

ARTICLE IX

GENERAL REGULATIONS

SECTION 9.0 PURPOSE: Except as herein provided, general regulations shall apply to all zones .

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 Article XVIII of this ordinance.

SECTION 9.2 INTERFERENCE WITH TRAFFIC CONTROL DEVICES: 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 control devices of any kind.

SECTION 9.3 VISION CLEARANCE AT CORNERS, CURB CUTS, AND RAILROAD CROSSINGS: No structure, vehicle, tree, planting, vegetation, sign, 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 identified in the adopted comprehensive plan, the minimum front yard depth shall be provided for each street frontage.

SECTION 9.5 RAILROAD RIGHT-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 providing said railroad rights-of-way meet the requirements of those sections of the Kentucky Revised Statutes and other pertinent state regulations.

SECTION 9.6 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, without first insuring that all requirements of the subdivision regulations, if applicable, have been fulfilled and then obtaining a permit from the zoning administrator.
- B. The zoning administrator 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 which is 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 runoff 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 9.7 UNSIGHTLY OR UNSANITARY STORAGE

- A. No rubbish, salvage materials, junk, motor vehicle tires, or miscellaneous refuse shall be openly stored or kept in the open, and weeds shall not be allowed to go uncut within any zone when the same may be construed to be a menace to public health and safety by the appropriate health department, or have a

depressing influence upon property values in the neighborhood, in the opinion of the zoning administrator. Salvage and junkyards shall be adequately enclosed with a solid fence or wall, as regulated by Article XII of this ordinance, and an approved permanent planting screen, as regulated in Section 9.17 of this ordinance.

- B. All uses that maintain garbage dumpsters on site shall provide a screened enclosure by means of a Class 1, 3, 5, or 6 fence/wall, or a combination thereof, equal in height to the dumpster. Such enclosure may only open to the interior of the site on which it is located. All such garbage collection areas shall be located in the rear yard and setback a minimum of two (2) feet from any property line, unless site limitations such as topography, yard area, or access prevent such placement, as determined by the zoning administrator.

SECTION 9.8 APPLICATION OF ZONING REGULATIONS:

- A. Except as herein provided, no structures or land shall be used for any purpose other than that permitted in the zone in which such structures or land is located or is to be located.
- 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 structure on one (1) lot, nor shall any structure be erected on any lot which does not abut a public right-of-way.
- C. Except as herein provided, or approved by the board of adjustment, accessory structures and uses shall not be permitted within any front yard or minimum required side yard in any zone. Accessory structures and uses may be permitted to extend into the minimum required rear yard, 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 minimum required side yard clearances are maintained. Location of off-street parking, loading and/or unloading areas, fences, and signs, shall be governed by their respective sections, as provided for herein.
- D. Permitted Obstructions in Minimum Required Yards: Except as herein provided, the following shall not be considered to be obstructions when located in the minimum required yards specified:
1. In All Minimum Required Yards – Driveways, providing they are not closer than one (1) foot to the property line to which they run approximately parallel to, except that in the event that a common driveway will be used to serve two (2) or more lots, then driveways may be permitted to abut the property line; steps, four (4) feet or less above grade, projecting not more than four (4) feet into the minimum required yards which are necessary for access to a lot from a street or alley; fire escapes and chimneys,

projecting not more than thirty (30) inches into the minimum required yards; arbors and trellises; flag poles; bird baths; trees; plants; shrubbery's; ornaments; utility poles and wires; and outdoor furniture.

2. In Minimum Required Front Yards – Bay windows, projecting three (3) feet or less into the minimum required front yard; overhanging eaves and gutters, projecting three (3) feet or less into the minimum required front yard; air conditioning equipment, awnings, and canopies, extending not more than six (6) feet in to the minimum required front yard.
3. In Minimum Required Rear Yards – Bay windows, overhanging eaves, gutters, and air conditioning equipment, projecting not more than six (6) feet into the minimum required rear yard; awnings and canopies, provided they do not extend more than ten (10) feet into the minimum required rear yard; uncovered porches, decks, or patios, provided they are less than three (3) feet above grade.
4. In Minimum Required Side Yards – Air conditioning equipment, excluding compressor for central air conditioning unit, overhanging eaves, gutters, awnings, and canopies, projecting not more than thirty (30) inches into the minimum required side yard, but never closer than three (3) feet to the side lot line; uncovered porches, decks, or patios, provided they are less than three (3) feet above grade.

SECTION 9.9 SPECIAL REQUIREMENTS GOVERNING HOME OCCUPATIONS:

Home occupations shall include the use of a residential structure for services rendered, other than by direct contact with customers, at that location (for example, where the bulk of the business is by telephone - actual work is performed in home and customer is contacted other than at that location). The following requirements shall apply to home occupations, where permitted herein:

- A. No persons other than members of the family residing on 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 structure or premises, or other visible evidence of the conduct of such home occupation, that will indicate from the exterior that the structure is being utilized, in part, for any purpose other than that of 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 structure, 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 the vicinity where such home occupation is located.
- 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 9.10 NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE, AND NONCONFORMING SIGNS

A. NONCONFORMING LOTS

- 1. Any lot of record which does not meet the minimum requirements of this ordinance, or the zone in which it is located, shall be considered a nonconforming lot of record.
- 2. If two (2) or more lots with continuous frontage are in single ownership and 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 minimum requirements for lot width and/or area, as established by this ordinance, or the zone in which it is located, the nonconforming lots of record may be developed, provided: the lot is located on an existing and improved public street; a minimum of fifty-one (51) percent of the lots located on the same side of the street within the same block front are developed; and the development proposed on the lot is in conformance with all other requirements of this ordinance. Where a minimum of fifty-one (51) percent of the lots located on the same side of the street within the same block front are not developed, 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 minimum lot width and minimum area requirements established by this ordinance, nor shall any division of the parcel be made

which leaves remaining any lot with width or area below the requirements stated in this ordinance.

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

B. NONCONFORMING USES

1. CONTINUANCE: Except as herein provided, the lawful use of 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. However, no conforming use may be enlarged or extended beyond its area of use at the time it becomes a 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 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 six (6) 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 or destroyed in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the

market value of such structure in which the nonconforming use is operated.

- c. Whenever the structure, in which the nonconforming use is operated, becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such structure as of the date of the official order under the applicable ordinance.
 - d. Whenever said nonconforming use is determined to be detrimental or injurious to the public safety, health or welfare;
4. ZONE CHANGE: The foregoing provisions shall apply to uses which become nonconforming due to zone changes which take place hereafter.

C. NONCONFORMING STRUCTURES

1. CONTINUANCE: Except as herein provided, any nonconforming structure, existing at the time of adoption of this ordinance, may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this ordinance. However, if such a structure is removed or destroyed, other than by intentional means of the owner, the structure may be reconstructed, but shall not be enlarged, extended, or moved.
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 reconstruct the 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.
 - 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 structures as of the date of the official order under the applicable ordinance.

- c. Whenever said nonconforming structure is determined to be detrimental or injurious to the public safety, health or welfare.
- 3. ZONE CHANGE: The foregoing provisions shall apply to structures which become nonconforming due to zone changes which take place hereafter.
- D. REPAIRS AND MAINTENANCE: On any structure 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, fixture, 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 restoration, 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 stated in Section 9.12, B., 3, or 9.12, C., 2.

E. NONCONFORMING SIGNS

- 1. CONTINUANCE: Except as herein provided, any nonconforming sign, existing at the time of adoption of this ordinance, may be continued or modified provided, however, that no such sign shall be changed beyond its height and area, as it existed at the time of passage or amendment of this ordinance which rendered it nonconforming.
- 2. TERMINATION: In all cases the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 18.2 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming sign based on any of the following conditions and, if the decision is to do so, the board shall state its bases, in writing, for such determination.
 - a. Not meeting the requirements for sign regulations, as regulated in Article XIV of this ordinance.
 - b. Nonuse or abandonment of said nonconforming sign for a period of six (6) consecutive months.
- 3. ZONE CHANGE: The foregoing provisions shall also apply to signs which become nonconforming due to zone changes which take place hereafter.

SECTION 9.11 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, provided their construction is in accordance with existing or hereinafter 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 so 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 minimum required 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 the lots within that block are improved with residential buildings, provided that in no case shall a front yard depth be less than twelve (12) feet.
- D. SIDE YARD VARIANCE: Where a nonconforming lot of record exists in any residential zone, no side yard shall be required to exceed the average width of existing side yards with the side having the least width, on the same side of the street within the same block, when fifty - one (51) percent or more of the lots within that block are improved with residential buildings; provided that no side yard width shall be less than five (5) feet, except as authorized by the board of adjustment.
- E. EXCEPTION TO MINIMUM FRONTAGE, AREA AND YARD REGULATIONS
1. In any subdivision of an existing or proposed development, in any multi-family or commercial zones described herein, zoning, building, and occupancy permits may be issued in the following circumstances, for lots which do not abut a minimum frontage along a dedicated right-of-way, or lots with a lot area, yard areas, or yard sizes which are less than the minimums therefore required by the area and height regulations established herein for the zone in which such development is located:

- a. A development plan conforming to the provisions of Section 9.19 of this ordinance, including all existing and proposed lot and yard areas and sizes in the development, is reviewed and approved by the Planning Commission.
- b. The area of the total development of which such lot is a part, is not less than the minimum total area required for such a development in the zone in which it is located.
- c. The density of the total development of which such lot is a part, is not greater than the maximum density allowed for such a development in the zone in which it is located.
- d. Such lot abuts upon areas within such development, which are either used or proposed for use in common by, or for the benefit of, the owners or tenants of such lot and other lots or areas abutting upon such common area, hereinafter identified and referred to as "benefited abutting property", according to the provisions of legally enforceable agreements or land use restrictions, approved by the Planning Commission and recorded in the office of the County Clerk of Campbell County, Kentucky, which include provisions that:
 - (1) Specifically identify such common areas by a metes and bounds description thereof.
 - (2) Specifically identify the owners of such common areas by name and address, and which identify and establish the obligation and duty of such owners, jointly and severally, to cause such common areas and all improvements thereon, including, without limitation, all motor vehicle access drives and parking areas, pedestrian walkways, other paved surfaces, signs, recreational facilities and open spaces, and other aesthetic and environmental amenities, to be maintained and repaired at least to the extent required by any and all governmental agencies having jurisdiction thereof, or any use or activity conducted thereon.
 - (3) Specifically identify the owners of the benefited abutting property by name and address, and the joint and several obligation thereof to pay a proportionate part of all costs of the aforescribed maintenance and repair of such common areas and the improvements thereon, secured by a lien therefore in favor of the owners of the common areas upon that portion of the benefited abutting property in which they have an ownership interest.

- (4) Specifically identify and establish a legally enforceable right of the city and its successors to enter upon such common areas, through officers, agents, servants, employees and independent contractors thereof, and cause to occur thereon the aforescribed maintenance and repair of such common areas and the improvements thereon, at the joint and several cost and expense of the owners of any interest in the benefited abutting property, with the payment thereof secured by a lien in favor of the city upon such common areas benefited abutting property.
- (5) Identify and establish a legally enforceable right of the owners of each lot or parcel of real estate in such development which does not abut upon a dedicated right-of-way to a paved and unobstructed right-of-way and easement from each of such lots across, over and through such common areas, for motor vehicles and pedestrian access thereto from a dedicated right-of-way.

SECTION 9.12 CONDITIONAL USES

A. DETERMINATION:

- 1. Subject to the requirements of Section 18.7 of this ordinance, 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:
 - a. 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
 - b. 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.
- 2. Evaluation of the proposed conditional use and/or development plan shall be based upon the following criteria, where applicable:
 - a. Design
 - (1) Agreement with the various elements of the Wilder Comprehensive Plan, and where applicable, any other adopted plan.

- (2) Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).
- (3) Nature and extent of the proposed uses in relation to the unique characteristics of the site.
- (4) Extent to which the design of the proposed development responds to the natural and man - made features of the site.
- (5) Building locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and off - street parking areas.
- (6) Extent to which the scale of each building relates to the natural environment.
- (7) The primary activity area of a building should be oriented toward a natural site amenity.
- (8) The location of buildings should be designed to provide for an orderly rhythm by avoiding long, unbroken building facades.
- (9) Heights of structures should be compatible with the height of existing structures adjacent to the site.

b. Circulation

- (1) Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
- (2) Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.
- (3) The circulation system should follow the natural terrain of the site.
- (4) The circulation system should provide for the continuation of existing streets and provide for the connection of proposed streets to adjoining properties.
- (5) Extent to which the complete separation of pedestrian and vehicular circulation systems is achieved.
- (6) Pedestrian street crossings should provide for safe crossings where there is good sight distance along the street or at a grade separated crossing.

c. Open Space

- (1) Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.
- (2) Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.
- (3) Landscaping should be an integral part in the design of off - street parking areas to soften the impact of hard surfaced areas on adjacent areas.
- (4) Open spaces should not be isolated from one another by unrelated physical obstructions, but rather, should be linked together by open space corridors having a reasonable width.
- (5) Open spaces and landscaping along the perimeter of the site shall be compatible with adjoining uses and zones.

d. Utilities

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

e. Signage

- (1) Signage should be designed to protect and enhance the visual amenities of the site.
- (2) A sign package should be developed for the entire development that forms an integral part of the total design of the site.
- (3) All signs should be of a complimentary scale and proportion in design and in visual relationship to the site and buildings.
- (4) Extent to which signs define and enhance the architectural elements of a building or site.
- (5) Extent to which signage is consolidated and coordinated with the overall site design.

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. The board shall have power to revoke conditional use permits 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 time 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 permit.

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 that it is furnished to the chairman of the board of adjustment.

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

5. Once the board of adjustment has completed a conditional use permit, and all the conditions required are of such type that they can be completely and permanently satisfied, the zoning administrator, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter, said use, if it continues to meet the other requirements of this ordinance, will be treated as a permitted use.
6. When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, an owner of every parcel of property adjoining the property to which the application applies, and such other persons as this ordinance or board of adjustments bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.
7. When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given

at least fourteen (14) days in advance of the hearing, by first class mail, to certain public officials, as follows:

- a. If the adjoining property is part of a planning unit, notice shall be given to that unit's commission; or
- b. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

SECTION 9.13 BUILDING REGULATIONS AND WATER AND SANITARY SEWER SERVICE:

- A. **BUILDING REGULATIONS:** All structures shall be designed, erected, or altered in accordance with the applicable housing and building codes.
- B. **WATER AND SANITARY SEWER SERVICE:** Except as herein provided, no principal 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. Individual on-site disposal systems 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 disposal 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-RE Zone; and
 - c. All such systems shall be designed and constructed in accordance with the regulations of the applicable state and local agencies.

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

2. 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

zoning administrator, said development shall be required to connect with the public sanitary sewer system and the on-site disposal system shall be discontinued.

3. A copy of the approved on-site disposal system permit shall be submitted to the zoning administrator and/or building official prior to the issuance of a building permit.

SECTION 9.14 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 City, until and unless both: (1) a building permit to move and set; and (2) a transport permit has been obtained, and said building, structure, or improvement complies with the provisions of this section of the ordinance.
- B. **COMPLIANCE:** All alterations and improvements shall comply with the applicable housing and building code, and all other applicable codes and regulations .
- C. **PROCEDURE - PERMITS**
 1. The applicant shall submit to the building inspector, the following:
 - a. An application for a building permit requesting an inspection of the building, structure, or improvement to be moved or set;
 - b. A plot plan, footing and foundation plan, and construction plans for any new construction;
 - c. A statement from the applicable legislative body(s) insuring that all past and current taxes have been paid.
 2. 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 city and determine if the proposed development will comply with all applicable codes and regulations .
 3. The move and set shall be referred to the zoning administrator for approval or denial of compliance with this ordinance.
 4. Upon approval by the zoning administrator and building inspector, a building permit to move and set shall be issued. The city engineer shall then be notified of same and shall issue a transport permit. The city engineer, or his agent, will designate the route to be traveled. The

transport permit is good only for the date specified on the 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.

5. No transport or building permit to move and set shall be issued until the applicant has first obtained the necessary permits from all applicable agencies.

D. FEES

1. There will be a building investigation fee, as established by the legislative body, to cover the costs of investigation and inspection for determining the structural soundness of buildings, structures, or improvements to be moved. The fee is payable in advance and must accompany the application provided for herein. This fee is not returnable. If any alterations or improvements to be made are found to be in compliance with the legislative body's applicable codes and regulations, a building permit to move and set will be issued and the fee will be based on the cost of new foundations and all work necessary to place the building or structure in its completed condition in the new location. This fee is in addition to the building investigation fee.
2. No person, corporation, or company shall transport, move, or set any building, structure, or improvement in the jurisdiction of 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, which shall cover the cost of any damage or claim to damage to public improvements (e.g., street pavement, curb and gutter, catch basins, sewers) and other damage to private property resulting from the move and set. Such bond shall be made by a surety corporation authorized to do business in the state of Kentucky.

SECTION 9.15 RESERVED

SECTION 9.16 RESERVED

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

- A. **SCREENING AREA REQUIREMENTS:** All screening areas shall be approved by the zoning administrator (or planning commission, where required by this

ordinance) according to a submitted site plan as regulated by the applicable requirements of Section 9.19 of this ordinance. Screening areas shall be designed, provided, and maintained according to the following:

1. Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question, every effort shall be made to retain such conditions. In such cases additional screening may not be required, provided that provision is made for maintenance of such areas.
2. Wherever screening is required it shall be provided as follows:
 - a. All screening shall be provided by the construction of a Class I or Class 5 fence; as regulated by Article XIII of this ordinance and/or evergreen trees;
 - b. All trees shall be a minimum of six (6) feet in height when planted, however, smaller trees (a minimum of 5 feet in height may be utilized in combination with berms (e.g., earthen mounds) to provide a minimum 10 foot height requirement; berms must be covered with suitable vegetation such as grass, ivy, and shrubs, to preclude erosion of the berm;
 - c. Trees which are intended to provide screening to separate multi-family development from residential development (single-family and multi-family) shall not be planted further than 10 feet apart; parking facilities which are located adjacent to residential areas shall be additionally screened to a minimum height of three (3) feet (via an earth berm depressed parking, solid fence, etc.) to reduce automobile headlight glare on adjacent property.
3. All trees, shrubs, and other planting materials shall be living plants (not artificial) and shall be suitable to the Northern Kentucky area and the specific conditions of the site in question, such as but not limited to, soil conditions, sloped, reduction of noise pollution, necessary, and the type of screening needed.
4. Screening areas shall be provided in such a manner as to obscure the view into the development from adjacent properties. In those cases where property is located adjacent to property within another governmental jurisdiction, screening shall be provided to the adjoining property in the same manner as would be required if the adjacent area was within the jurisdiction of this legislative body.

5. In the case where a zoning map change occurs resulting in adjacency to a different zoning district than was previously the case, and where development has already occurred on property in the unchanged district, required additional setbacks and screening requirements (as required in each district's regulations) shall be provided for the property in the district where the zone change occurred.
- B. PROVISIONS AND MAINTENANCE: Required screening areas shall be provided as a condition of development by the owner and/or developer. All required screening (including the planting of trees and other vegetation) shall be maintained by the property owner.
- C. INCLUSION OF SITE PLAN AND/OR SUBDIVISION IMPROVEMENT DRAWINGS: Areas to be set aside as screening areas shall be identified on the required site plans, as regulated in Section 9.19, and where applicable, on the improvement drawings as regulated by the subdivision regulations. Sufficient bond, adequate to cover the required improvements as determined by the legislative body, may be required to be posted. It shall be unlawful to occupy any premises unless the required screening has been installed in accordance with the requirements as provided herein.

SECTION 9.18 OUTDOOR SWIMMING POOLS

- A. PRIVATE SWIMMING POOLS: All private swimming pools shall be regulated according to the following requirements:
1. Shall only be permitted to be located in the rear yard. The zoning administrator may allow pools to be located in the side yard if he/she determines that due to topography, unusual lot shape, or insufficient rear yard area, location of the pool in the rear yard is not possible.
 2. Swimming pools which are constructed in-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or the property on which the pool is located. Such fence or wall shall be at least four (4) feet in height, but not more than seven (7) feet in height (only classes 1, 3, 4, or 5 fences are permitted, as regulated in Article XIII of this ordinance). Such fences or walls shall be constructed in such a manner that a child may not reach the pool from the street or any property without climbing the fence or wall or opening the gate or door.
 3. Swimming pools which are located above-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or property upon which the pool is located. Such fence or wall shall be at least four (4) feet in height, but not more than seven (7)

feet in height (only classes 1, 3, 4, or 5 fences are permitted, as regulated by Article XIII of this ordinance). Such fences or walls shall be constructed in such a manner that a child may not reach the pool from the street or any property without climbing the fence or wall or opening the gate or door. Said fence or wall may be the wall of the above-ground pool, providing that said wall is at least four (4) feet in height above the surrounding ground level.

Any access to above ground pools by means of a ladder or stairway shall be provided with a self-closing or self-latching door or gate, or some other device that would prevent a 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. Water used in the swimming pool, which is obtained from other than a public source, shall be approved by the appropriate 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 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 minimum required yards or within the limits of any public right-of-way or 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-latching door or gate (only classes 1, 3, 4, or 5 fences are permitted, as regulated by Article XIII of this ordinance). Such fences or walls shall be at least five (5) feet in height, but not exceeding the height as permitted herein, and of such construction that a child may not reach the pool from the street or from any property without climbing the wall or fence or opening the gate or door.

In lieu of providing a fence or wall, as required herein, swimming pools may be provided with a pool cover in compliance with the Kentucky Building Code and provided the following required safety criteria are met:

- a. The safety standard cover must pass the strength test and be able to withstand at least 490 pounds (equivalent to two adults and a child) on any given 3 square foot area.
 - b. The cover must be able to drain water so that water does not accumulate and pose a drowning threat to a child.
 - c. The pool cover shall be designed to fit securely over all sides of the pool preventing a child from lifting the cover or entering the water. The cover shall also have a latch, which cannot become undone or loosened, to secure it in a closed position. If the cover is operated electrically, it shall provide for a manual override in the event of a power failure.
 - d. The power disconnect for the pool cover shall be located inside a building and shall include a visual detector or light which remains lit at all times when the pool cover is not in place.
 - e. That the pool will be kept under observation at all times while the pool cover is not in place.
3. Glare from lights used to illuminate the swimming pool area shall be directed away from the adjacent properties.
 4. All swimming pools and associated equipment shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the city. Water used in the operation of the swimming pool, which is obtained from other than a public source, shall be approved of by the appropriate Health Department.
 5. No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent properties.

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

All such development plans shall be reviewed by the Planning Commission, or its duly authorized representative. The Planning Commission, or its duly authorized representative shall review the development plans in accordance with requirements of this and other applicable sections of this ordinance and the comprehensive plan, and shall make one of the following recommendations to the zoning administrator: approval, approval with conditions, or disapproval. However, no action of approving or rejecting any development plan shall be taken by the zoning administrator unless and until a review of the proposal has been made by the Planning Commission, or its duly authorized representative.

All development 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 DEVELOPMENT PLAN REQUIREMENTS - STAGES I, II, AND RECORD PLAT:

- A. STAGE I DEVELOPMENT PLAN REQUIREMENTS: The Stage I Development Plan shall identify and provide, where applicable, 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, that identifies and provides the following information:
 - a. The total area in the project;
 - b. The present zoning of the subject property and all adjacent properties;
 - c. All public and private rights-of-way and easement lines located on or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned;
 - d. Existing topography and approximate delineation of any topographical changes shown by contour with intervals not to exceed five (5) feet;

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- 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 height of buildings;
 - (2) Attached housing - location and description of the various housing types (i.e., townhouses, 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 and industrial 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 acres, gross floor area, and height of buildings;
 - g. Location of all existing and proposed pedestrian walkways, identifying approximate dimensions;
 - h. Location of all existing and proposed off-street parking and loading and/or unloading areas, identifying the approximate number of spaces;
 - i. Location of all existing and proposed streets, identifying approximate dimensions of pavement, right-of-way widths, and grades;
 - j. Location of all existing and proposed water, sanitary sewer, and storm drainage lines, indicating approximate pipe sizes;
 - k. Certification from appropriate water and sewer agencies indicating that services are available.

- I. Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed methods of handling said problems.
- 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 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 DEVELOPMENT PLAN REQUIREMENTS: The Stage II Development Plan shall identify and provide, where applicable, 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, or its duly authorized representative;
 - b. All housing units on the subject property:
 - (1) Detached housing - Location, arrangement, and number of all lots, including lot dimensions 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, 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, 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, and 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 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.

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

SECTION 9.21 REGULATIONS CONCERNING AIR RIGHTS: Any proposed use of air rights, as defined herein, shall be in the form of a development plan, as regulated in

9.19 of this ordinance, submitted to the planning commission, or its duly authorized representative, for review.

SECTION 9.22 REGULATIONS CONCERNING DESIGN AND CONSTRUCTION OF IMPROVEMENTS: Any proposed development requiring the construction of streets (including curb and gutters), sidewalks, sewers (sanitary and storm), water lines, or other public improvements, which does not constitute a subdivision, as herein defined, shall be required to be designed and constructed in accordance with the applicable articles and sections of the Subdivision Regulations, unless specifically waived by the planning commission.

SECTION 9.23 REGULATIONS PERTAINING TO PARKING OR STORING OF TRAILERS, MANUFACTURED HOMES, CAMPER, 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, except houseboats may be permitted along the Licking and Ohio Rivers.
- C. Except as provided for herein, it shall be unlawful to park and/or store any trailer, manufactured home, recreational vehicle, camper, boat, or other such type equipment, within any place or location in the city. The outside storage and/or parking of any trailer, manufactured home, recreational vehicle, camper, boat, or similar type equipment, shall be restricted to the side or rear yard of all lots within the jurisdiction of the legislative body, except as herein provided, and in cases where, due to unique conditions, topographic or other, which do not allow use of the rear yard, the board of adjustment may permit such storage to be located in the side yard of the lot following review and approval by said board. The board may impose certain requirements (such as provided in Section 9.17 of this ordinance) to insure that said vehicle and related equipment is properly screened from view of adjacent property. In no case shall more than one of the aforementioned vehicles or similar type equipment be permitted outside of a completely enclosed building on any lot or parcel of land. Storage and/or parking of any trailer, manufactured home, recreational vehicle, camper, boat, or similar type equipment may be permitted within driveways during the period from May 1 through the following October 15, provided that the following conditions are met: (1) the required off-street parking spaces are available in addition to the space utilized by the aforementioned vehicles or similar type equipment; (2) the stored and/or parked vehicle or equipment shall not extend over any property or right-of-way line; and (3) no more than one such vehicle or piece of similar type equipment is permitted in the driveway at any one time.

1. Exceptions: Nothing in the ordinance shall be interpreted to restrict the storage of any boats or recreational vehicles on a rear round basis on the premises of any marine or recreational vehicle business, which are permitted or conditionally permitted in this ordinance.
- D. It shall be unlawful to park or to keep any truck with dual wheels, either tandem or parallel, or any truck, in excess of 6,000 pounds gross vehicle weight, at any place on property located in a residential district zone, except in a completely enclosed building.
- E. 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 six (6) months from the date of adoption of this ordinance to comply with all of the provisions of this section.

SECTION 9.24 HILLSIDE DEVELOPMENT CONTROLS

- A. This section is designed to promote public safety and general welfare, to protect property against loss from erosion, earth movement, or hillside slippage. This section will ensure when development is proposed in those areas of the community which have physical characteristics which will limit development (hillsides of 20 percent slope or greater), it 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 containing slopes of 20 percent or greater shall be limited to development according to the following requirements, notwithstanding any other section of this or any other ordinance adopted by the city.
 1. All land areas located within the city and identified on the adopted Comprehensive Plan as "Physically Restrictive Development Areas" and any other areas otherwise indicated which have slopes of 20 percent or greater, shall require approval from the planning commission, or its duly authorized representative, before development may occur
 2. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures of any nature within the area identified in (1) above, may occur until plans and specifications for such work have been submitted in the form of a development plan as regulated by Section 9.19 of this ordinance. In addition to development 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, filling,

piling, 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 development plan and other information required by this section of the ordinance, shall be reviewed by the city engineer who will recommend to the planning commission, or its duly authorized representative, what effect the proposed development will have on hillside slippage and/or soil erosion.
 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 and/or soil erosion, the planning commission, or its duly authorized representative, shall deny a permit for development of said land.
- C. CRITERIA: Evaluation of the proposed development plan shall be based upon the following criteria:
1. PUBLIC POLICY:
 - a. Public works in hillside areas should be designed to preserve the natural character of the land to the greatest extent possible. Deep or extensive excavations and fills scar the landscape and should be avoided.
 - b. Excessive cutting and filling should be avoided in the construction of hillside roadways.
 - c. Roadways constructed on hillsides should, wherever possible, follow the contours of the land or climb the slopes with a gentle grade.
 2. REGULATING THE SUBDIVISION OF HILLSIDE LAND:
 - a. Plans for hillside subdivisions should be laid out so that lots on the flatter upland portions of the site are held back from the crest of the hill.

- b. In planning hillside subdivisions, maximum existing vegetation should be retained.
- c. In planning hillside subdivisions, lots located on sloping portions of the site and at the crests of hills should be arranged so that intrusion of buildings constructed on lower elevations into the views of those above will be minimized.
- d. Hillside vegetation should not be heedlessly displaced, degraded, or destroyed.
- e. Subdivisions in hillside areas should be designed to preserve the natural character of the land, to the greatest extent possible.

3. REGULATING THE CHARACTER OF DEVELOPMENT:

- a. The visual impact of grading should be minimized by avoiding flat grading planes and sharp angles of intersection.
- b. When it is necessary to use retaining walls, their height should be minimized.
- c. When buildings are constructed on hillside sites, yards and patios should respect the natural contours, drainage patterns, and vegetation of the site.
- d. Slopes exposed in new development should be landscaped in order to mitigate visual impacts created by hillside grading.
- e. The natural slope line of the hill, as seen in profile, should be retained.
- f. Existing native vegetation should be preserved, and when disturbed, should be supplemented with new native vegetation.
- g. Trees should be planted in random clusters, not in rows, to compliment the natural pattern of tree distribution.
- h. All cuts, fills, and any other earth modifications should be replanted with appropriate native vegetation.
- i. The risk of off - site geologic property damage should be minimized by locating development away from areas which are vulnerable to sliding.
- j. Grading for buildings, driveways, outdoor use areas, utilities, etc., should be minimized to preserve the natural topography of the site.
- k. When grading operations are necessary, the smallest practical areas of land should be exposed at any one time during development and the length of exposure should be kept to the shortest practicable amount of time.

4. REGULATING EARTHWORKS:

- a. The tops and toes of excavations and their slopes should be set back from property boundaries and structures as far as necessary

- for the safety of adjacent properties and adequacy of foundation support and to prevent damage as a result of water runoff.
- b. No fill should be placed over trees, stumps, or other organic or unstable material.
 - c. All retaining walls should be promptly backfilled.
 - d. Where storm and drainage improvements are necessary, they should be designed to create a natural, rather than a man - made, appearance.
 - e. In order to prevent runoff, erosion control plans should utilize existing trees and vegetation to the maximum extent possible.

SECTION 9.25 FLOOD PROTECTION DEVELOPMENT CONTROLS

- A. **PURPOSE:** The purposes of the flood protection development controls are:
1. To permit only that development of flood prone areas which: (a) is appropriate in light of the probability of flood damage and the need to reduce flood losses; (b) is an acceptable social and economic use of the land in relation to the hazards involved; and (c) does not increase the danger to human life; and
 2. To prohibit all other development in flood prone areas not identified in Subsection A., 1., above, including non-essential or improper installation of public utilities and public facilities.
- B. **DEFINITIONS:** Notwithstanding other definitions within this ordinance, the following definitions shall only apply to this section of the ordinance:
1. Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load - bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load - bearing walls is new construction.
 2. Area of shallow flooding means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
 3. Area of special flood hazard is 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 means the flood having a one percent chance of being equaled or exceeding in any given year.
5. Basement means that portion of a building having its floor subgrade (below ground level) on all sides.
6. Breakaway wall means 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.
7. Building means any structure built for support, shelter, or enclosure for any occupancy or storage.
8. Development means any man - made 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 equipment or materials.
9. Elevated building means a non - basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts or piers), shear walls, or breakaway walls.
10. Existing construction is any structure for which the 'start of construction' commenced before the effective date of the first flood protection development control ordinance.
11. Existing manufactured home park or subdivision means 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 Flood Protection Development Controls adopted by the legislative body.
12. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by 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).
13. Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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- a. the overflow of inland or tidal waterways;
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
14. Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been identified as Zone A.
 15. Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
 16. Flood insurance study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
 17. Floodway means 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.
 18. Floor means 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.
 19. Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as 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.
 20. Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.
 21. Historic structure means 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.
22. Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section of the ordinance.
23. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
24. Manufactured home park or subdivision means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.
25. Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purpose of this section of the ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

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26. National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
 27. New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the Flood Protection Development Controls adopted by the legislative body and includes any subsequent improvements to such structures.
 28. New manufactured home park or subdivision means 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 the Flood Protection Development Controls adopted by the legislative body.
 29. Recreational vehicle means a vehicle which 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 by 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.
 30. Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, 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; nor does it include the installation on the property of accessory buildings, 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 building.

31. Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.
32. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
33. Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. This term does not, however, include either:
 - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".
34. Substantially improved existing manufactured home park or subdivision is where the repair, reconstruction, rehabilitation or improvement of streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
35. 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.

C. 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.

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

TABLE A	LICKING RIVER
TABLE B	THREE MILE CREEK
TABLE C	MOOCK ROAD TRIBUTARY

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

3. No person, city, county, or other political subdivision of the state shall commence filling of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier, or obstruction of any sort on any area, including making any alteration or relocation of a waterway, located within the floodway which would result in any increase in flood levels during the occurrence of a 100-year flood discharge. In those cases where a watercourse is to be altered or relocated, the flood carrying capacity of said portion of the waterway affected must be maintained. Plans and specifications for such work shall

be submitted to the city engineer and the Northern Kentucky Area Planning Commission 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 identified in Subsection C., 2., above, 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 said floodplain, 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.

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- 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 or substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - b. All new construction or substantial improvements shall be constructed with materials and mechanical and utility equipment resistant to flood damage.
 - c. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - d. All new or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

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- e. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems' discharges from the systems into flood waters.
 - f. On-site waste disposal systems, where permitted, shall be located to avoid impairment to them or contamination from them during flooding.
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 permitted to be placed in a floodway or a Coastal High Hazard Area.
 - 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 in length and one additional tie per side for manufactured homes of fifty (50) feet in length 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 of less than fifty (50) feet in length and one additional tie for manufactured homes of fifty (50) feet in length 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, or pads equals or exceeds fifty (50) percent of the value of the streets, utilities, or 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 C., 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 C., 4., above, a certified copy of said lowest elevation shall be provided to and maintained in the offices of the Zoning Administrator - Building Official.
13. A development 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.

FIGURE A

LICKING RIVER

DISTANCE RIVER MILE (1)	STATION POINT (2)	ELEVATION OF 100-YEAR FLOOD	WIDTH OF FLOODWAY FLOODWAY (3)
1.25	F	499.9	193
1.50	G	500.2	181
1.75	H	500.6	183.2
2.00	I	500.8	261
2.25	J	501.0	222
2.50	K	501.5	668
2.75	L	501.7	852
3.00	M	501.7	564
3.25	N	502.3	281
3.50	O	502.6	198
3.75	P	502.7	223
4.00	Q	502.8	386
4.30	R	503.0	273
4.50	S	503.2	281
4.75	T	503.8	398
5.25	U	504.2	395
5.75	V	504.8	255
6.25	W	505.2	723

- (1) As measured from the mouth of the Licking River.
- (2) Coincides with river cross-sections identified on the zoning map.
- (3) Width of the 100-year floodway as measured in feet from the Wilder corporation boundary.

FIGURE B

THREE MILE CREEK

DISTANCE RIVER MILE (1)	STATION POINT (2)	ELEVATION OF 100-YEAR FLOOD	WIDTH OF FLOODWAY FLOODWAY (3)
0.39	A	502.0	153
0.50	B	502.0	286
0.69	C	502.0	98
0.85	D	502.0	61
1.02	E	506.2	54
1.29	F	523.9	70

- (1) Miles above mouth.
- (2) Coincides with creek cross-sections identified on the zoning map.
- (3) Total Width of 100-year floodway measured in feet.

FIGURE C

MOOCK ROAD TRIBUTARY

DISTANCE RIVER MILE (1)	STATION POINT (2)	ELEVATION OF 100-YEAR FLOOD	WIDTH OF FLOODWAY FLOODWAY (3)
0.29	A	502.0	98
0.84	B	521.2	64

- (1) Miles above mouth.
- (2) Coincides with creek cross-sections identified on the zoning map.
- (3) Total Width of 100-year floodway measured in feet.

SECTION 9.26 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 9.27 LAND USED SOLELY FOR AGRICULTURAL PURPOSES: Pursuant to KRS 100, any land which is used for agricultural purposes (exclusive of land and building used for residences, shall have no regulations except that:

- A. Setback lines shall be required for the protection of existing and proposed streets and highways, as required for the zone in which the use is located.
- B. That all buildings or structures in a designated floodway or flood plain, which tend to increase flood heights, or obstruct the flow of flood waters shall be in accordance with this ordinance.
- C. All dwellings to be constructed or provided as part of land used for agricultural purposes shall meet all requirements of the zone in which said use is located and all other requirements of this ordinance.

SECTION 9.28 HAZARDOUS WASTE: The treatment, storage, transfer, processing and any other handling of hazardous waste except for such material as is produced as part of the operation of an activity located within the I-2 Zone, shall be prohibited within any zone.

- A. **DEFINITION:** Any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality of an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; nothing in this definition shall be construed to apply to any activity or substance which is subject to the Federal Atomic Energy Act of 1954, as amended (68 Stat. 923) (KRS 224.005). The specific criteria for identifying the characteristics of Hazardous Waste shall be provided for within Part 261 – Identification and Listing of Hazardous Waste in V of 45, No. 98 of the Federal Register, May 19, 1980 or subsequent revisions thereto.

SECTION 9.29 REGULATION OF BED AND BREAKFAST ESTABLISHMENTS: Bed and breakfast establishments, where permitted, shall be subject to the following regulations in addition to any imposed by the board of adjustment in approving a specific operation.

- A. One off-street parking space must be provided for each guest room, on-site, or within a reasonable distance off-site, except where it is demonstrated that parking is available on-street;
- B. The establishment shall be operated by the owner of the dwelling unit, who shall live in the unit; and

- C. Food service may be provided for registered guests only.

SECTION 9.30 REGULATIONS CONCERNING UTILITIES: No utilities shall be extended into any area for which a preliminary subdivision plat has been approved, unless the extension thereof is beneath the surface of the ground.

SECTION 9.31 TRIP REDUCTION REGULATIONS

- A. **PURPOSE:** The Greater Cincinnati Metropolitan Area has been identified as a non-attainment area for federal ozone level standards. Ozone is a compound and is the primary constituent of smog. This type of air pollution can be primarily attributed to motor vehicles. Due to the increasing responsibilities being placed on local governments to formulate plans which will help to reduce ozone levels, and the sanctions which will be placed upon metropolitan areas if ozone levels are not reduced, it is imperative that measures be taken by local legislative body's and other applicable agencies to reduce the amounts of ozone and other types of air pollution within the total community. Therefore, it is the purpose of these regulations to encourage and accommodate alternatives to single-occupant motor vehicle trips through the promotion and development of transportation management programs. A reduction in such trips can be expected to assist in reducing traffic congestion, air pollution, and energy consumption.
- B. **DEFINITIONS:** For the purpose of this section of the ordinance, the following definitions shall apply:
1. Carpool - A motor vehicle occupied by two or more employees who commute together to/from work.
 2. Compressed Work Week - A work schedule for an employee which eliminates at least one round trip commute two times a week.
 3. Flextime - The scheduling of employee arrivals and departures at a work site so that the number of single occupant vehicle trips during peak hours is reduced.
 4. Subscription Bus Service - Transportation of persons in a motor vehicle for commute purposes, where the driver is not employed by the owner/tenant of the work site, either on a fixed route or demand response. This definition shall not include public/private mass transit services.
 5. Telecommuting - A system of either working at home or at an off - site work station with computer facilities that link to the work site.

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6. Vanpool - A van occupied by five or more employees who commute together to/from work.
- C. APPLICABILITY: These regulations shall be applicable to all existing and new residential and non-residential uses or developments, the owner(s)/developer(s) of which elect to participate.
- D. TRANSPORTATION MANAGEMENT COORDINATOR: Owner(s)/developer(s) of every residential and non-residential use or development which elect to participate in the transportation management program must identify a specific individual, department, or other entity to act as the transportation management coordinator. If the use is existing at the time of adoption of this ordinance, the transportation management coordinator shall be identified at the time the owner(s)/developer(s) of the use or development elect to participate in the transportation management program. If the use or development is new, the occupancy permit shall not be issued until the transportation management coordinator is identified. The transportation management coordinator shall perform the following duties and functions:
1. Coordinate and manage day-to-day operations of the transportation management program.
 2. Monitor and report, as required by this ordinance, performance of the transportation management program.
 3. Act as the administrative liaison between the legislative body and the owner(s)/developer(s) of the use or development.
- E. REPORTING PROCEDURES: An annual report, summarizing performance and effectiveness of the transportation management program, shall be filed with the zoning administrator no later than February 28. This report shall cover the period of January 1 through December 31 of the previous calendar year. This report shall contain, at a minimum, the following information, where applicable:
1. Address of the use or development.
 2. Names and types of uses within the development.
 3. Number of employees at the use or development by work hours.
 4. Number of dwelling units within the development.
 5. A description of the types of services provided in the transportation management program.

6. Number of persons who utilize the services by type of service.

7. Number of off-street parking spaces located on the site.

F. TRANSPORTATION MANAGEMENT PROGRAM AND INCENTIVES:

1. NON-RESIDENTIAL USES:

a. The transportation management program, for non-residential uses, may include one or more of the following services. For each service provided, a reduction in the number of required off-street parking spaces may be taken.

(1) VANPOOLING OR SUBSCRIPTION BUS SERVICE: A reduction of up to twenty percent (20%) of the number of required off-street parking spaces may be allowed for non-residential uses which employ vanpooling or a subscription bus service. To qualify for this reduction, the applicant must submit, along with the zoning permit application, the following:

(a) Information indicating that the owner/tenant will obtain or lease to employees vans, buses, or other high occupancy vehicles, for the purpose of providing transportation of additional employees.

(b) Information indicating that the owner/tenant will operate or hire vans, buses, or other high occupancy vehicles, for the purpose of providing transportation of employees.

(2) CARPOOLING: A reduction of up to fifteen percent (15%) of the number of required off-street parking spaces may be allowed for non-residential uses which institute a carpooling program. To qualify for this reduction, the applicant must submit, along with the zoning permit application, the following:

(a) Information indicating that the program is registered with Rideshare, as established by the Ohio-Kentucky-Indiana Regional Council of Governments.

(b) Information indicating that the owner/tenant will provide passive matching services (i.e., bulletin board notice, paycheck stuffers, office newsletter, etc).

- (c) Information indicating that all reasonable efforts will be made to register existing and new employees with ride matching services.
 - (d) Information indicating that the program will be actively promoted to employees through newsletters, posters, and other materials.
- (3) ON-SITE AMENITIES AND OTHER ACTIVITIES:
- (a) A reduction of up to ten percent (10%) of the number of required off-street parking spaces may be allowed for non-residential uses which provide on-site amenities or other activities which encourage a reduction in trip generation or alternative modes of transportation. Examples of acceptable on-site amenities and other activities are as follows:
 - [1] Provision of flextime.
 - [2] Provision for a compressed work week.
 - [3] Provision for telecommuting.
 - [4] Provision of cafeteria facilities.
 - [5] Provision of preferential parking for high occupancy vehicles.
 - [6] Provision for bicycle parking.
 - [7] Provision of locker and shower facilities.
 - (b) To qualify for this reduction, the applicant must submit, along with the zoning permit application, the following:
 - [1] Information indicating the types and amounts of amenities and activities.
 - [2] Information indicating that use of the amenities and activities will be actively promoted to employees through newsletters, posters, and other materials.

- (4) TRANSIT: A reduction in the number of required off-street parking spaces, equal to the estimated reduction in trip generation, may be allowed for non-residential uses which are located within one-half (1/2) mile of any regularly scheduled bus route stop, with service available during commuting hours. (Example: If the zoning ordinance requires one off-street parking space for every two employees and there are six employees who use the transit system to get to/from work, there can be a reduction of three off-street parking spaces)
- b. As an alternative to reducing the required number of off-street parking spaces, owner(s)/developer(s) of a use or development may increase the floor area, as follows:
- (1) The owner(s)/developer(s) of the use or development must provide the full amount of off-street parking spaces required by the city's/county's zoning ordinance prior to the proposed increase in floor area.
 - (2) At the time that a zoning permit application is submitted, the applicant must submit the required information and provide the transportation management programs listed in Subsection F., 1., a., herein.
 - (3) The amount of the additional floor area shall be fifty percent (50%) of the figure calculated by taking the number of off-street parking spaces which would be reduced through the incentive programs listed herein multiplied by the off-street parking space variable listed in this ordinance. (Example: Assume that the zoning ordinance requires office uses to provide a minimum of one off-street parking space for every 200 square feet of gross floor area. A 50,000 square foot office building would be required to provide a minimum of 250 off-street parking spaces. Also assume that the owner/developer will provide the necessary transportation management programs that will allow a reduction of 20% in the number of required off-street parking spaces. Instead of providing 250 off-street parking spaces (250 - [250 x 20%]), the developer would be allowed to enlarge the gross square footage of his building by 5,000 square feet (50% x [50 x 200])

2. RESIDENTIAL USES: The transportation management program for residential uses is divided into multi-family residential developments and single-family residential developments.

a. MULTI-FAMILY RESIDENTIAL DEVELOPMENTS: An increase of up to ten percent (10%) in density may be allowed for multi-family residential developments which provide all of the following:

- (1) Each resident, upon initial occupancy, must receive information on available mass transit services.
- (2) The owner must provide shuttle or subscription bus service to various local shopping and business areas.
- (3) Additional off-street parking spaces, which meet the minimum requirements of this ordinance must be provided for the increased number of dwelling units.

b. SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS: An increase of up to ten percent (10%) in density may be allowed for single-family residential developments which provide one or both of the following:

- (1) All roadways must be designed and constructed so as not to preclude vanpool or bus service.
- (2) An area within the development must be designated, designed, and constructed to accommodate ridesharing, vanpooling, park and ride, or other commuter parking service, at a rate of one (1) space for every ten (10) dwelling units. Such area must be approved by the appropriate mass transit agency prior to approval of the zoning permit. If the mass transit agency does not approve the location of such an area, the developer/owner may pay an "in lieu of" fee, equal to the amount of the estimated cost of construction of such an area, to the appropriate mass transit agency.

G. ENFORCEMENT:

1. If the approved transportation management program, including the requirements of this ordinance, are not being conducted or adhered to, or if the effectiveness of the program is not being met, the owner shall: (1) construct the required amount off-street parking, as required by this ordinance; (2) discontinue the use of the additional amount of building area/dwelling units, provided for within this ordinance; or (3) demolish,

raze, or remove the additional amount of building area/dwelling units, provided for within this ordinance.

2. Prior to the issuance of any occupancy permits, the owner/tenant must verify that the transportation management program, as identified in the zoning permit, will be implemented. Such verification may include copies of contracts, lease agreements, purchase agreements, and any other appropriate documentation.
3. Provisions of the approved transportation management program shall be binding upon the owner/tenant and all successors. The owner shall record a deed restriction in the County Clerks office, binding all successors in title to the provisions of the approved transportation management program. Additionally, the owner shall include in all leases, a clause which binds all tenants to the provisions of the approved transportation management program.

H. APPEAL PROCEDURE: The appeal process shall be as provided for within this ordinance.

SECTION 9.32 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.