis on the exhibiting of "specific sexual activities" or "specified anatomical areas" for observation by customers therein.
Sexually oriented cinema, sexually oriented motion picture theater, or sex oriented cinema means a cinema or motion picture theater which shows hard-core features on more than half the days that it is open, or which is marketed as or offers features described as “adult”, “XXX”, or sexually oriented.

Sexually oriented media means magazines, books, videotapes, movies, slides, cd-roms or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (separately defined).

Sexually oriented media store or sex oriented media store means an establishment that rents and/or sells media, and that meets any of the following three tests:

1. More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
2. More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
3. It is advertised, marketed, or holds itself out in any forum as “XXX,” “adult,” “sex” or otherwise as a sexually-oriented business.

SECTION 2. That the authority of those persons within each jurisdiction in the city of Independence 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
Appendix A   Specifications For Paving

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:
Appendix A   Specifications For Paving

a. A minimum of four (4) inches for driveways and parking areas serving single and two-family dwellings.

b. A minimum of five (5) inches for passenger cars and panel or pickup trucks serving industrial, commercial, and multi-family areas.

c. A minimum of six (6) inches for light trucks serving industrial, commercial, and multi-family residential areas.

d. A minimum of seven (7) inches for heavier commercial or industrial needs.

2. General Requirements - Concrete Paving


b. Maximum Size of Aggregate - 1-1/4 inches.

c. Maximum Water Content - 0.49 lb./1 lb. of cement (5.5 gal./ bag).

d. Maximum Slump - five (5) inches when using hand-finishing techniques, three (3) inches when using a mechanical finishing machine.

e. Strength of Concrete - The concrete shall attain a minimum expected strength of concrete at 28 days of 3,500 pounds per square inch compressive strength and/or 550 pounds per square inch flexural strength “modulus of rupture”.

f. Air Entrainment

<table>
<thead>
<tr>
<th>Maximum Size Aggregate (inches)</th>
<th>Entrained Air (Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-1/4</td>
<td>5 + 1</td>
</tr>
<tr>
<td>3/4, 1</td>
<td>6 + 1</td>
</tr>
<tr>
<td>3/8, 1/2</td>
<td>7-1/2 + 1</td>
</tr>
</tbody>
</table>

3. Construction Procedures

a. All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or taped, shall be removed and replaced with suitable material, placed and
compacted. The subgrade shall be thoroughly compacted with suitable equipment so as to have uniform density at moisture contents of not less than standard optimum (AASHO-T98).

b. Longitudinal joint spacing shall not exceed 15 feet and be designed in accordance with the joint details in Figure A-2.

c. Transverse joint spacings shall be at regular intervals of twenty (20) feet.

d. All transverse construction joints shall be designed in accordance with the joint details in Figure A-2.

e. Form offsets at radius points shall be at least two (2) feet.

f. Pavement joints must be continuous through the curbs.

g. Where curbs are required, they shall be cast integrally.

h. The pavement shall be struck-off, consolidated, and finished, to the grades shown on the plans. All catch basins and manhole castings shall be boxed out and separated from the pavement with expansion joint material. All except premolded or sawed joints shall be edged with a tool having a maximum radius of 1/8 inch. Sawed and formed joints shall be cleaned and sealed before opening to traffic. Final surface texture shall be that obtained with a burlap drag. Curing shall be that obtained with a uniform coverage of white membrane curing compound or by seven-day coverage of white polyethylene or waterproof paper. The completed pavement shall be closed to traffic for at least fourteen (14) days or by the time it has attained a compressive strength of 3,500 pounds per square inch and/or 550 pounds per square inch flexural strength. This traffic restriction shall apply to the contractor’s construction equipment and vehicles, as well as general traffic.
# TABLE A-1

THICKNESS REQUIREMENTS OF SURFACE AND BASE COURSES
FOR AUTOMOBILE AND TRUCK PARKING FACILITY PAVEMENTS

<table>
<thead>
<tr>
<th>VEHICLE TYPE</th>
<th>FULL DEPTH ASPHALT CONCRETE</th>
<th>ASPHALT CONCRETE WITH GRANULAR SUBBASE</th>
<th>ASPHALT CONCRETE WITH GRANULAR BASE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SURFACE KDOT (1) (SEC. 401, 402) TYPE B (INCH)</td>
<td>BASE KDOT (1) (SEC. 401, 403) TYPE B (INCH)</td>
<td>SURFACE KDOT (1) (SEC. 401, 403) TYPE B (INCH)</td>
</tr>
<tr>
<td>Auto Parking Facilities</td>
<td>1-1/2</td>
<td>4</td>
<td>1-1/4</td>
</tr>
<tr>
<td>Truck Parking Facilities</td>
<td>1-1/2</td>
<td>6-1/2</td>
<td>1-1/2</td>
</tr>
</tbody>
</table>

(1) Refers to the Kentucky Department of Transportation (KDOT) Bureau of Highways, Standards and Specifications for Road and Bridge Construction (1976 Edition, or as amended).
TABLE A-2

JOINT DETAILS

**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 OTHER LEGISLATIVE BODIES

SECTION 10.6 R-1F (RESIDENTIAL ONE-F) ZONE (Erlanger)

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

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

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

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

1. Minimum lot area - Six thousand five hundred (6,500) square feet
2. Minimum lot width at building setback line - Sixty (60) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total: Fifteen (15) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
5. A minimum of one attached or detached garage shall be required for each dwelling unit that receives a zoning permit after September 24, 1986 for initial construction of that dwelling unit.
6. All utilities must be underground in a new subdivision when transmission lines have to be extended.

* When reviewing the regulations for the R-1F Zone, it is important to remember that other sections of the ERLANGER Zoning Ordinance (i.e., General Regulations, Sign Regulations, Off-Street Parking Requirements, etc.) must be consulted since they also apply to this zoning district.
SECTION 10.1 A-1 (AGRICULTURAL-ONE) ZONE (Kenton County)

A. PERMITTED USES:

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

B. ACCESSORY USES:

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

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

1. Cemeteries;
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
3. Governmental offices;
4. Nursery schools;
5. Police and fire stations, provided they are located adjacent to an arterial or collector street;
6. Public and parochial schools;
7. Veterinarians’ offices for large and small animals, including outside runs;
8. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
9. Recreational uses, other than those publicly owned and/or operated, as follows:
   a. Golf courses;
b. Country clubs;
c. Swimming pools;
d. Tennis courts/clubs;
e. Fishing lakes;
f. Gun clubs and ranges;

10. Sanitary landfills, as regulated by Section 9.27 of this ordinance;
11. Funeral homes, providing they are located adjacent to an arterial street.

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

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

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

1. Minimum Lot Area - Twenty-two thousand five hundred (22,500) square feet.
2. Minimum Lot Width at Building Setback Line - One hundred fifty (150) feet.
3. Minimum Front, Side (on each side of lot), and Rear Yards - Fifty (50) feet.
4. Maximum Building Height - Thirty-five (35) feet.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required.
5. The following shall apply to bed and breakfast establishments:
a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
b. Food service may be provided for resident guests only.
c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
d. Interior alterations should maintain the unique characteristics of the structure, if possible.
e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
f. A site plan, as regulated by Section 9.19 of this ordinance, shall be required.
SECTION 10.3 R-1A (RESIDENTIAL ONE-A) ZONE (Kenton County)

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.

* When reviewing the regulations for the R-1B Zone, it is important to remember that other sections of the Kenton County Zoning Ordinance (i.e., General Regulations, Sign Regulations, Off-Street Parking Requirements, etc.) must be consulted since they also apply to this zoning district.
SECTION 10.4 R-1B (RESIDENTIAL ONE-B) ZONE (Kenton County)

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 XII.
3. Signs, as regulated by Article XIV
4. Home occupations, as regulated in Section 9.11 of this ordinance

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

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial or arterial street
3. Governmental offices
4. Fire and police stations, provided they are located adjacent to an arterial or collector street
5. Institutions for higher education providing they are located adjacent to an arterial street.
6. Institutions for human medical care - hospitals, convalescent homes, nursing home, and homes for the aged, providing they are located adjacent to an arterial street.
7. Nursery schools
8. Public and parochial schools
9. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries.
10. Recreational uses, other than those publicly owned and/or operated as follows:
   a. Golf courses
   b. Country clubs
   c. Swimming pools
11. Funeral homes, provided they are located adjacent to an arterial street.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES
1. Minimum lot area - One half (1/2) acre
2. Minimum lot width at building setback line - One hundred (100) feet
3. Minimum front yard depth - Forty (40) feet
4. Minimum side yard width - Total: Twenty-five (25) feet; One side: Ten (10) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

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

F. OTHER DEVELOPMENT CONTROLS

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

* When reviewing the regulations for the R-1B Zone, it is important to remember that other sections of the Kenton County Zoning Ordinance (i.e., General Regulations, Sign Regulations, Off-Street Parking Requirements, etc.) must be consulted since they also apply to this zoning district.
SECTION 10.5 R-1C (RESIDENTIAL ONE-C) ZONE (Kenton County)

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:

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.

* When reviewing the regulations for the R-1C Zone, it is important to remember that other sections of the Kenton County Zoning Ordinance (i.e., General Regulations, Sign Regulations, Off-Street Parking Requirements, etc.) must be consulted since they also apply to this zoning district.
SECTION 10.6  R-1D (RESIDENTIAL ONE-D) ZONE (Kenton County)

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

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 - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

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

F. OTHER DEVELOPMENT CONTROLS

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

*: When reviewing the regulations for the R-1D Zone, it is important to remember that other sections of the Kenton County Zoning Ordinance (i.e., General Regulations, Sign Regulations, Off-Street Parking Requirements, etc.) must be consulted since they also apply to this zoning district.
SECTION 10.14 RCD (RESIDENTIAL CLUSTER DEVELOPMENT) OVERLAY ZONE
(Kenton County)

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 requirement 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. 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, 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 shall be made in accordance with the procedure required by this ordinance and any minor amendments may be approved by the city legislative body without a hearing as provided herein and any major changes shall be heard by the city legislative body at a public hearing after due notice.

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 10.23  I-1 (INDUSTRIAL-ONE) ZONE (Kenton County)

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

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

2. Bottling and canning works
3. Brewing or distilling of liquors
4. Building materials, sales yards
5. Bus line shops and storage
6. Carting, express, hauling, or storage yard
7. Coal, coke, or wood yards
8. Contractors’ offices and accessory storage yards, including storage of general construction equipment and vehicles
9. Crating services
10. Fire stations
11. Freight terminals
12. Governmentally owned and/or operated city, county, and state garages
13. Industrial engineering and consultant offices
14. Laboratories, offices, and other facilities for research, both basic and applied, conducted by, or for, an industrial organization or concern, whether public or private
15. Laundry and dry cleaning plants, involving laundering and dry cleaning of articles delivered to the premises by commercial vehicles
16. Machine shops
17. Printing, engraving, and related reproduction processes
18. Public utilities’ rights-of-way and pertinent structures
19. Publishing and distribution of books, newspapers, and other printed materials
20. Railroad facilities, exclusive of marshaling yards, maintenance, and fueling facilities
21. Schools for industrial or business training
22. Truck terminals
23. Warehousing or wholesaling

B. ACCESSORY USES

1. Customary accessory buildings and uses, including operations required to maintain or support any permitted use in this zone on the same lot as the permitted use, such as maintenance shops, power plants, and machine shops
2. Fences and/or walls as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV of this ordinance
4. Uses, as listed below, including within and entered from within any permitted use in this zone as a convenience to the occupants thereof, and their customers, provided such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building:
   a. Cafeterias
   b. Coffee shops or refreshment stands
   c. Soda or dairy bars

C. AREA AND HEIGHT REGULATIONS

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

2. Minimum lot area within minimum tract - One (1) acre

3. Minimum lot width at building setback line - One hundred fifty (150) feet

4. Minimum front yard depth -
   a. When abutting a major arterial (as defined in the adopted comprehensive plan) - Seventy-five (75) feet
   b. On internal roads - Fifty (50) feet

5. Minimum side yard width -
   a. In internal parts of the park - Twenty-five (25) feet
   b. Where the side yard is adjacent to a major arterial (as defined in the adopted comprehensive plan) - Seventy-five (75) feet

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

7. Maximum building height - Forty (40) feet

D. OTHER DEVELOPMENT CONTROLS

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

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

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

4. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
SECTION 10.17   NC (NEIGHBORHOOD COMMERCIAL) ZONE (Kenton County)

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. Music, musical instruments, and records, including incidental repair
31. Off-street parking lots and/or garages
32. Offices
33. Opticians and optical goods
34. Package liquor and wine store
35. Paint and wallpaper store
36. Pet shop, excluding boarding and outside runs
37. Police and fire stations
38. Post office
39. Radio and television store, including repair
40. Service stations
41. Shoe store and shoe repair
42. Sporting goods
43. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
44. Tailor shop
45. Toy store
46. Variety store, including notions and "five and ten" stores

B. ACCESSORY USES

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

C. 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

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.

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

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

* When reviewing the regulations for the NC Zone, it is important to remember that other sections of the Kenton County Zoning Ordinance (i.e., General Regulations, Sign Regulations, Off-Street Parking Requirements, etc.) must be consulted since they also apply to this zoning district.
## APPENDIX C

### SUMMARY OF AMENDMENTS

<table>
<thead>
<tr>
<th>ORDINANCE NUMBER</th>
<th>PAGES AFFECTED</th>
<th>DATE OF APPROVAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995-O-19, 1995-O-20</td>
<td>B-1 through B-8</td>
<td>11/28/95, 12/29/95</td>
</tr>
<tr>
<td>1997-O-11</td>
<td>Table of Contents, Article IX, Appendix B</td>
<td>6/10/97</td>
</tr>
<tr>
<td>1997-O-26</td>
<td>Table of Contents, Article X</td>
<td>11/28/97</td>
</tr>
<tr>
<td>1999-O-11</td>
<td>Table of Contents, Article VII, Article IX, Article X, Article XI, Article XIII, Article XIV</td>
<td>9/27/99</td>
</tr>
<tr>
<td>2000-O-03</td>
<td>Table of Contents, Article X</td>
<td>3/6/00</td>
</tr>
<tr>
<td>2000-O-11</td>
<td>Table of Contents, Article XIV</td>
<td>7/3/00</td>
</tr>
<tr>
<td>2000-O-18</td>
<td>Table of Contents, Article VIII, Article X, Article XI, Article XIV</td>
<td>10/2/00</td>
</tr>
<tr>
<td>2001-O-02</td>
<td>Table of Contents, Article IX</td>
<td>6/4/01</td>
</tr>
<tr>
<td>2002-O-05</td>
<td>Table of Contents, Article VII, Article IX, Article X</td>
<td>3/4/02</td>
</tr>
<tr>
<td>2002-O-07</td>
<td>Article VII, Article IX</td>
<td>4/1/02</td>
</tr>
<tr>
<td>2002-O-08</td>
<td>Appendix B</td>
<td>6/3/02</td>
</tr>
<tr>
<td>2002-O-10</td>
<td>Article X</td>
<td>6/3/02</td>
</tr>
<tr>
<td>2002-O-12</td>
<td>Table of Contents, Article VIII, Article X, Article XIV</td>
<td>9/9/02</td>
</tr>
<tr>
<td>2002-O-13</td>
<td>Article X</td>
<td>8/4/03</td>
</tr>
<tr>
<td>2003-O-13</td>
<td>Table of Contents, Article VII, Article IX, Article X</td>
<td>8/4/03</td>
</tr>
<tr>
<td>2003-O-15</td>
<td>Table of Contents, Article XX</td>
<td>9/8/03</td>
</tr>
<tr>
<td>2003-O-16</td>
<td>Table of Contents, Article X</td>
<td>9/15/03</td>
</tr>
<tr>
<td>2004-O-26</td>
<td>Table of Contents, Article X</td>
<td>1/13/05</td>
</tr>
<tr>
<td>2005-O-05</td>
<td>Article X</td>
<td>4/4/05</td>
</tr>
<tr>
<td>2005-O-15</td>
<td>Article X</td>
<td>6/20/05</td>
</tr>
<tr>
<td>2006-O-01</td>
<td>Article XIII</td>
<td>1/23/06</td>
</tr>
<tr>
<td>2006-O-03</td>
<td>Article IX</td>
<td>2/6/06</td>
</tr>
<tr>
<td>2006-O-09</td>
<td>Table of Contents, Article IX</td>
<td>6/5/06</td>
</tr>
<tr>
<td>2006-O-16</td>
<td>Table of Contents, Article IX</td>
<td>7/24/06</td>
</tr>
<tr>
<td>2006-O-17</td>
<td>Article X</td>
<td>7/24/06</td>
</tr>
<tr>
<td>2006-O-18</td>
<td>Article XIII</td>
<td>9/18/06</td>
</tr>
<tr>
<td>2007-O-03</td>
<td>Article IX</td>
<td>5/7/07</td>
</tr>
<tr>
<td>2007-O-11</td>
<td>Table of Contents, Article IX</td>
<td>7/23/07</td>
</tr>
<tr>
<td>2007-O-16</td>
<td>Table of Contents, Article VII, Article X</td>
<td>9/10/07</td>
</tr>
<tr>
<td>2007-O-17</td>
<td>Table of Contents, Article IX</td>
<td>10/1/07</td>
</tr>
<tr>
<td>2008-O-01</td>
<td>Table of Contents, Article XI</td>
<td>1/21/08</td>
</tr>
<tr>
<td>2008-O-08</td>
<td>Table of Contents, Article XI</td>
<td>9/8/08</td>
</tr>
<tr>
<td>2009-O-11</td>
<td>Article X</td>
<td>8/3/09</td>
</tr>
<tr>
<td>2010-O-03</td>
<td>Table of Contents, Article VII, Article XIV</td>
<td>2/11/10</td>
</tr>
<tr>
<td>Amendment</td>
<td>Section Description</td>
<td>Date</td>
</tr>
<tr>
<td>-----------</td>
<td>---------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>2016-O-01</td>
<td>Article VII, Article X</td>
<td>1/4/16</td>
</tr>
<tr>
<td>2016-O-09</td>
<td>Article X</td>
<td>8/15/16</td>
</tr>
<tr>
<td>2017-O-01</td>
<td>Article X</td>
<td>3/6/17</td>
</tr>
<tr>
<td>2017-O-03</td>
<td>Table Of Contents, Article IX</td>
<td>6/5/17</td>
</tr>
<tr>
<td>2018-O-01</td>
<td>Table Of Contents, Article XIV</td>
<td>1/8/18</td>
</tr>
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<td>2018-O-16</td>
<td>Article X</td>
<td>12/3/18</td>
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