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ARTICLE 1

GENERAL PROVISIONS AND DEFINITIONS

1-1 ADOPTION - This Zoning Ordinance, enacted by the Lexington-Fayette Urban County Government, is confirmed and adopted and reads as hereinafter set out.

1-2 SHORT TITLE - This Ordinance shall be known and may be cited as the "Zoning Ordinance."

1-3 PURPOSE - The purpose of this Zoning Ordinance is to implement the adopted Comprehensive Plan and other adopted Community Plans of Lexington-Fayette Urban County; to promote the public health, safety, morals, and general welfare; to facilitate orderly and harmonious development in the visual and historic character of Lexington-Fayette Urban County; to regulate the density of population and intensity of land use in order to provide for adequate light and air; to provide for vehicle parking and loading space; to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between non-compatible land uses and to protect, preserve and promote the aesthetic appeal, character, and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare; to further fair housing choice and the purposes behind the Federal Fair Housing Act(s); to facilitate fire and police protection; to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities; to prevent the loss of life, health, or property from fire, flood, or other dangers; to protect airports, highways, and other transportation facilities, public facilities, including schools and public grounds, historic districts, central business districts, natural resources, and other specific areas of Lexington-Fayette Urban County which need special protection.

1-4 INTERPRETATION - In the interpretation and application of this Zoning Ordinance, the provisions herein shall be held to be the minimum or maximum requirements (as appropriate) adopted for the promotion of health, safety, morals, comfort, prosperity and general welfare. It is not intended by this Zoning Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law, ordinance or resolution, or with any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant, deed or recorded plat; provided, however, where this Zoning Ordinance imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires greater lot areas, larger yards, or other open spaces than are imposed or required by such existing provisions of law, ordinance or resolution, or by such rules, regulations or permits, or by such private restrictions, the provisions of this Zoning Ordinance shall control.

1-5 CONFLICT OF ORDINANCE - Whenever these regulations, subdivision plats, or development plans approved in conformance with these regulations are in conflict with other local ordinances, regulations or laws, the more restrictive ordinance, regulation, law, plat or plan shall govern and shall be enforced by appropriate local agencies. When subdivision and development plans, approved by the Planning Commission, contain setback or other features in excess of the minimum Zoning Ordinance requirements, such features as shown on the approved plan shall govern and shall be enforced by the local Division of Building Inspection. Private deed restrictions or private covenants for a subdivision, which have not been approved by the Planning Commission and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the Division of Building Inspection.

1-6 PLANS AND CONSTRUCTION IN PROGRESS - To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require change in the plans, construction, or designated use of any building or premises on which an application for a certificate or permit was filed with the Division of Building Inspection prior to the date of adoption of this Zoning Ordinance or amendment thereto, provided that the application meets all zoning and other requirements in effect on the date of said application. The issuance of said certificate or permit shall be valid only if it is exercised within one hundred and eighty (180) days from the date of issuance of the certificate or permit. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other main improvement have been let; or in the absence of contracts, that the main building or other main
improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investments 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 or certificate.

1-7 SEPARABILITY - If any clause, sentence, subdivision, paragraph, section or part of this Zoning Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder, thereof; but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

1-8 PLANNING COMMISSION - The Lexington-Fayette Urban County Planning Commission, created by Resolutions No. 1793 and 1797 of the City of Lexington and by Resolution of the Fiscal Court of Fayette County, and referred to prior to 1973 as the City-County Planning Commission, shall continue as the Planning Commission for Lexington-Fayette Urban County. There shall be eleven (11) members of the Planning Commission appointed by the Mayor, with approval of the Urban County Council for a term of four years, ending on July 1 of the designated year, with staggered terms so that the terms of two members of the Planning Commission expire each year. However, the members of the Planning Commission in office on the date of passage of this ordinance shall remain as members of the Planning Commission and shall serve until the expiration of the term to which they were originally appointed. All members shall be reimbursed for any necessary authorized expenses.

1-9 PLANNING UNIT AND JURISDICTION - The Planning Unit shall include all of the territory in Fayette County (also referred to as Lexington-Fayette Urban County or Lexington-Fayette County). The area of jurisdiction of the Planning Commission shall also include all of Fayette County.

1-10 STAFF - The staff of the Planning Commission shall be the Division of Planning in the Department of Administrative Services of the Lexington-Fayette Urban County Government.

1-11 DEFINITIONS - For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the word person includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the word structure includes building; the word occupied includes arranged, designed or intended to be occupied; the word used includes arranged, designed or intended to be used; the word shall is always mandatory and not merely directive; the word may is permissive; and the word lot includes plot or parcel.

Other words and terms shall have the following respective meanings:

ACCESSORY USE OR STRUCTURE - A use or a structure subordinate to the principal use or building on a lot and serving a purpose customarily incidental thereto. No accessory structure can be constructed on a lot before a principal structure.

ADAPTIVE REUSE - The process of adapting abandoned, vacant or underutilized buildings and structures for new purposes, which amounts to a change in the structure’s primary purpose, a significant change in the way in which the structure is incorporated into and operates within the exterior environment, or which incorporates a non-traditional yet compatible combination of purposes or uses within the site plan. The adaptive reuse should incorporate changes that rejuvenate and/or increase the sustainability of the site and/or neighborhood while retaining historic features of the original building(s) and/or structure(s).

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

ADULT BOOKSTORE OR ADULT VIDEO STORE - Any building or structure which contains or is used for the display or sale or rental of books, magazines, movie films, motion pictures, videos, computer disks and any and all printed or written materials, newspapers, photographic materials, drawings, novelties, other pictorial representations, devices and related sundry items which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as herein defined; or an
establishment with the segment or section devoted to the sale or display of such material.

ADULT CABARET - An establishment which features, as a principal use of its business, entertainers, waiters, or bartenders, either male or female, who expose to public view of the patrons of the establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially or completely covered by translucent material; or human or simulated male genitals in a discernible turgid state, even if completely and opaquely covered.

ADULT DANCING ESTABLISHMENT - A business wherein employees, agents, servants or independent contractors perform dance routines offered as adult oriented entertainment for viewing by patrons and spectators on the premises, and characterized by an emphasis on “specified sexual activities” defined in this Article; or exposure of any part of the male or female anatomy otherwise prohibited by Section 3-26 of the Code of Ordinances.

ADULT ENTERTAINMENT ESTABLISHMENT - An “adult cabaret,” “adult dancing establishment” or “sexual entertainment center.”

AGRICULTURAL MARKET - A regulated place designated exclusively for the purpose of buying and selling of agricultural/farm products, including a stockyard; and to include aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products grown, raised or made by farm producers.

AGRICULTURAL USE - The use of a tract of land of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including, but not limited to, livestock; livestock products; poultry; poultry products; grain; hay; pastures; soybeans; tobacco; timber; orchard fruits; vegetables; flowers or ornamental plants; including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.

ASSISTED LIVING FACILITY - A residential facility other than a nursing home, or elderly housing for persons who are fifty-five (55) years of age or over, which are provided living and sleeping facilities. Meal preparation, laundry services, room cleaning, transportation, recreation and/or some medical services may also be provided exclusively for the use of residents of the facility.

ATHLETIC CLUB FACILITY - An establishment that provides for indoor commercial or non-commercial services and facilities that purport to improve the user's physical condition or appearance through participation in sports activities, fitness training, exercise, or body building. The establishment may offer access to the following: gymnasiums, swimming pools, tracks, ball courts, weight lifting equipment, exercise equipment or facilities, saunas, steam baths or whirlpools.

AUTOMOBILE AND TRUCK REPAIR, MAJOR - Rebuilding or reconditioning of engines or transmissions, vehicles or trailers; repair and collision service, such as body, frame, or fender straightening; painting; upholstering; auto glass work, and the like.

AUTOMOBILE AND TRUCK REPAIR, MINOR - Minor repairs, including auto inspection lanes, engine tune-up, adjusting lights and brakes; but not including any operation specified under "Automobile and Truck Repair, Major."

AUTOMOBILE SERVICE STATION - A building or structure used for minor automobile and truck repair; the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto; facilities for washing and for chassis and gear lubrication are permitted if enclosed in a building.

BANQUET FACILITY - A building currently or formerly used as a residence, made available to the public for holding meetings and social events. This use may include the sale of alcoholic beverages; indoor live entertainment; and may also include, as an accessory use, events conducted outside the main building in tents or other temporary facilities, subject to the issuance of a permit by the Division of Building Inspection.

BED AND BREAKFAST FACILITY - A use which provides short-term transient lodging, including serving only breakfast to overnight lodgers, for which rent is paid and subject to the following conditions:

(1) The use shall be clearly incidental and secondary to the use for dwelling purposes;
(2) The use shall be carried on only by owners with at least a fifty-one percent (51%) ownership interest, and who reside on the premises;
(3) The use shall not require external alteration of the dwelling except as may be required to meet fire and building codes;
(4) Each room to be rented shall be designed and intended to accommodate no more than two persons;
(5) Each room shall be rented for no longer than seven (7) days. Any facility which rents rooms for more than seven days shall be regulated as a boarding house;
(6) The use shall not adversely affect the uses permitted in the notification area and in the immediate neighborhood by excessive traffic generation, noise and the like;
(7) The owner-operator shall maintain a guest log and other records, which shall be subject to annual review and inspection;
(8) The use shall not be conducted within any accessory building in a residential zone;
(9) The conditional use permit shall become null and void upon the sale or transfer of the property;
(10) All off-street parking areas shall be completely screened with landscaping;
(11) The use shall be in compliance with all applicable state and local laws, including Health Department rules and regulations.

BOARDING OR LODGING HOUSE - A residential building, or part thereof, for five (5) or more adults living together, not as a family or housekeeping unit. In identifying this use, one or more of the following factors shall be considered:

(a) meals and/or food costs are typically not shared;
(b) rent is established by leases to individuals, or rents are based on charges assessed to each individual;
(c) individual mailboxes are provided;
(d) multiple utility meters or connections are present.

BREW-PUB - A restaurant with an area devoted to the accessory sale of wine or alcoholic beverages, which also houses an accessory micro-brewery without permanently installed bottling equipment, all within the same completely enclosed building.

BUILDING - Any structure for the shelter or enclosure of persons, animals or property.

BUS AGENCY - A facility providing inter-city transportation to passengers and other bus customers, limited to loading and unloading of passengers and/or freight, and the sale of tickets and/or shipping space; but not to include activities exclusive to a passenger transportation terminal.

BUSINESS COLLEGE, TECHNICAL OR TRADE SCHOOL, OR INSTITUTION - An educational institution primarily owned and operated by an individual, partnership, or corporation offering training in business, trade, technical or related areas through residence, extension, or correspondence, for which tuition is charged. Such training shall not include any courses or instruction in which the field or occupation would not be a permitted use within the zoning category in which the institution is located.

CABLE TELEVISION SYSTEM - Any system which receives and amplifies signals broadcast by one or more television and/or radio station and which transmits programming or other electronic or optical signals originated by the system itself or by another party by wire or cable to persons who subscribe to such service.

CELLULAR TELEPHONE TRANSMITTING FACILITY, TEMPORARY - Any system of wires, poles, rods, reflecting disks, or similar devices used for the transmission or reception of electromagnetic waves, not meeting the definition of a "structure" as defined by this Zoning Ordinance.

CHILD CARE CENTER - Any facility which provides full or part-time care, other than family child care, day or night, to children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator, as regulated by the Commonwealth of Kentucky.

CHILD CARE, FAMILY - An incidental and subordinate use within a dwelling and not an accessory structure, where full or part-time care is provided by a resident of the dwelling, for a fee, to children, as regulated by the Commonwealth of Kentucky.

CLINIC, MEDICAL - A building, or part thereof, designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

CLUB, PRIVATE - Buildings and facilities, the purpose of which is to render a social, educational, or recreational service to members and their guests.
and not primarily to render a service customarily carried on as a business or to render a profit. Private club shall include country club.

COMMERCIAL COMPOSTING - The aerobic or anaerobic decomposition of solid, organic materials to produce a stabilized, humus-like material that can be recycled to the land as a soil conditioner and low grade fertilizer, and primarily for use or distribution off the production site.

COMMERCIAL GREENHOUSE - An establishment primarily engaged in propagating and growing plants in containers, in soil or in other growing medium for the purpose of being sold and transplanted. This definition shall include sale of the following items: plants grown on the premises or tended in a controlled environment of the greenhouse or plant nursery; sale of fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizer, all to be used in the soil or upon the live plant to preserve the life and health of the plants sold; landscape counseling, site planning and contracting services when not the primary activity and when using plants grown or tended on the premises of the greenhouse or plant nursery.

Note: This definition applies only to land use as provided for in the Zoning Ordinance and Subdivision Regulations and is not intended to affect the status of any business with regard to any federal or state tax laws or similar statutes.

COMMISARY - Premises used for preparation of food for restaurant use.

COMMISSION - Lexington-Fayette Urban County Planning Commission.

COMMUNITY CENTER - Buildings and facilities for a social, educational, or recreational purpose, operated by a non-profit organization, which are generally open to the public and which do not render a service customarily carried on as a business.

COMMUNITY RESIDENCE - A building or group of buildings for up to eight (8) children or adults, not receiving counseling or recovering from drug or alcohol abuse or a psychiatric disorder and not assigned to the home as a condition of parole or probation, who by virtue of their physical or mental needs must reside temporarily in a supervised home. More than eight such residents shall be permitted only as a rehabilitation home.

COMPREHENSIVE PLAN - The adopted plan for Lexington-Fayette County, which serves as a guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. Such plan shall include all elements, whether expressed in words, graphics, or other forms.

COURTYARD - An open area, partially or completely surrounded by buildings, used as outdoor common area, generally paved and/or landscaped, and primarily for private use. This may also be used to meet the open space requirement of the Zoning Ordinance as herein defined.

DEVELOPMENT IMPROVEMENTS - Physical changes made to raw land, and structures placed on or under the land surface, in order to make the land more useable for human activities. Typical development improvements referenced in these regulations are grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewer facilities, utility lines of all types, street name signs, property number signs, trees, etc. As used herein, development improvements may also be referred to as development or improvements.

DIAMOND MESH WIRE - A fencing material typically used in rural areas which, by its strength and construction, is effective in prevention of climbing and in control of animal movement. The term shall also be construed to include fencing commonly referred to as “V” mesh fencing. The term does not include chain link fencing.

DIVISION OF ENGINEERING MANUALS - The Division of Engineering Manuals (also known as the Engineering Manuals, or the Manuals) is a set of seven documents to provide standards for the design, review, construction, and inspection of infrastructure. The Engineering Technical Manuals are Construction Inspection (also known as the Inspection Manual), Geotechnical, Roadway, Sanitary Sewer and Pumping Station, Stormwater, and Structures. In addition to the six Technical Manuals, a Procedures Manual for Infrastructure Development (also known as the Procedures Manual) establishes the responsibilities and procedures to be used by the Lexington-Fayette Urban County Government, the land developer and the project engineer. These Manuals are hereby adopted by the Urban County Government and incorporated into this Zoning Ordinance by reference. From time to time, the Urban County Government may revise, modify, or amend the
Manuals in conformance with the procedure established in the Procedures Manual. When any of the Engineering Manuals are cited by this Zoning Ordinance, the current edition, latest revision, shall be referenced.

DORMITORY - A building containing sleeping rooms operated by a school for academic instruction, or by a business college, technical or trade school, for which admission to residency is limited exclusively to students of such an institution, school or college. Where kitchen facilities or provisions for such are provided, such rooms shall be deemed dwelling units.

DRIVEWAY, FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS - A private paved vehicular access, a maximum of twenty (20) feet in width, or ten (10) feet in width when inside the Infill and Redevelopment Area, extending on the shortest reasonable path through the front yard or side street side yard to the required off-street parking area. All other areas paved for vehicular use within any front or side street side yard shall be considered additional parking and shall be subject to the area limitations and landscaping requirements of this Zoning Ordinance.

DWELLING - A building, or portion thereof, occupied exclusively for residential purposes, not including a mobile home or trailer.

DWELLING, MULTIPLE FAMILY - A building, or portion thereof, occupied exclusively for residential purposes by more than two (2) families or more than two (2) housekeeping units.

DWELLING, SINGLE FAMILY - A building occupied exclusively for residential purposes by one family or one housekeeping unit. Townhouses are included in this definition.

This definition also includes a building occupied by five (5) or more unrelated individuals at any time within five years prior to January 1, 2010, subject to the following:

(a) the occupancy is restricted to six (6) or less unrelated individuals;
(b) the use of the building as a rental dwelling has not been abandoned;
(c) the building shall not be enlarged or expanded beyond the existing square footage as of January 1, 2010:
   1. by more than 25% unless the building has been expanded by 25% or more under a building permit issued on or after January 1, 2005, in which case, then by no more than 5%; or
   2. unless approved by the Board of Adjustment as a conditional use after January 1, 2010.
(d) the limitation on enlargement of the building set forth in (c) above shall not apply in the case of the addition of a second unit in a Two-Family (R-2) zone, provided that both units thereafter conform to the limitation of four unrelated persons per dwelling unit.

DWELLING UNIT - One room or rooms connected together, constituting a separate, independent housekeeping establishment for occupancy by a family as owner, by rental or lease on a weekly, monthly or longer basis; physically separated from any other rooms or dwelling units which may be in the same building, and containing independent kitchen and sleeping facilities.

ELDERLY HOUSING - Multiple family structures containing at least twenty-four (24) units and solely devoted to housing families consisting of two (2) or more persons, of which the head (or his spouse) is sixty-two (62) years of age or over, or is handicapped; and single persons who are sixty-two (62) years of age or over, or are handicapped.
ENGINEER, PROJECT - A person currently licensed to practice engineering in the State of Kentucky and in good standing with the Kentucky Board of Registration for Professional Engineers and Land Surveyors; or a firm in good standing as an Engineering company in Kentucky, if the work is to be accomplished other than as a sole practitioner. Work performed under the supervision or at the direction of the project engineer, including, but not limited to: preparation of plans, inspections, reports, testing, and directives or orders regarding work pursuant to these Subdivision Regulations, shall be considered to be the work of the project engineer. Whenever qualifications are questioned, the Commission will consult with the Bluegrass Chapter of the Kentucky Society of Professional Engineers or the Consulting Engineers Council of Kentucky.

ENGINEER, URBAN COUNTY - The Director of the Lexington-Fayette Urban County Government Division of Engineering.

ENTERTAINMENT, LIVE - Any performance at a restaurant, cocktail lounge, or night club by any person; including, but not limited to, a patron of such establishment if such performance is part of a regularly occurring event. Live entertainment includes, but is not limited to: singing, dancing, musical performance, comedy acts, magic acts, variety acts, or performance contests engaged in by patrons.

ENTRANCE, PRIMARY - Entrance used as the main pedestrian access point of a structure and along the front lot line.

EQUINE HOSPITAL - A veterinary hospital used primarily for the treatment and care of horses, which may include office facilities and the storage of medicinal supplies when accessory to the primary use.

ESTABLISHED GRADE - The finished elevation, at any point, of the ground level at the base of a fence, wall or projection.

EXTENDED-STAY HOTEL - Multiple family dwelling(s) with rental or lease of less than one week, provided such rentals or leases of less than one week shall comprise less than 50% of the total dwelling units within the structure(s).

FAMILY OR HOUSEKEEPING UNIT - A person living alone, or any of the following groups living together and sharing common living and kitchen facilities:
(a) Any number of persons related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship;
(b) Four (4) or fewer unrelated persons;
(c) Two (2) unrelated persons and any children related to either of them or under their care through a duly authorized custodial relationship;
(d) Not more than eight (8) persons who are:
1. Residents of a “home-like” residence, as defined in KRS 216B.450;
2. “Handicapped” as defined in the Fair Housing Act, 42 U.S.C., Section 3602(h). This definition does not include those currently illegally using or addicted to a “controlled substance” as defined in the Controlled Substances Act, 21 U.S.C., Section 802(6).
(e) Not more than six (6) unrelated individuals when in compliance with the provisions of the definitions of “dwelling, single family” or “dwelling, two-family,” as contained in this Article.
(f) A functional family as defined and regulated herein.

FAMILY, FUNCTIONAL - A group of five (5) or more persons, not otherwise meeting the definition of “family,” who desire to live as a stable and permanent single housekeeping unit and who have received a conditional use permit from the Board of Adjustment. “Functional family” does not include:
(a) residents of a boarding or lodging house;
(b) fraternity, sorority or dormitory;
(c) any lodge, combine, federation, coterie or like organization;
(d) any group of individuals whose association is temporary or seasonal in nature;
(e) any group of individuals who are in a group living arrangement as a result of criminal offenses.

FARM PRODUCERS - Any person, persons or legal entities who are actually engaged in the business of producing/growing farm raised products they sell at the market.

FLOOR AREA - The sum of the gross areas of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the centerlines of walls separating two buildings. In particular, floor area includes:
(a) basement space at least seven and one-half (7½) feet in height;
(b) elevator shafts or stairwells at each floor;
(c) penthouses;
(d) attic space (whether or not a floor has been laid) providing structural headroom of seven and one-half (7½) feet or more; interior balconies, mezzanines, hallways, lobbies;
(e) floor space in accessory buildings not used for off-street parking;
(f) laundry rooms, game rooms, or other spaces designed for the common use of the occupants;
(g) any other floor space not specifically excluded.

However, the floor area of a building shall not include:

(a) non-habitable basement space which is less than seven and one-half (7½) feet in height;
(b) elevator or stair bulkheads;
(c) accessory water tanks, or cooling towers;
(d) outside steps that are uncovered;
(e) attic space (whether or not a floor has been laid) providing structural headroom of less than seven and one-half (7½) feet;
(f) mechanical equipment space;
(g) interior space used exclusively as parking space for motor vehicles.

FLOOR AREA, PARKING - The floor area of a structure as defined herein, exclusive of any covered pedestrian area in a mall, less storage and warehouse areas, laundry rooms, game rooms, or other spaces designed for the common use of the occupants, and used principally for non-public purposes of said structure. Any basement or cellar space used for retailing shall be included in the parking floor area for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

FLOOR AREA RATIO - Floor area of buildings on a lot divided by pre-development net ground area of the lot on which it is located.

FRATERNITY OR SORORITY HOUSE - A building used as a living and/or gathering quarters for students of a college, university or seminary (not living in a “dormitory” as defined herein) who are members of a fraternity or sorority that has been or is seeking to be officially recognized by the college, university or seminary; or their guests. In identifying such use, the following factors shall be among those considered, regardless of number of occupants:

(a) signage or other indications that the building is used by a fraternity or sorority;
(b) fraternity- or sorority-sponsored social activities, such as meetings; parties; dances or other gatherings; and
(c) events to which fraternity or sorority alumni or prospective members are invited.

A “Family or Housekeeping Unit” or “Boarding or Lodging House” as defined herein are excluded, unless the use demonstrates specific characteristics of use as set forth above.

GARAGE, COMMUNITY - A structure or structures only for the storage of passenger vehicles or trailers of residents of the neighborhood.

GARAGE, PRIVATE - A space or structure, including a carport, on the same lot with or in the building to which it is accessory, primarily for storage of passenger vehicles of the residents of the premises, with no facilities of a commercial or public nature.

GARDEN CENTER - Establishments used primarily for the sale of live plants, including greenhouses and plant nurseries. When accessory to the sale of plants, the sale of the following items shall be allowed: cut plants, cut trees and wreaths, bulbs and seeds which may have been transported to the premises for the purpose of resale; ground covers; fungicides, insecticides, chemicals, peat moss, humus, mulches and fertilizers; lawn statuary, furniture, bird baths, bird feeders, birdhouses and pottery; pots and containers for plants; artificial flowers; home lawn and garden equipment, including manual and automatic grass cutting devices, grass seeding devices, mulchers, thatchers, tillers, but not including farm tractors and machinery; garden landscape devices, including railroad ties, stepping stones, fencing, edging, trellises, plastic and burlap; hand tools such as sprayers, shovels, dusters, rakes, hoes, and watering devices; firewood; landscape planning and contracting services incidental to the garden center to include contractual services for lawn and garden sprigging, maintenance, fertilizing, spraying and mowing.

GREENWAY - An area defined as a “greenway” in the Comprehensive Plan or other adopted plan.

HAZARDOUS MATERIALS - Any chemical, biological or radiological compound, gas, oil, gasoline, lubricant or other petroleum products, substances, solution or mixture which, because of
its quality; quantity; concentration; physical or infectious characteristics; or any combination thereof, when released into the environment, presents or may present harmful or potentially harmful effects to human health or welfare or the environment.

HEIGHT OF BUILDING - The vertical distance from the established grade in front of the lot or from the average natural grade at the base of the front building wall, if higher, to the average height of the top of the cornice of flat roofs, or roof line or to the deck line of a mansard roof, or to the middle height of the highest gable or dormer in a pitched or hipped roof; or if there are no gables or dormers, to the middle height of such pitched or hipped roof. See Article 15 for general height regulations.

HEIGHT-TO-YARD RATIO - Height of building as related to minimum rear and each side yard permitted; i.e., for 2:1 ratio, a 40-foot building must have a minimum rear and each side yard of twenty (20) feet.

HELIPORT - A facility used exclusively for helicopter operations, including landing; takeoff; loading; discharging; fueling; maintenance; and/or transient storage of helicopters.

HELISTOP - A facility used exclusively for helicopter landing, take-off, loading, discharging, and/or transient storage of helicopters; but not including facilities for maintenance, fueling or long-term storage of helicopters.

HISTORIC DISTRICT, LOCAL - A designation that carries with it a design review process, within the purview of the Board of Architectural Review, that is based on specific design guidelines for exterior work and changes to the property. Properties that are within a Local Historic District carry an H-1 overlay zone in addition to the underlying zoning category.

HISTORIC DISTRICT, NATIONAL REGISTER - A federal designation, awarded by the Department of the Interior, which provides recognition of a property’s archaeological, architectural or historical significance.

HISTORIC HOUSE MUSEUM - A building currently or formerly used as a residence, having public significance by reason of its architecture or former use or occupancy; designed for preserving and exhibiting artistic, historical, scientific, natural or man-made objects of interest. This use may also include, as an accessory use, the sale of objects collected and memorabilia; the sale of crafts and artwork; and the holding of meetings and social events.

HOME OCCUPATION - A gainful occupation or profession carried on in a residence, such as the studio of an artist or sculptor; dressmaking and tailoring; upholstery; handicrafts; tutoring; individual musical instruction (provided no instrument is amplified); and professional services, provided such home occupation is performed under the following conditions:

(1) The use is clearly incidental and secondary to use for dwelling purposes and occupies no more than twenty-five percent (25%) or three hundred (300) square feet of the dwelling, whichever is less;
(2) The use is conducted entirely within a dwelling and not in any accessory building;
(3) The use is carried on only by residents of the dwelling;
(4) No commodities are sold or stored, except as are produced by the residents on the premises;
(5) The use does not require external alteration of the dwelling;
(6) The use does not adversely affect the uses permitted in the immediate neighborhood by excessive traffic generation or noise;
(7) No outside signage shall be permitted on the premises;
(8) No additional blacktop, concrete or gravel parking shall be permitted beyond that normally provided in comparable neighborhood homes.

Home occupation shall not include barber shops, beauty parlors, offices for escort services, massage parlors, automobile and small engine repair, medical or dental office, photo studios, palm reading or fortune telling, home cooking and catering; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

HOME OFFICE - An office for record keeping and administration of work. Such office shall be subject to the following conditions:

(1) The office shall be clearly incidental and secondary to the use for dwelling purposes with no more than twenty-five percent (25%), nor more than five hundred (500) square feet, in any case, of the dwelling devoted to the office use;
(2) The office shall be located in the dwelling unit and not in any accessory building;
(3) The office shall be operated by and shall employ only residents of the dwelling unit;
(4) No sale of merchandise shall be conducted on the property;
(5) No commodities or merchandise shall be stored on the property and no storage, as defined herein, shall be permitted;
(6) No sign of any kind shall be displayed on the property that identifies the home office use;
(7) No visits to the home office by customers, clients, patrons and the general public are allowable;
(8) The residence shall maintain its residential character and shall not be altered or remodeled so as to change the residential appearance of the building.

Home office shall not include offices for escort services.

HOSPITALITY HOUSE - A multi-family residence or boarding facility operated strictly on a non-profit basis, by a non-profit organization and utilized solely for the provision of temporary lodging for the immediate family and/or legal guardians of an individual undergoing treatment within a local hospital.

HOTEL - A building or group of buildings containing individual sleeping or living units, designed for the temporary occupancy of transient guests; and including hotels, tourist courts, motor lodges, motor hotels or auto courts, but not including boarding or lodging houses.

INFILL AND REDEVELOPMENT AREAS - Areas located within the Urban Service Area of Lexington-Fayette County, generally characterized by lots that were established prior to 1934. Excluded from these areas are lots that are located in an identified National Register Historic District where average residential lot sizes are greater than 9,500 square feet, and as more particularly described in the adopted Comprehensive Plan map of the Infill and Redevelopment areas.

INFRASTRUCTURE DEVELOPMENT AGREEMENT - An agreement for a project in which infrastructure improvements are proposed to be constructed among the LFUCG, the developer, and the project engineer, which specifies the obligations and requirements of the parties. The Infrastructure Development Agreement shall be in a form and contain the requirements set forth in the Procedures Manual.

JUNK YARD - An outdoor area where waste or discarded or salvaged materials or inoperable vehicles are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including auto wrecking yards, used lumber yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment; but excluding such uses when conducted entirely within a completely enclosed building. A junk yard does not include recycling drop-off centers, pawn shops, establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment; the processing of used, discarded or salvaged materials as part of manufacturing operations; and vehicle storage yards.

KENNEL - Commercial business for the sale or temporary boarding of more than three (3) dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence.

KITCHEN FACILITIES - Equipment arranged in a room or some other space in a structure which facilitates the preparation of food, including, but not limited to, a combination of two or more of the following -- a range, microwave oven, dishwasher, kitchen sink, or refrigerator.

LIGHTING CUTOFF - Any shielding that conceals the source of lighting visible from the property lines of a site.

LOT - A parcel of land of at least sufficient size to meet the minimum zone requirements for use, coverage and area, and to provide such yards and open spaces as required under this Zoning Ordinance.

LOT AREA - The amount of surface land contained within the property lines of a lot, including land within easements on the lot, but excluding any land within street right-of-way.

LOT, CORNER - A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street; and where, in either case, the interior angle formed by intersection of the street lines does not exceed one hundred thirty-five (135) degrees.
LOT COVERAGE - The computed ground area occupied by all buildings within a lot.

LOT DEPTH - The mean horizontal distance between the front and rear lot lines.

LOT FRONTAGE - The distance between the side lot lines measured along the front building line of the lot, as determined by the prescribed front yard requirement of the zone in which the lot is located, or as designated by the final record plat, whichever is greater.

LOT LINES - The property lines bounding the lot.

LOT LINE, FRONT - In the case of a lot abutting upon only one street or alley, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this Zoning Ordinance, have the privilege of electing any street lot line as the front lot line, provided that such choice, in the opinion of the Division of Building Inspection, will not be injurious to the existing, or to the desirable future development of adjacent properties.

LOT LINE, REAR - Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or gore-shaped lot, a line ten (10) feet in length entirely within the lot, parallel to and most distant from the front lot line shall, for the purpose of this Ordinance, be considered the rear lot line. In other cases not covered herein, the Division of Building Inspection shall designate the rear lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT LINE, STREET OR ALLEY - A lot line separating the lot from a street or alley.

LOT WIDTH - The mean horizontal distance across the lot, measured at right angles to the depth.

MAIL ORDER BUSINESS - A business engaged in the sale of manufactured products, goods, merchandise and finished products primarily through means of mail or telephone orders, including the administrative offices of such business.

MASSAGE PARLOR - An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment is administered by a medical practitioner; chiropractor; acupuncturist; physical therapist or similar professional person licensed by the Commonwealth of Kentucky or another state. This definition does not include an athletic club facility, health club, school, gymnasium, reducing salon or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

MICRO-BREWERY - A facility within a completely enclosed building which is intended for the production of up to 25,000 barrels per year of malt beverages, under the terms and conditions specified by KRS 243.157, KRS 243.150, and other applicable laws.

MINING - Underground excavation made into the earth from which to extract materials produced for sale, exchange or commercial use.

MIXED-INCOME HOUSING UNIT - A dwelling unit provided for sale to an owner-occupant household with an income that does not exceed 100% of median income (adjusted for family size), or for rent to a household with an income that does not exceed 80% of the median income (adjusted for family size) for Lexington-Fayette County. A unit shall be deemed a mixed-income housing unit for an owner-occupant if the total amount of principal, interest, taxes and insurance does not exceed 36% of the household’s income; and a unit shall be deemed affordable to a rental household if the total rent, including any tenant-paid utilities, does not exceed 30% of the household’s income. In the alternative, a fixed price may be set for a mixed-income housing unit for sale to an owner-occupant if the total principal and interest (for a 30-year mortgage) does not exceed 30% of the total household income for a family of four at 80% of the median income for Lexington-Fayette County; also, if the unit is for rent, then the maximum monthly rent may not exceed 1% of a household income that is at 80% of the median income for Lexington-Fayette County.

MOBILE HOME - Any factory-built structure, with or without a permanent foundation, as defined in KRS 227.550, which is designed and constructed on a permanent chassis to permit occupancy for dwelling or sleeping purposes, either permanent or temporary, when connected to the required utilities; and includes the plumbing, heating, air-conditioning and electrical systems contained therein. These are also known as “manufactured
homes,” which are regulated by the federal government and the State Fire Marshall, and are required to carry only a “HUD” seal applied by the manufacturer.

**MOTEL** - A building or group of buildings, containing individual sleeping or living units, designed for the temporary occupancy of transient guests and including hotels; tourist courts; motor lodges; motor hotels or auto courts; but not including boarding or lodging houses.

**NEIGHBORHOOD DESIGN OVERLAY ZONE** - An overlay zone, applied in addition to the underlying zoning category, whereby key characteristics of a particular neighborhood or area are preserved for either new building (infill) construction or replacement of existing structures.

**NURSING HOME** - A facility for which four (4) or more persons may be admitted for periods exceeding twenty-four (24) hours to receive treatment and/or medication for bodily illness, including convalescence from illness.

**OPEN SPACE, USEABLE** - Outdoor area of a lot or tract which is designated and used for outdoor living, recreation, pedestrian access or planting. Such areas may be ground or roof space seventy-five percent (75%) open to the sky, balconies a minimum of five (5) feet wide, an enclosed deck, porch, or ground floor portions of a building constructed on columns. Off-street parking and loading areas, driveways, vehicular use area perimeter landscaping and interior landscaping, unenclosed fire escapes, or required front and side street side yard areas do not qualify as useable open space; provided, however, that those portions of the required side street side yard may qualify as useable open space, as long as such open space is separated from the street right-of-way by a fence or solid screen planting.

**PARKING LOT, AREA, OR STRUCTURE** - An area not within a building for temporary (less than 24-hour) off-street parking, loading or unloading of vehicles, whether required or permitted by this Zoning Ordinance, including driveways, access ways, aisles, and maneuvering areas; but not including a loading dock or any public or private street right-of-way.

**PASSENGER TRANSPORTATION TERMINAL** - A facility used by one or more bus companies in providing inter-city transportation of passengers and goods; including, but not limited to, vehicle storage and maintenance, continuous use by multiple buses, and services for bus transients, such as food, restrooms, and waiting areas, as well as activities permitted as a bus agency.

**PAWNSHOP** - Any establishment which loans money on deposit of personal property, or which deals in the purchase of personal property on condition of selling the property back again at a stipulated price; or which makes a public display at its place of business of the sign generally used by pawnbrokers to denote their business; or which publicly exhibits a sign advertising money to loan on personal property for deposit.

**PERMEABLE PAVING MATERIALS** - Paving materials that permit the movement of water under ordinary hydrostatic pressure. This does not include gravel or loose aggregate.

**PERSONAL SERVICE OR PERSONAL SERVICE ESTABLISHMENT** - Commercial business providing services to individuals, such as beauty and barber shops, shoe repair, dressmaking and tailoring.

**PLANT NURSERY** - An establishment engaged in the outdoor cultivation of only trees and shrubs for transplanting. A greenhouse may be an accessory structure when used to propagate and prepare the trees or plants for planting on the premises.

**PLAZA** - A public square or extra wide sidewalk (e.g., on a street corner) that allows for special events, outdoor seating, sidewalk sales, and similar pedestrian activities (similar to a courtyard; however, primarily for public, as opposed to private, use).

**POOL OR BILLIARD HALL** - Any establishment which has, as part of its operation, three (3) or more pool or billiard tables on the premises.

**PRINCIPAL STRUCTURE** - A building in which is conducted a principal or conditional use. In any residential zone, any structure containing a dwelling unit shall be deemed a principal structure on the lot on which the same is located. Where a non-conforming use is the primary use on the property, the building in which it is located shall be deemed a principal structure.

**QUARRYING** - Surface excavation for the extraction of any non-metallic mineral, excluding coal, which is produced for sale, exchange, or commercial use.
RECYCLING DROP-OFF CENTER - A facility for the collection of waste paper, rags, scrap metal, or other discarded material; not to include used furniture and household equipment, used cars or used lumber.

REHABILITATION HOME - A building or group of buildings providing a supervised residence for persons recovering from the effects of drug or alcohol abuse, psychiatric disorders, or as a condition of their parole or probation. Such homes may provide counseling in educational, vocational, or other areas by a paid or volunteer staff and generally have 24-hour-a-day supervision. This definition does not apply to uses regulated by KRS 100.982.

RESIDENTIAL INFILL - Construction of new residential building(s) on vacant or by-passed land within the Urban Service Area.

RESTAURANT - An eating establishment where food is served and/or consumed primarily within the building and where consumption of food in motor vehicles on the premises is not encouraged.

Note: A restaurant may only include drive-through facilities (where food is served to patrons while in their motor vehicles through a window or other facilities and consumption on the premises in motor vehicles is not encouraged) as permitted and regulated in the zone in which the restaurant is located.

RESTAURANT, DRIVE-IN - An eating establishment where food is served by employees or by self-service outside the building and consumed on the premises principally in a motor vehicle.

RETAIL SALES ESTABLISHMENT - A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

RETAIL SALES ESTABLISHMENT, BULK MERCHANDISE - A retail establishment engaged in selling goods or merchandise to the general public, as well as to other retailers, contractors or businesses rendering services incidental to the sale of such goods. Bulk retail involves a high volume of sales of related and/or unrelated products in a warehouse setting and may include membership warehouse clubs. Bulk retail is differentiated from general retail by the following characteristics: items for sale include large, categorized products (e.g., lumber, appliances, household furnishings, electrical and heating fixtures and supplies, wholesale and retail nursery stock) and may also include a variety of carryout goods (e.g., groceries, household and personal care products).

ROADSIDE STAND - A temporary structure designed or used for the display or sale of agricultural products grown on the premises upon which such a stand is located.

SATELLITE DISH ANTENNA - An accessory structure, consisting of a parabolic-shaped antenna structure used to receive television signals from satellites or other objects in terrestrial orbit.

SATELLITE DISH ANTENNA, GROUND-MOUNTED - A satellite dish antenna mounted and anchored at grade so that the distance from the highest edge of the dish to the existing grade does not exceed twelve (12) feet.

SATELLITE DISH ANTENNA, POLE-MOUNTED - A satellite dish antenna mounted and anchored to the ground by a pole so that the distance from the highest edge of the dish to the existing grade exceeds twelve (12) feet.

SATELLITE DISH ANTENNA, ROOF-MOUNTED - A satellite dish antenna mounted directly upon the roof of a structure and not attached to any appurtenance such as a chimney, tower, or spire.

SCHOOLS FOR ACADEMIC INSTRUCTION - All schools offering primarily classroom instruction with participation of teachers and students, limited to elementary, junior and middle high schools, high schools, junior colleges, colleges, theological seminaries, bible colleges, and universities; but not including business colleges, technical or trade schools.

SEXUAL ENTERTAINMENT CENTER - An establishment, not otherwise specifically defined in this Article, which makes available material, services, or entertainment appealing to adult sexual interests, including, but not limited to a bath house; swingers’ club; or similar establishment if the establishment or its entertainment, services, or goods are advertised by or on behalf of the establishment in a manner patently designed to appeal to such adult sexual interests.
SPECIFIED ANATOMICAL AREAS -
(1) Less than completely and opaquely covered:
   (a) Human genitals;
   (b) Pubic region;
   (c) Buttocks;
   (d) Female breast below a point immediately above the top of the areola;
(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES -
(1) Human genitals in a state of sexual stimulation or arousal;
(2) Acts of human masturbation, sexual intercourse, sodomy, oral sex, real or simulated, fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts, or sexual contact between humans and animals.

STOCKYARD - An establishment or facility commonly known as stockyards; conducted, operated or managed for profit or non profit as a public market for livestock producers, feeders, market agencies and buyers; consisting of pens or other enclosures and their appurtenances, in which live cattle, sheep, swine, horses, mules, goats or other farm animals are received, held or kept for sale or shipment in commerce.

STORAGE - The keeping, either indoors or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession. Storage does not include the overnight parking in residential zones of a single vehicle with no more than two (2) axles weighing no more than three (3) tons which, although used primarily for business, trade or professional purposes, also provides daily transportation to and from work.

STORY - That portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there be no floor above it, then the space between the floor and ceiling next above it.

STREET - Any vehicular way -- a general term used to describe right-of-way, which provides a channel for vehicular and pedestrian movement between certain points in the community, which may provide for vehicular and pedestrian access to properties adjacent to it, and which may also provide space for the location of under- or above-ground utilities. Streets are classified by function as follows:

EXPRESSWAYS - Hold the first rank in the classification of streets, and are used only for movement of vehicles, providing for no vehicular or pedestrian access to adjoining properties; interchange of traffic between an expressway and other streets is accomplished by grade separated interchanges with merging deceleration and acceleration lanes, and no at-grade intersections are permitted. Expressways generally carry higher volumes, require greater right-of-way width, and permit higher speed limits than any other class of street, and should be depressed in urban or urbanizing areas. Arterials are the only class of street which generally should be connected with expressways at interchange points.

ARTERIALS - Hold the second rank in the classification, and should be used only for the movement of vehicles, and preferably should not provide for vehicular access to adjacent properties. Interruption of traffic flow should be permitted only at street intersections, which should contain medians, deceleration lanes, and left turn storage lanes. Arterials are the link between expressways and collectors, and rank next to expressways in traffic volume, speed limit, and right-of-way width.

COLLECTORS/CONNECTORS - Hold the third rank in the classification of streets, and are used both for movement of vehicles and for providing access to adjacent properties. Access to adjoining properties should be planned and controlled so that minimum disturbance is made to the traffic moving efficiency of the collector/connector street. Intersections should contain medians, deceleration lanes, and left turn storage lanes. Collectors/Connectors are the link between arterials and local streets. Collectors/Connectors generally rank next to arterials in traffic volume, speed limit, and right-of-way width.

LOCALS - Hold the fourth rank in the classification of streets, and are used primarily for providing access to adjacent properties. Vehicles moving on these streets should have an origin or destination in the immediate vicinity, and all types of through traffic should be eliminated through initial design of its connections with other streets. Local streets are the primary link between trip generation points (homes, offices,
stores, work) and collector streets. Locals have the least right-of-way, the lowest speed limit, and the least amount of vehicular traffic. Local streets can be subdivided further into the following sub-classes:

CONTINUING STREETS - Are local streets having two open ends; each end generally connects with different streets; one or more other street may intersect it between its two open ends, and property fronts on both sides of the streets.

SERVICE ROADS - Are local streets which are parallel to a street with a higher classification on one side and are parallel to properties requiring access on the other side. A service road generally has two or more open ends, connecting at intersections with streets that run perpendicular to the service road and its adjacent street of higher classification. In this way, a service road provides an access route to properties adjacent to higher classification streets; while, at the same time, reducing the number of access points from these properties onto the higher classification street. Generally, in a given block, one or no access points are provided directly to the higher classification streets, but multiple access points are provided to the adjacent properties.

LOOP STREETS - Are local streets having two open ends; each end generally connects with the same street; no other streets generally intersect between its two ends, and property fronts on both sides of the street.

CLOSE STREETS - Close streets are one-way local streets forming a “U” shape and having two open ends; each end generally connects with the same street. Property fronts on the outside of the “U,” but the interior of the “U” should be natural or landscaped open space. This interior area should generally be between fifty (50) and one hundred (100) feet wide. The close street is a neo-traditional street design used as an alternative to cul-de-sacs in areas where it is difficult to provide a through street.

CUL-DE-SAC STREETS - Are local streets having only one open end providing access to another street; the closed end provides a turnaround circle for vehicles; no other street generally intersects between the two ends, and property fronts on both sides of the street.

DEAD-END STREETS - Are similar to cul-de-sacs, except that they provide no turnaround circle at their closed end and are not permitted as streets in any proposed subdivision. Stub streets planned for future connection are not considered to be dead-end streets.

ALLEYS - Alleys generally have two open ends; each end connects with different streets, and property generally backs onto both sides of the alley. Special permission from the Commission is required whenever alleys are used.

RURAL ROADS - Rural roads are local streets providing access to properties in the Rural Service Area, as well as providing for movement between certain points in the community. A rural roadway includes a right-of-way, the street pavement, and may include paved shoulders and drainage ditches.

STRUCTURE - Anything constructed, the use of which requires permanent location on the ground, or attached to something having permanent location on the ground.

TENANT HOME - An accessory residence, located in an agricultural zone, occupied by a person other than the owner's family or the farm manager, engaged full-time in an agricultural use on the property.

TOPSOIL - The surface layer and its underlying materials that have properties capable of producing desirable reclamation and vegetation.

TOWNHOUSE - A single family attached dwelling, each dwelling designed and erected as a unit, separated from one another by a common wall, and capable of being subdivided into separate lots.

TRAILER - Any portable structure having no foundation other than wheels, jacks, or skirtings; or any vehicle so designed or constructed as to permit: (1) temporary occupancy for dwelling or sleeping purposes; (2) the conduct of any business, trade, occupation, profession, or use as a selling or advertising device; or (3) the transportation of personal property; and including automobile trailers, campers, and
tourist trailers, but not including a mobile home.

TRANSFER STATION - A facility, as defined in KRS 224.01(010), for the compacting and reloading of solid waste as defined in KRS 109.012(9) prior to its transportation to a permanent disposal site.

TRUCK TERMINAL - Land and buildings used as a relay station for the transfer of freight from one truck to another, or for the parking or storage of semi-trailers for longer than 24 hours, including tractor and/or trailer units. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. A truck terminal may include areas for the washing or repair of trucks associated with the terminal, but does not include an establishment solely for the display, rental, sale and minor repair of trucks.

VEHICLE STORAGE YARD - A place where vehicles which bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles, a parking lot, truck terminal, automobile wrecking, or junk yards.

WALL PLANE, PRIMARY - A building wall or façade that faces the public right-of-way or street that provides the lot frontage. On through lots, corner lots or lots with multiple frontage on public rights-of-way, only one such wall plane shall be required.

WALL PLANE, REAR - A building wall or façade that is ordinarily opposite to the primary wall plane.

WALL PLANE, SIDE - A building wall or façade on the side of a structure, other than the primary or rear wall plane.

WHOLESALE ESTABLISHMENT - An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, institutional or professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WHOLESALE ESTABLISHMENT WITH WAREHOUSE - The display, storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment, including truck terminal or bus servicing facilities; motor freight transportation; moving and storage facilities; warehousing and storage activities.

WOODLOT, COMMERCIAL - Premises, or portions thereof, used for seasoning and storage of firewood and for cutting and splitting of timber to produce firewood for later resale (excluding sawmills, planing mills).

YARD, FRONT - An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as herein specified. The depth of a front yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts herein excepted, and the front lot line.

YARD, REAR - An open space extending the full width of a lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as herein specified. The depth of a rear yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts herein excepted, and the rear lot line.

YARD, SIDE - An open space between a building and a side lot line, unoccupied and unobstructed from the ground upward, except as herein specified. The width of a side yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts herein excepted, and the nearest side lot line.

YARD, SIDE STREET SIDE - A yard abutting the side street of a corner lot, unoccupied and unobstructed from the ground upward, except as herein specified, and extending from the front yard line to the rear lot line, and being the least distance between the lot line abutting the side street and the building.

ZONE - A portion of the territory within Lexington-Fayette Urban County within which certain regulations and requirements apply under the provisions of this Zoning Ordinance.


ZONE, BUSINESS - B-1, B-2, B-2A, B-2B, B-3, B-4, B-5P or B-6P zone.
ZONE, INDUSTRIAL - An I-1 or I-2 zone.

ZONE, MIXED-USE - An MU-1, MU-2 or MU-3 zone.

ZONE, RESIDENTIAL - An R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3, R-4, R-5 or PUD-1 zone.
ARTICLE 2

ZONING MAP ATLAS

2-1 ZONING MAP ATLAS - The Lexington-Fayette Urban County is hereby divided into zones as provided herein and as shown on the Zoning Map Atlas dated September 1969, as amended from time to time and recompiled as of the date of passage of this Ordinance, which together with all explanatory matter thereon, is hereby readopted by reference and declared to be a part of this Zoning Ordinance. Said Zoning Map Atlas is composed of a series of map sheets, each of which represents a different geographical area of the Urban County. Each map sheet shall be identified as part of the Zoning Map Atlas. The Zoning Map Atlas shall be the official record of zoning status of all land in the Urban County, shall be kept on file in the office of the Division of Planning and shall be known herein as the "Zoning Map."

2-2 ZONING MAP ATLAS AMENDMENTS - Amendments to the Zoning Map Atlas changing the zoning status of an area made by ordinance of the Lexington-Fayette Urban County Council, after the effective date of said ordinance or resolution, shall be promptly posted on the appropriate map sheet of the Zoning Map Atlas by the Division of Planning. Each amendment shall be identified on the map by a numerical designation referring to the Commission record of the amendment proceeding.

2-3 REPLACEMENT OF ZONING MAP ATLAS - A complete and accurate copy of the Zoning Map Atlas shall be filed in the office of the Division of Building Inspection. In the event of the damage, destruction, loss or other casualty to all or any part of the Zoning Map Atlas on file in the office of the Division of Planning, the copy, or appropriate part thereof, on file in the office of the Division of Building Inspection as provided herein shall become the official Zoning Map Atlas or part thereof, and shall be filed in the office of the Division of Planning.

2-4 RULES FOR INTERPRETATION OF ZONE DISTRICT BOUNDARIES - Where uncertainty exists as to the boundaries of zones as shown on the Zoning Map Atlas, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.

(c) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(d) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

(e) Boundaries indicated as parallel to the features indicated in Sections 2-4(a) through 2-4(d) shall be construed as parallel to such features. Boundaries indicated as an extension of the features indicated in Sections 2-4(a) through 2-4(d) shall be construed as an extension of such features.

(f) Distances not specifically indicated on the Zoning Map Atlas shall be determined by the scale of the map.

(g) Where the zone boundary in question is the result of a map amendment request, the plat and legal descriptions filed in conjunction with the map amendment request, as approved by the Urban County Council, shall be deemed the official boundaries of the zone.

(h) Where the above stated rules do not indicate the exact location of the zone boundaries, then said boundaries shall be determined by appeal before the Board of Adjustment as provided by Article 7 herein.

2-5 SPLIT-ZONED LOTS - Where a zone boundary line divides a lot which was in a single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the zone line into the remaining portion of the lot.
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ARTICLE 3

GENERAL ZONE REGULATIONS

3-1 APPLICATION OF ZONE REGULATIONS - The regulations set by this Zoning Ordinance within each zone shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

(a) No building, structure, or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the zone in which it is located unless otherwise specifically permitted in this Zoning Ordinance.

(b) No building or other structure shall hereafter be erected or altered:
   (1) to exceed the height, bulk or floor area ratio;
   (2) to accommodate or house a greater number of families;
   (3) to occupy a greater percentage of lot area;
   (4) to have narrower or smaller rear yards, front yards, side yards, or other open spaces; or
   (5) to have less perimeter and interior lot landscaping for vehicular use area and non-compatible land uses than herein required, or in any other manner be contrary to the provisions of this Zoning Ordinance.

(c) No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land, for the purpose of complying with this Zoning Ordinance, shall be included as part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted in this Zoning Ordinance.

(d) No yard or lot existing at the time of adoption of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.

(e) There shall be no more than one principal structure and its accessory structures on any lot or parcel of land in an agricultural zone or in any residential zone, unless otherwise specifically permitted as a Group Residential Project or a Planned Unit Development in this Zoning Ordinance. In all other zones, more than one principal building shall be permitted only if a development plan is approved by the Commission, as provided by Article 21.

(f) Only those uses specifically named as principal, accessory, or conditional uses or substantially similar to principal, accessory or conditional uses are permitted in each zone. All uses not specifically permitted or substantially similar to permitted uses are prohibited. Prohibited uses shall include, but not be limited to, those specifically named as prohibited.

3-2 CONVERSION OF STRUCTURES - The conversion of any structure or structures, either residential or non-residential, so as to accommodate an increased number of dwelling units or families, or another permitted use, shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this Zoning Ordinance. The resulting occupancy shall comply with all requirements governing new construction in such zone, including, but not limited to, floor area; floor area ratios; dimension of yards; open spaces; and off-street parking. The aforesaid requirements with respect to yards shall not apply if the conversion involves no exterior structural changes to a principal building, but shall apply if an accessory building is converted to a principal building.

3-3 SIGHT TRIANGLES FOR TRAFFIC VISIBILITY - Except as permitted herein, in any zone, at any street intersection, railroad crossing, or any driveway intersection, no fence, structure or planting, other than ground cover, shall be erected or installed within the sight distance triangle as shown in the table and the illustrations below.
### SIGHT TRIANGLES AT INTERSECTIONS

#### SIGHT TRIANGLES AT RAILROAD CROSSINGS

<table>
<thead>
<tr>
<th>Public or Private Street</th>
<th>Driveway</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Major</strong></td>
<td></td>
</tr>
<tr>
<td>Arterial</td>
<td></td>
</tr>
<tr>
<td>L = 325'</td>
<td>L = 150'</td>
</tr>
<tr>
<td>R = 150'</td>
<td>R = 150'</td>
</tr>
<tr>
<td>M = 15'</td>
<td>M = 15'</td>
</tr>
<tr>
<td><strong>Minor</strong></td>
<td></td>
</tr>
<tr>
<td>Arterial</td>
<td></td>
</tr>
<tr>
<td>L = 325'</td>
<td>L = 275'</td>
</tr>
<tr>
<td>R = 150'</td>
<td>R = 150'</td>
</tr>
<tr>
<td>M = 15'</td>
<td>M = 15'</td>
</tr>
<tr>
<td>Collector</td>
<td>Non-Residential</td>
</tr>
<tr>
<td>L = 200'</td>
<td>L = 150'</td>
</tr>
<tr>
<td>R = 150'</td>
<td>R = 150'</td>
</tr>
<tr>
<td>M = 15'</td>
<td>M = 15'</td>
</tr>
</tbody>
</table>

#### APPROACH

<table>
<thead>
<tr>
<th>Private or Public Street</th>
<th>Private or Any Type of Private Drive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Railroad</td>
<td>D = 725'</td>
</tr>
<tr>
<td>Approach</td>
<td>D = 325'</td>
</tr>
<tr>
<td>M = 35'</td>
<td>D = 25'</td>
</tr>
<tr>
<td>L = 8'</td>
<td>L = 6'</td>
</tr>
<tr>
<td>Where <strong>D</strong>' =</td>
<td>Distance along rail</td>
</tr>
<tr>
<td>Where <strong>M</strong>' =</td>
<td>Distance from rail</td>
</tr>
<tr>
<td>Where <strong>L</strong>' =</td>
<td>Distance from edge</td>
</tr>
<tr>
<td></td>
<td>of pavement</td>
</tr>
</tbody>
</table>

- **1** The table assumes right angle intersections and straight major approach movements within the sight distance. Situations involving skewed intersections, curvilinear streets and other mitigating factors shall have sight distances, as determined by the Urban County Traffic Engineer.

- **2** In the B-2, B-2A, and B-2B zones, the sight triangle may be modified at signalized intersections, as determined by the Urban County Traffic Engineer.

- **3** Wire or chain link fences may be located within the sight triangle when approved by the Division of Traffic Engineering and the Division of Building Inspection upon a finding that visibility would not be impaired.

3-4 **AGRICULTURAL LAND USE EXEMPTIONS** - Notwithstanding any other provision of this Zoning Ordinance, land which is used solely for agricultural use, as defined herein, shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, or location requirements for agricultural buildings, except that a setback line of thirty feet shall be required for agricultural buildings for the protection of existing and proposed streets and highways; and that all buildings or structures in a designated floodway or floodplain, or which tend to increase flood heights or obstruct the flow of flood waters, may be fully regulated.

3-5 **FALLOUT SHELTERS** - Fallout shelters, as defined by this Ordinance, shall be permitted as principal or accessory uses in all zones subject to applicable yard, height, area, and other regulations for principal or accessory structures for the zone in which such shelter is located.

3-6 **MIXED-INCOME HOUSING BONUSES** - Units that are designated as Mixed-Income Housing Units in order to receive either additional density, parking reductions or additional floor area shall be restricted by the developer exclusively to mixed-income housing for a minimum period of 5 years. Further, such units shall be identified separately in the Certificate of Land Use Restriction filed for the development.
where the units are located; and such units shall be subject to a deed restriction in favor of the Lexington-Fayette Urban County Government, which shall restrict the use of the property and shall establish monitoring procedures to ensure that the units remain affordable during the period. Affordable housing units within the defined Expansion Area shall be subject to Article 23A(2)(w).

3-7 GENERAL REGULATIONS FOR CEMETERY PROTECTION - Existing private family cemeteries shall be permitted to remain in all zones. Upon the filing of a development plan or subdivision plan, a private family cemetery shall be preserved and protected in its existing location or relocated within Fayette County unless specifically requested by family or other heirs, and shall be regulated as follows:

(a) Disinterment and relocation of graves shall be accomplished in accordance with all applicable local and state requirements and with the knowledge and approval of the Kentucky Office of Vital Statistics.

(b) Preservation and protection of a cemetery, either left in place or once relocated, shall be subject to the following requirements:

(1) No construction or disturbance of any kind shall occur within fifty (50) feet of a cemetery boundary, regardless of property lines or ownership, except as provided herein (fence, wall, access easement or landscaping).

(2) Screening and landscaping shall be provided as stated in Article 18-3(a)(1). If a cemetery is located on a larger tract of property, then screening shall be located adjacent to the cemetery fence inside the 50-foot buffer area.

(3) When a cemetery is identified on land proposed for development, the cemetery boundary shall be established based on historic records, fence lines, gravesite locations or other criteria, as determined by a certified archeologist, prior to any construction or disturbance.

(4) A cemetery boundary study performed by a certified archeologist shall be submitted with any development plan, preliminary subdivision plan, and minor or major subdivision plat for land with identified cemeteries or burial grounds. Such study shall include a map that portrays the location and orientation of graves within the cemetery and the associated geographic coordinates, and a written description of field and archival methods used to document the cemetery.

(5) Any existing cemetery fence, wall and/or gate on the subject property shall be maintained and repaired prior to any site work or disturbance on any surrounding property. Where none exists, a new permanent fence shall be erected prior to any site work or disturbance on the subject property. Such fence shall be constructed of durable and weather-resistant materials (i.e., brick, stone, iron and/or steel).

(6) A statement of maintenance and permanent ownership shall be made on any development plan.

(7) Access shall be provided to the cemetery with a minimum 10-foot-wide access easement.
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NON-CONFORMING USES, STRUCTURES AND LOTS

4-1 DEFINITIONS - The following categories of non-conformity are hereby established and defined:

4-1(a) NON-CONFORMING USES - Uses of land or structures that were lawful prior to the adoption or amendment of this Zoning Ordinance but would be prohibited, regulated or restricted under this Zoning Ordinance in the zone in which they are located. Included in this definition are uses that would be otherwise permitted in the zone by this Zoning Ordinance, but do not meet the requirements associated with such uses, e.g., parking, open space, and the like.

4-1(b) NON-CONFORMING STRUCTURES - Structures that were lawful prior to adoption or amendment of this Zoning Ordinance but do not conform with the yard, coverage, height or other structural restrictions; including applicable Infill & Redevelopment Area regulations of this Zoning Ordinance for the zone in which the structure is located.

4-1(c) NON-CONFORMING LOTS - Lots of record at the time of adoption or amendment of this Zoning Ordinance that do not meet the minimum lot square footage and/or frontage requirements prescribed for the zone in which the lot is located. Non-conforming lots do not include those within the defined Infill and Redevelopment areas that may be smaller than the required lot size of the zone, provided these lots meet the requirements of the “small lot” provisions contained in each residential zoning category.

4-2 INTENT - It is the intent of this Zoning Ordinance to permit the non-conformities established in Article 4-1 to continue until they are removed, but not to encourage their survival. It is also intended that non-conformities shall not be enlarged or extended beyond the scope and area of their operation at the time of the adoption or amendment of this Ordinance, nor to be used as grounds for adding additional structures or uses not permitted in the same zone. Non-conforming uses are those that are incompatible with permitted uses in the zones in which they are located.

4-3 REGULATION OF NON-CONFORMING USES - A non-conforming use shall be permitted to continue as long as it remains otherwise lawful and shall be regulated as follows:

(a) No non-conforming use shall be enlarged or extended; nor may the building it occupies be enlarged, extended or rebuilt so as to occupy a greater area of land than was occupied at the date of the adoption or amendment of this Zoning Ordinance. In addition, it may not be altered in any way that would extend or enlarge either the scope or the area of its operation.

(b) No non-conforming use shall be moved, in whole or in part, to a new location in the lot or parcel except by appeal to the Board of Adjustment under Article 7, Section 6(c).

(c) When a non-conforming use is discontinued or abandoned, showing a gross lack of diligence in use for one year or more (except when governmental action prevents such use); or when the use is halted for one year or more because of damage, destruction, or demolition of the structure in which the use is located, the non-conforming use may not be resumed. In addition, once the non-conforming use status is lost, the land and/or structure shall not be used except in conformity with the applicable Infill and Redevelopment regulations and the regulations of the zone in which it is located.

(d) When a non-conforming use is replaced by a permitted use, it shall then conform to the regulations for the zone in which it is located, and the non-conforming use may not be resumed.

(e) Any non-conforming use may be changed to another non-conforming use by appeal to the Board of Adjustment under Article 7, Section 6(c), provided the proposed use is in the same or a more restrictive classification than the previous use. If the use is located in a building, no structural changes may be made to the exterior of the building.

(f) When a non-conforming use is halted because of damage, destruction or demolition of the structure in which it is located, the structure may be reconstructed or repaired, but not to exceed the number of square feet of floor area nor the number of cubic feet it contained prior to its damage or destruction.

(g) Any non-conforming use may be extended throughout any parts of a building that were arranged or designed for such use at the date of the adoption or amendment of this Zoning Ordinance, but in no instance shall a non-conforming use be extended to displace a conforming use nor to occupy land outside such building.

4-4 REGULATION OF NON-CONFORMING STRUCTURES - A non-conforming structure may continue to exist, provided it remains otherwise lawful. It shall be regulated as follows:
(a) No non-conforming structure may be enlarged or altered in any way that increases its non-conformity, but a structure may be altered to decrease its non-conformity.

(b) Should a non-conforming structure or non-conforming portion of a structure be damaged, destroyed or demolished by any means, it may be reconstructed or repaired; but it may not exceed the number of square feet of floor area nor the number of cubic feet it contained prior to its damage, destruction, or demolition.

(c) Should a non-conforming structure be moved for any reason, for any distance, it shall thereafter conform to the regulations for the zone in which it is located after it is moved. However, said structure may be moved to another location on the same lot by appeal to the Board of Adjustment under Article 7, Section 6(c).

4-5 REGULATION OF NON-CONFORMING LOTS - A non-conforming lot shall be permitted to continue and shall be regulated as follows:

(a) A non-conforming lot may not be further subdivided or consolidated, either in whole or in part, with another parcel in a manner that increases its non-conformity, but may be altered so as to decrease its non-conformity. However, the Commission may approve the subdivision of a lot, which has two (2) or more legally constructed principal residences, into separate parcels for the purpose of the sale or transfer of the individual residences. This may be done only if the Commission finds that the properties have been used in a separate and distinct manner with separate utilities and other facilities so that the resulting subdivision will not constitute a material change in the use of the property.

(b) Notwithstanding any portion of this Zoning Ordinance, a non-conforming lot may be used for construction of an otherwise lawfully permitted structure in the zone in which it is located. Such a non-conforming lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

(c) If two or more lots have ever had a structure built over the property line in a residential zone; and if any of the lots are non-conforming, both in size and in frontage, the land involved shall be considered to be an undivided parcel, except those complying with the small lot provisions for each zone. No subdivision or consolidation, either in whole or in part, with another lot shall be made of such parcel that reduces the parcel below the requirement for a permitted lot in the zone in which it is located. However, the Commission may permit the sale or transfer of lots where each lot has a legally constructed principal residence. A lot that does not meet the size requirement for the zone in which it is located may still be developed according to the special provisions for small lots, contained in each residential zoning category.

4-6 REPAIRS AND MAINTENANCE - On any non-conforming structure or portion of a structure, or in any structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring or plumbing or other parts of the structure, provided that the number of square feet of floor area and the number of cubic feet of the non-conforming structure or non-conforming portion shall not be increased. This Zoning Ordinance shall not be construed to prevent the strengthening, repairing, or restoring to a safe condition of any structure or part thereof.

4-7 CONDITIONAL USES ARE NOT NON-CONFORMING USES - Any existing principally permitted use at the date of the adoption or amendment of this Zoning Ordinance, which would thereafter require a conditional use permit, shall be deemed a conforming use; but any enlargement or replacement of such use shall require a conditional use permit as provided by Article 7-6(a).
ARTICLE 5

ADMINISTRATION, ENFORCEMENT AND VIOLATIONS

5-1 ADMINISTRATION AND ENFORCEMENT - The Director of the Division of Building Inspection, and the Director's authorized agent of the Lexington-Fayette Urban County Government, shall administer and enforce this Zoning Ordinance, except as otherwise provided herein. The Director, or the Director’s authorized agent, shall promptly investigate all written complaints of violations and record all findings and actions in the official records, which shall be available in the Offices of the Division of Building Inspection. The Director shall use the best efforts to prevent violations. If the Director, or the Director's agent, finds any of the provisions of this Zoning Ordinance are being violated, the Director, or the Director’s agent, may cite the violator to district court, may seek a restraining order or injunctive relief, may order the stoppage of work which is determined to have created or contributed to conditions that pose a threat to the public health, safety or welfare, or may order the action necessary to correct the violation and to enforce the provisions of the Zoning Ordinance. The Director shall make records of all official actions relating to the administration and enforcement of the provisions of this Zoning Ordinance, including, but not limited to, written records of all complaints and actions taken with regard thereto, all violations discovered with actions taken thereto, and the final disposition of all such matters.

5-2 PERMITS REQUIRED FOR CONSTRUCTION, DEMOLITION, AND LOCATION OF STRUCTURES - Permits shall be required for the following activities and shall be issued by the Division of Building Inspection in conformity with the provisions of this Zoning Ordinance.

5-2(a) BUILDING PERMITS - No building or other structures shall be erected, moved, added to, or structurally altered; nor shall any of said activities be commenced without a building permit therefore, issued by the Division of Building Inspection.

5-2(b) WRECKING PERMITS - No building or other structures shall be razed, demolished or removed, either entirely or in part; nor shall any of said activities be commenced without a wrecking permit, issued by the Division of Building Inspection.

5-2(c) LAND DISTURBANCE PERMITS - Land Disturbance permits shall be required as provided in Chapter 16 of the Code of Ordinances.

5-2(d) MOBILE HOME LOCATION PERMITS - Prior to any placement or relocation of any mobile home, a location permit shall be required for determination of compliance with this Zoning Ordinance and the provisions of KRS 100.203(4)(a)(b).

5-2(e) SIGN PERMITS - No sign shall be created, erected, moved, added to, or structurally altered; nor shall any of said activities be commenced without a permit therefore, issued by the Division of Building Inspection.

5-2(f) PERMITS AUTHORIZED BY THE BOARD OF ADJUSTMENT - The Division of Building Inspection shall issue permits in conformance with the written authorization of the Board of Adjustment concerning administrative review appeals, conditional use permit appeals, variance appeals, or other appeals as authorized in this Zoning Ordinance.

5-2(g) OTHER PERMITS - Additional permits may be required by the Division of Building Inspection to enforce the provisions of this Ordinance.

5-3 COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS - Nothing in this section or other sections of the Zoning Ordinance shall be construed to exempt any applicant for a permit from compliance with all local, state and federal codes, statutes and regulations.

5-4 PERMIT APPLICATION REQUIREMENTS AND PROCEDURES - All applications for permits shall be accompanied by such plans and information as the Division of Building Inspection or the Division of Engineering deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. After reviewing the application materials, the Director of the Division of Building Inspection or the Director of the Division of Engineering shall mark the application either as “Approved” or “Disapproved” and attest to the same by signature on such copy. The original, similarly marked, shall be retained by the Division of Building Inspection.

5-4(a) BUILDING PERMITS FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS - All applications for permits for detached single family and two-family dwellings and their accessory buildings shall be accompanied by plans showing the location and dimension of any existing or proposed principal or accessory buildings on the lot; the location and dimension of all required yards; height of the building; and the location and dimension of the required parking, as well as any other information
deemed necessary by the Division of Building Inspection to determine compliance with this Zoning Ordinance.

5-4(a)(1) DIVISION OF ENGINEERING APPROVAL REQUIRED - The building permit shall not be issued unless and until the Division of Engineering has approved an erosion control plan.

5-4(b) BUILDING PERMITS FOR ALL OTHER BUILDINGS - All applications for building permits, including associated paving permits, other than those for single family or two-family dwellings and their accessory buildings, shall be accompanied by a site plan, drawn to scale, showing information with regard to the lot and neighboring lots as may be necessary to determine compliance with the Zoning Ordinance and the Code of Ordinances. No building permit shall be issued unless or until the Division of Building Inspection has approved the site plan, upon finding that the development proposed thereon complies with all applicable requirements of the Code of Ordinances, the Subdivision Regulations and the Zoning Ordinance. The following additional requirements shall be applicable to site plans required under this section:

5-4(b)(1) DIVISION OF ENGINEERING - The building permit shall not be issued unless and until all required information has been submitted to the Division of Engineering as it relates to storm drainage, erosion and sediment control, and sanitary sewers. Off-site improvements may be required if an adequate drainage outfall is not available to the site. The site plan shall include sufficient existing and proposed site elevations to demonstrate that damage to adjacent properties shall not occur, or that an existing off-site problem will not be aggravated. Storm drainage detention on the lot in conformance with the Stormwater Manual will be required, if not provided as a part of the subdivision development.

5-4(b)(2) DIVISION OF TRAFFIC ENGINEERING APPROVAL REQUIRED - The building permit shall not be issued unless and until the Division of Traffic Engineering has approved the site plan as it relates to access point design details and parking lot circulation layout.

5-4(b)(3) OTHER APPROVALS - If this Zoning Ordinance or the Code of Ordinances requires approval by another agency of certain site plan features, such approval shall be obtained prior to issuance of a building permit.

5-4(b)(4) DEVELOPMENT PLAN AS SITE PLAN - In any case, where the Planning Commission has approved a detailed final development plan showing essentially the same information as required above for the property seeking a building permit, no separate site plan shall be required to be prepared. The applicant shall be required to supply such supplementary information as necessary to comply with all requirements of this Section 5-4(b).

5-4(c) MOBILE HOME LOCATION PERMITS - All applications for mobile home location permits shall be accompanied by plans showing the location of the mobile home, as well as any permanent structure on the lot, the location and dimension of all required yards, and the location and dimension of the required parking.

5-4(d) WRECKING PERMITS - Requirements for wrecking permits in Historic Districts shall be as provided in Article 13. Requirements for wrecking permits in all other zones shall be as provided in the Code of Ordinances.

5-4(e) LAND DISTURBANCE PERMITS - Requirements for land disturbance permits shall be as provided in Chapter 16 of the Code of Ordinances.

5-4(f) SIGN PERMITS - Requirements for sign permits shall be as provided in Article 17.

5-4(g) SATELLITE DISH ANTENNAS - In lieu of a permit to install a satellite dish antenna, the following regulations shall control the installation of satellite dish antennas:

1. Within ten (10) days of the completion of the installation of the antenna, the owner of the property shall submit a signed statement to the Division of Building Inspection, specifying the details of the installation so that compliance with this Zoning Ordinance can be determined. In addition, when the antenna is installed by an agent of the property owner, a signed statement of the owner shall be submitted, indicating that a copy of this Ordinance has been provided to the property owner.

2. It shall be the responsibility of the property owner to properly install the satellite dish antenna in compliance with all requirements of this Zoning Ordinance.

5-5 CERTIFICATE OF OCCUPANCY REQUIRED - No person shall use or permit the use of any structure or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a certificate of occupancy shall have been issued by the Division of Building Inspection. Such certificates shall show that the structure or use, or both, or the premises, or the affected part thereof, are in conformity with the provisions of this Zoning Ordinance. It shall be the duty of the Division of Building Inspection to issue such certificate if it is found that all of the provisions of this Zoning Ordinance have been met, and to withhold such
have been met.

5-5(a) TEMPORARY CERTIFICATES OF OCCUPANCY - A temporary certificate of occupancy may be issued by the Division of Building Inspection for a period not exceeding six (6) months during alterations or partial occupancy of a building, pending its completion, in accordance with general rules or regulations concerning such temporary certificate; and with such additional conditions or safeguards as are necessary in the circumstances of the case to protect the safety of the general public.

5-5(b) CERTIFICATE OF OCCUPANCY FOR EXISTING USES OR STRUCTURES - Upon request from the owner or tenant, and upon inspection to determine the facts in the case, the Division of Building Inspection shall issue a certificate of occupancy for any building, premises or use that is in conformity with the provisions of this Zoning Ordinance or that is a legal non-conforming use as specified in the certificate.

5-6 STRUCTURES AND USES TO BE AS PROVIDED IN BUILDING PERMITS, PLANS AND CERTIFICATES OF OCCUPANCY - Building permits or certificates of occupancy, issued on the basis of plans and applications approved by the Division of Building Inspection, authorize only the use, arrangement and construction set forth in such permits, plans, and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.

5-7 COMPLAINTS REGARDING VIOLATIONS - Whenever a violation of the provisions of this Zoning Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Director of the Division of Building Inspection or the Director's authorized agent or, in the case of grading permits authorized under Chapter 16 of the Code of Ordinances, with the Urban County Engineer or the Urban County Engineer's authorized agent. The Director of the Division of Building Inspection, or the Urban County Engineer, or their authorized agents (as appropriate) shall record properly such complaint, immediately investigate, and take action thereon as provided by this Zoning Ordinance.

5-8 PENALTIES FOR VIOLATIONS - Unless otherwise provided herein, violation of the provisions of this Zoning Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute an offense for which the penalty shall be as follows:

(a) Any person who so violates this Zoning Ordinance or fails to comply with any of its requirements, except as provided in Section 5-8(b) herein below, shall upon conviction thereof be fined not less than $10, but no more than $500, for each conviction. Each day of violation shall constitute a separate offense.

(b) Any person shall, upon conviction, be fined not less than $100, but no more than $500, for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer, where such sale or transfer, or contract therefore, constitutes a violation of this Zoning Ordinance.

5-9 CIVIL CITATIONS AND CIVIL PENALTIES - Where violations of this Zoning Ordinance provide for the issuance of a civil citation, such civil citation shall be construed to provide an additional or supplemental means of obtaining compliance with the Zoning Ordinance. All citations issued pursuant to this Zoning Ordinance shall be issued by the citation officers cited in Section 14-10 of the Code of Ordinances and referred to the Infrastructure Hearing Board with the citations and the civil process to conform to Sections 16-76 through 16-83 of the Code of Ordinances.

5-9(a) ISSUANCE OF A CIVIL CITATION - Prior to the issuance of the first civil citation for a violation of a section of the Zoning Ordinance, the Urban County Government shall issue a notice of violation, which shall specify a time period of at least twenty-four (24) hours for the correction of the violation. The time period specified shall not impose unrealistic requirements under prevailing weather and site conditions. If the violation is not corrected as specified in the written notice, the Urban County Government may issue a civil citation. A notice of violation shall precede the issuance of the first civil citation for such offense unless the violation is deemed to be a serious threat to the public health, safety and welfare; or, if in the absence of immediate action, the effects of the continuation of the violation would be irreparable or irreversible. No notice of violation shall be required prior to the issuance of a citation for any offense which occurs after the first citation is issued to a person or entity.

5-9(b) APPEALS OF CIVIL CITATIONS - An appeal of the civil citation may be made to the Infrastructure Hearing Board, as provided in Section 16-79 of the Code of Ordinances.

5-9(c) CIVIL PENALTIES - For violations of the Zoning Ordinance, the civil fines associated with the issuance of a civil citation are as follows:

(1) Upon issuance of the first citation within any 12-month period shall be a maximum of two hundred dollars ($200.00), but shall be seventy-five dollars ($75.00) if the person committing the offense does
not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.

(2) The civil fine imposed upon the issuance of the second citation for the same section of the Zoning Ordinance within any 12-month period shall be a maximum of three hundred dollars ($300.00), but shall be one hundred fifty dollars ($150.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.

(3) The civil fine imposed upon issuance of the third citation for the same section of the Zoning Ordinance within any 12-month period shall be a maximum of four hundred fifty dollars ($450.00), but shall be two hundred twenty-five dollars ($225.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.

(4) The civil fine imposed upon issuance of the fourth or more citation for the same section of the Zoning Ordinance within any 12-month period shall be a maximum of five hundred dollars ($500.00), but shall be three hundred dollars ($300.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.

5-9(d) ABATEMENT - When there is reason to believe that the violation poses a serious threat to the public health, safety or welfare; or in situations where continuation of the violation would be irreparable or irreversible, the government may, without further notice, proceed to abate the conditions. In such cases, the government may, in addition to any fine imposed herein, charge the responsible person, persons or entities with the cost of the abatement, including equipment expense, disposal fee, if any, and an administrative fee of seventy-five dollars ($75.00). The Urban County Government may file a lien for such abatement, in accordance with Section 16-81 of the Code of Ordinances and KRS 65.8835. Citations, if issued, shall not preclude the government from abating the conditions and billing the responsible person, persons or entities for the cost of abatement.

5-9(e) ENFORCEMENT - Nothing contained herein shall prohibit the Urban County Government from enforcement of this Zoning Ordinance by any means authorized by law.
ARTICLE 6

AMENDMENTS

6-1 APPLICATION FOR ZONING MAP AMENDMENT - A proposal for amendment to the Zoning Map may originate only with the Commission, the Lexington-Fayette Urban County Council, the owner of the subject property, or by a person having written authorization from the owner of the subject property. Regardless of the origin of the proposed amendment, an application must be filed with the Commission requesting the proposed amendment in such form and accompanied by such information as required by this Zoning Ordinance and the bylaws of the Commission. At the time of filing of an application, a non-returnable filing fee shall be paid according to the schedule of fees as established by the Commission; however, there shall be no filing fee for an amendment requested by the Lexington-Fayette Urban County Council, the Commission, or any other governmental agency. Upon the filing of an application for a map amendment by a governmental body, the Commission shall promptly notify the owner of the subject property, as required by KRS 100.

6-1(a) TRAFFIC STUDIES - All significant developments proposed within the Urban Service Area or Rural Activity Center and requiring a zoning map amendment shall submit a Traffic Impact Study. As used herein, the term "significant developments" shall mean any development which will generate one hundred (100) or more additional (new) peak direction (inbound or outbound) trips to or from the site during the adjacent roadway's peak hour or the development's peak hour. The applicant shall have the responsibility of conducting and paying for the study. The Urban County Government will make available to interested parties existing traffic count data needed to complete such studies. Those residential developments in conformance with the Comprehensive Plan shall file a Traffic Impact Study along with all other application materials for the zone change. The Traffic Impact Study shall contain the following information:

(1) Study purpose and objectives.

(2) Description of the site and study area. Care should be taken to include all known congested locations that may be impacted by the proposed development.

(3) Anticipated nearby development, to the extent that the information can be obtained from existing data compiled by the Transportation Planning Section of the Division of Planning.

(4) Documented trip generation for each land use and total trip generation, including assumptions and reasoning, and the sources of trip generation estimates for residential developments.

(5) Trip distribution and assignment, including methodology, assumptions, and reasoning underlying the distribution and assignment.

(6) Capacity and level of service determination during the peak or critical periods for the full development year for all affected streets/roads as measured from the boundary of the property to the first collector or arterial intersection in both directions.

(7) Recommendations, if any, for site access and public transportation improvements needed to maintain traffic flow to, from, within and past the site at an acceptable and safe level of service D.

6-1(b) RESIDENTIAL REQUESTS IN CONFORMANCE WITH COMPREHENSIVE PLAN - Those significant zone map amendment requests for residential zoning in conformance with the Comprehensive Plan shall file a Traffic Impact Study along with all other application materials for the zone change. The Traffic Impact Study shall contain the following information:

(1) Study purpose and objectives.

The following are the requirements of a Traffic Impact Study under this subsection:

6-1(c) REQUESTS FOR NON-RESIDENTIAL ZONING, MIXED USE DEVELOPMENTS, AND REQUESTS NOT IN CONFORMANCE WITH COMPREHENSIVE PLAN - Those significant zone map amendment requests for non-residential zoning, mixed use developments and requests not in conformance with the Comprehensive Plan shall file a Traffic Impact Study along with all other application materials for the zone change. All such studies shall be complete and shall meet the requirements set forth herein below.
(2) Description of the site and study area. Care should be taken to include all known congested locations that may be impacted by the proposed development.

(3) Existing conditions in the area of the development to include current AADT and Peak Hour traffic volume counts on the adjacent road or roads and intersections (including turning movements), existing level of service on roadways, and physical characteristics of the subject roadways. Average peak hour traffic volume shall be the highest average peak hour volume for any weekday 24-hour period.

(4) Anticipated nearby development, to the extent that the information can be obtained from existing data compiled by the Transportation Planning Section of the Division of Planning.

(5) A plan of proposed development.

(6) The proposed number and type of dwelling units for residential development; and for non-residential developments, the square footage, employees, or other relevant trip generation variables of all buildings, and a description of their use.

(7) Documented trip generation for each land use and total trip generation, including assumptions and reasoning and the source(s) of trip generation estimates for residential developments. Additionally, for non-residential development, any adjustments to trip generation rates to reflect pass-by trips captured, mixed use, walk-ins, etc., should be justified in the study report.

(8) Trip distribution and assignment, including methodology, assumptions, and reasoning underlying the distribution and assignment.

(9) Full development year traffic volumes (assuming full build-out and occupancy) composed of all of the following:
   (a) Existing traffic volumes;
   (b) Non-site traffic volume growth in the corridor between the existing year and the full development year;
   (c) The traffic volume added by the proposed development.

(10) A description of any government-initiated roadway/intersection improvements that have been assumed as being in place at full development.

(11) Capacity and level of service determination during the peak or critical period(s) for the full development year for all affected streets/roads and all intersections, as measured from the boundary of the property to the first collector or arterial intersection in both directions.

(12) An assessment of the change in roadway and intersection operating conditions resulting from the development traffic.

(13) Recommendations, if any, for site access and public transportation improvements needed to maintain traffic flow to, from, within, and past the site at an acceptable and safe level of service (level of service D).

(14) If necessary, other factors should be analyzed: safety, neighborhood impacts, service and delivery access, pedestrian and bicycle movements, adequacy of parking, traffic control needs, circulation patterns, transit needs or impacts, and so forth.

(15) Statement as to the proposed improvements, which will be at the developer's expense.

The analysis should be presented in a straightforward and logical sequence.

6-2 APPLICATION FOR ZONING ORDINANCE TEXT AMENDMENT - A proposal for amendment to the text of this Zoning Ordinance may originate with any person or governmental body. An application for a Zoning Ordinance text amendment must be filed with the Commission requesting the proposed amendment in such form and accompanied by such information as required by this Zoning Ordinance and the bylaws of the Commission. At the time of filing an application, a non-returnable filing fee shall be paid according to the schedule of fees, as established by the Commission. However, there shall be no filing fee for an amendment requested by the Lexington-Fayette Urban County Council, the Commission, or any other governmental agency.

6-3 PRE-APPLICATION CONFERENCE FOR TEXT AMENDMENTS AND ZONE MAP AMENDMENTS - Prior to filing an application for a text amendment or a zone map amendment, the applicant shall meet with appropriate staff members of the Division of Planning to discuss the proposed amendment. The purpose of this conference is to discuss, at the earliest stages, the requirements, procedures and issues related to the proposed amendment. It is intended that this conference will help to alleviate possible conflicts by early recognition of existing conditions, necessary facilities, the recommendations of the adopted Comprehensive Plan and other issues related to the proposed amendment. The applicant shall arrange the conference, which shall be held not less than five (5) working days nor more than three (3) months prior to the filing date. The staff shall keep a record of the conference date and include the information in the records of the text amendment or the map amendment application. Where a development plan is also required to be submitted in conjunction with a zone map amendment, the applicant should discuss both the plan and the
zone map amendment at the same conference. The Division of Planning shall not accept an application for a zone map amendment or a text amendment for which a pre-application conference has not been held.

6-4 COMMISSION PROCEDURE - Upon the filing of an application for an amendment to the Zoning Map or the text of this Zoning Ordinance, or a duly imposed binding condition or restriction as set forth in Article 6-7, the Commission shall direct its staff to review the application, make whatever studies the Commission deems necessary, and report its findings at a public hearing. In addition, the Commission may require the applicant to submit further information subsequent to the filing of an application, as provided by KRS 100 and the bylaws of the Commission. A development plan may be required as set forth in Article 21-3.

6-4(a) PUBLIC HEARING ON AMENDMENT APPLICATION - After notice of the public hearing, as provided in Section 6-4(b) herein below, the Commission shall hold a public hearing and vote to recommend approval or disapproval of the proposed amendment within sixty days of the date of filing for any Council-initiated text amendment, within six (6) months of the date of filing for all other text amendment requests, within six (6) months of the date of filing of any H-1 or ND-1 zoning map amendment, or within ninety (90) days of the date of filing of all other zoning map or binding conditions or restriction amendment requests, unless the time is extended by the request of or the agreement of the applicant. At the public hearing, the Commission shall receive the report of the staff, orally or in writing, and shall hear the testimony of the staff members as it sees fit. The Commission shall allow the applicant, protestors, and other interested citizens to testify and rebut the evidence presented by other parties, provided that the Chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence.

6-4(b) NOTICE OF PUBLIC HEARING BEFORE THE PLANNING COMMISSION - Before voting upon any proposed text amendment, zone map amendment, or binding condition or restriction amendment, notice of the time, place and reason for holding a public hearing shall be given by one publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing. In addition, for any map amendment, or binding condition or restriction amendment, notice of the public hearing shall be posted on the subject property for fourteen (14) consecutive days prior to the hearing, and notice shall be given by first-class letter at least twenty-one (21) days in advance to owners of all property within a 400-foot radius of the subject property. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 400-foot radius of the subject property, but to the next two properties beyond those included in the 400-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property for a zone change request or more than one (1) mile from the subject property for a conditional use or variance request in conjunction with a zone change as allowed in Article 6-4(c). For any Council- or Commission-initiated map amendment, notice by first-class letter shall be given to all owners of property, the classification of which is proposed to be changed, at least thirty (30) days prior to the public hearing.

6-4(c) CONDITIONAL USES AND VARIANCES ALLOWED AT THE TIME OF ZONING - The Planning Commission may hear and act upon requested conditional uses and variances associated with a zone change. If the Planning Commission should choose to hear a conditional use or variance request, the Planning Commission shall have all of the powers and responsibilities of the Board of Adjustment, as defined in Articles 7-6(a) and 7-6(b) of the Zoning Ordinance. All conditional use and variance applications shall be acted upon by the Planning Commission within ninety (90) days from the date of the application, unless postponed further by the applicant.

6-4(d) RECOMMENDATION OF COMMISSION FOR ZONING MAP AMENDMENT - Before recommending to the Lexington-Fayette Urban County Council that an application for amendment to the Zoning Map be granted, the Commission shall find that the map amendment is in agreement with the Comprehensive Plan adopted by the Commission; or, in the absence of such a finding, that: (1) the existing zoning classification given to the property was inappropriate and the proposed zoning classification is appropriate; or (2) there have been major changes of an economic, physical or social nature within the area involved, which were not anticipated in the Comprehensive Plan adopted by the Commission and which have substantially altered the basic character of such area. The findings of fact made by the Commission shall be recorded in the minutes and records of the Commission. The Commission shall vote to recommend that an application for amendment to the Zoning Map be approved, approved with binding conditions or restrictions, or disapproved. A tie vote shall be subject to further consideration by the Planning Commission for a period not to exceed thirty (30) days, at the end of which, if the tie has not been broken, the application shall be forwarded to the Urban County Council without a recommendation of approval or disapproval.

6-4(e) RECOMMENDATION OF COMMISSION FOR TEXT AMENDMENT - After voting to recommend that an application for amendment to the text of this Zoning Ordinance be granted or denied, the Commission shall forward its recommendation in writing to the Lexington-Fayette Urban County Council.
6-5 FORWARDING OF THE PLANNING COMMISSION’S ACTION TO THE URBAN COUNTY COUNCIL - Within fourteen (14) days of the Commission's final action to recommend that a zone map amendment be approved, approved with binding conditions or restrictions, or disapproved, the development plan(s) and/or other plans filed in conjunction with the map amendment shall be certified by the Commission's Secretary as set forth in Article 21-4 herein, or else the final action of the Commission on the zone map amendment shall be null and void. Any further consideration of the zone map amendment shall be treated as a new application and shall be reviewed as set forth herein. Upon certification of the plan(s), the Commission's Secretary shall forward its report in writing to the Urban County Council. This report shall include at least the application, legal description of the property, notification area map, staff report, and the findings of fact and conclusions of law and the recommendation of the Planning Commission, including any binding conditions or restrictions to be imposed as set forth in Section 6-7 below. Minutes of the Planning Commission public hearing shall be included in the final report whenever they are available.

6-6 ACTION BY LEXINGTON-FAYETTE URBAN COUNTY COUNCIL ON ZONING MAP AMENDMENTS - The Lexington-Fayette Urban County Council shall take final action upon a proposed map amendment within ninety (90) days of the date upon which the Planning Commission takes its final action upon such a proposal. The Council shall not act upon a proposed amendment to the Zoning Map until it shall have received the written report from the Commission. Upon receiving the report, the Council may adopt the recommendation of the Commission without a public hearing or may elect to hold a new public hearing. In the event that the Council shall have a public hearing, notice of such hearing shall be in the same manner as the notice required to be given under Article 6-4(b) herein. The Council shall allow testimony from members of the staff, the applicant, protestors, and any other interested citizens; and it shall allow parties to rebut the evidence presented by other parties, provided that the Mayor or presiding officer of the Council shall have the authority to limit repetitive testimony and to exclude irrelevant testimony or evidence. Regardless of whether or not the Council holds a public hearing, the Council may order a written transcript of the Planning Commission's hearing to be prepared for distribution to each Council member. In the event the Council shall order the preparation of a transcript, it shall be prepared at the cost of the applicant, certified by the Secretary of the Commission, and distributed to each Council member at least forty-eight (48) hours prior to second reading of the ordinance pertaining to the zoning map amendment. It shall take a majority of the entire Lexington-Fayette Urban County Council to override the recommendation of the Commission, and it shall take a majority of the entire Council to adopt a zone map amendment whenever the Planning Commission forwards the application to the Council without a recommendation due to a tie vote.

6-7 CONDITIONS TO GRANTING A ZONE MAP AMENDMENT - Pursuant to KRS 100.203(8), Planning Commission or the Urban County Council may, as a condition to granting a map amendment, restrict the use of the property affected to a particular use, a particular class of use, or a specified density within those permitted in a given zoning category; impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and impose screening and buffering restrictions upon the subject property. In recognition that the aforementioned powers may be useful in accomplishing the purposes set forth in Section 1-3, but at the same time in recognition that such powers should be thoughtfully and sparingly used, the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced is set forth below.

6-7(a) CRITERIA AND TERMS - A binding restriction or condition may be imposed whenever one or more of the specifications of the Zoning Ordinance for the proposed zoning category, if exercised by the applicant, would impair the integrity and character of the area in which the subject property is located or adjoining areas, unless restrictions or conditions as permitted in this Article are imposed in addition to those imposed in the Zoning Ordinance. Such restriction or condition may include, but shall not be limited to, time limitations; requirements that one or more things be done; or restrictions or conditions of a continuing nature, so long as the same are limited to the matters set forth in Section 6-7. No restriction or condition may be imposed which shall deprive the applicant of a reasonable use of the land or create an unnecessary hardship on the applicant.

6-7(b) PROCEDURE - Imposition of binding restrictions or conditions may be considered at any point in the zoning map amendment procedure. However, before the Commission recommends such a restriction or condition or the Urban County Council adopts the same, it shall make findings of fact and conclusions of law which are supported by substantial and competent evidence, which are not arbitrary or capricious; and which demonstrate that the effect of the proposed zoning map amendment on the public health, safety and welfare in the area in which the subject property is located and adjoining areas has been considered. The Council may also designate certain conditions or restrictions as amendable only by Council action. Any such condition or restriction so designated may only be amended, modified or removed by Council action as set forth under Section 6-7(c)(1). Conditions or restrictions not so designated may only be amended, modified or removed by the Planning Commission as set forth under Section 6-7(c)(2). Only when the Urban County Council holds its own public hearing or reviews the record and the transcript of the Commission hearing may the Council impose a binding restriction or condition not recommended by the Commission, or modify or remove a restriction recommended by the Commission or designate certain conditions as amendable only by Council action. Any binding restriction or condition finally imposed after
completion of the zoning map amendment process shall be included in the Urban County Council ordinance adopting the zoning map amendment, a copy of which the Urban County Council Clerk shall furnish to the Divisions of Building Inspection and Planning.

6-7(c) AMENDMENT - Modification, removal or amendment of conditions or restrictions shall be as follows:

6-7(c)(1) RESTRICTIONS OR CONDITIONS DESIGNATED BY THE URBAN COUNTY COUNCIL - The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.

6-7(c)(1)(a) FINDINGS REQUIRED - The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.

6-7(c)(1)(b) PROCEDURE - The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment, except that a full public hearing by the Urban County Council shall be required in all cases. The Council’s decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty days after such final action, pursuant to KRS 100.347.

6-7(c)(2) ALL OTHER RESTRICTIONS OR CONDITIONS - The Planning Commission shall have final authority to consider and act upon requests for modification, removal or other amendment of all other restrictions or conditions in accordance with the procedure and requirements set forth in Section 6-7(c)(1) above, except that no Council action shall be required. In the case of a request to modify, remove or amend a Neighborhood Design Character Overlay (ND-1) zone restriction(s), the application shall follow the process as set forth above, but shall be reviewed by the Planning Commission for adherence to the requirements set forth in Section 6-7(c)(2)(a) below. In addition, notice shall be given to the members of the Urban County Council, to the Mayor and to the Council Clerk at least fourteen (14) days in advance of the public hearing. Members of the Urban County Council may appear and speak at the public hearing. The Planning Commission’s decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action, and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty days after such final action, pursuant to KRS 100.347.

6-7(c)(2)(a) FINDINGS REQUIRED FOR ND-1 OVERLAY ZONE - The request may be granted by the Planning Commission only if the request for modification, removal or amendment is found to meet the following:

1. The granting of the modification, removal or amendment to an ND-1 overlay restriction will not adversely affect the public health, safety or welfare, will not alter the essential character of the overlay district, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the ND-1 overlay restrictions. In making these findings, the Planning Commission shall consider whether:
   (a) The requested modification, removal or amendment arises from special circumstances that do not generally apply to land in the same ND-1 overlay district;
   (b) The strict application of the provisions of the restriction would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
   (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the ND-1 overlay restrictions from which relief is sought; and
   (d) The general intent and preservation goals of the ND-1 overlay district are being met.

2. The Planning Commission shall deny any request for modification, removal or amendment to an ND-1 overlay restriction arising from circumstances that are the result of willful violations of the restriction by the applicant subsequent to the adoption of the ND-1 overlay zone from which the amendment is sought.

The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.

The decision of the Planning Commission shall be recorded in minutes and records and issued in written form to the applicant and the Division of Building Inspection to constitute proof of the change.

6-7(d) ENFORCEMENT - Binding restrictions or conditions imposed under this Article shall be enforced through
subsequent development plans, subdivision plans, building permits, occupancy permits and other enforcement powers, and shall be in addition to requirements imposed by such plans or permits and other laws or regulations.

6-7(e) JUDICIAL REVIEW - Imposition of binding restrictions or conditions pursuant to this Article shall be upheld on review if supported by substantial, reliable and probative evidence found within the record as a whole.

6-8 ACTION BY LEXINGTON-FAYETTE URBAN COUNTY COUNCIL ON TEXT AMENDMENTS - The Lexington-Fayette Urban County Council shall not act upon a proposed amendment to the text of this Zoning Ordinance until it shall have received the written recommendation thereon from the Commission. It shall take an affirmative vote of a majority of the Lexington-Fayette Urban County Council to adopt the proposed amendment.
ARTICLE 7

BOARD OF ADJUSTMENT

7-1 __ESTABLISHMENT__ - The Board of Adjustment, as constituted at the time of the re-adoption of this Zoning Ordinance, shall continue in power. There shall be seven (7) members appointed by the Mayor with the approval of the Urban County Council, for 4-year terms, ending on July 1 of the designated year. The terms shall be staggered so that the terms of no more than two members expire in any year. Vacancies on the Board of Adjustment shall be filled within sixty (60) days. If the vacancy is not filled within that time, the Planning Commission shall fill the vacancy.

7-2 __STAFF__ - The staff to the Board of Adjustment shall be the Division of Planning of the Department of Administrative Services of the Lexington-Fayette Urban County Government.

7-3 __GENERAL POWERS__ - The Board of Adjustment may employ or contract with planners or other persons, as it deems necessary, to accomplish its assigned duties. The Board shall have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government, for the purpose of carrying out the provisions of this Zoning Ordinance. The Board shall have the power to issue subpoenas to compel witnesses to attend its meetings and give the evidence bearing upon the questions before it. The Chairman of the Board of Adjustment shall have the power to administer oaths to witnesses prior to their testifying before the Board on any issue.

7-4 __PROCEEDINGS__ - The Board of Adjustment shall conduct meetings at the call of the Chairman, who shall give written or oral notice to all members of the Board at least seven (7) days prior to the meeting, which notice shall contain the date, time, and place of the meeting, and the subject or subjects which will be discussed. A simple majority of the total membership of the Board of Adjustment shall constitute a quorum.

The Board of Adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings, including regulations; transactions; findings; determinations; the number of votes for and against each question; whether any member is absent or abstains from voting; all of which shall, immediately after adoption, be filed in the office of the Board. A transcript of the minutes of a Board of Adjustment meeting shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

7-5 __NOTICE__ - The Board shall fix a reasonable time for hearing an action or appeal and shall give public notice in accordance with KRS Chapter 424, as well as written notice as set forth more fully herein. Any person may appear at the hearing personally or by attorney. All applications shall be decided by the Board within sixty (60) days from the date of the application, unless postponement is granted pursuant to the Board's bylaws.

When an application is made for a variance, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, Division of Building Inspection, and to the owner of every parcel of property within two hundred (200) feet of the property to which the application applies. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 200-foot radius of the subject property, but to the next two properties beyond those included in the 200-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property.

When an application is made for a conditional use permit, administrative review, non-conforming use or structure appeal, or any other appeal, written notice shall be given at least twenty-one (21) days in advance of the public hearing on the application to the applicant, Division of Building Inspection, and to owners of parcels of property within four hundred (400) feet of the property to which the application applies. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 400-foot radius of the subject property, but to the next two properties beyond those included in the 400-foot radius; but in no event shall notice be required for property more than one (1) mile from the subject property.

All 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 section. Records maintained by the Property Valuation Administrator may be relied upon 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 that administers property commonly owned by the condominium or cooperative owners.

7-6 __SPECIFIC POWERS__ - The Board of Adjustment shall have the following powers:
The Board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the planning area of uses which are specifically named in this Zoning Ordinance, which may be suitable only in specific locations in the zone only if certain conditions are met, and which would not have an adverse influence on existing or future development of the subject property or its surrounding neighborhood.

(1) The Board 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 and which would not have an adverse influence on existing or future development of the subject property or other property in the neighborhood. 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 Ordinance, listing the conditional use under consideration. Where the Zoning Ordinance establishes conditions for a conditional use, such conditions are the minimum requirements for the use and may not be waived or varied unless otherwise specifically allowed. The Board shall have power to revoke conditional use permits for non-compliance with the condition thereof. Furthermore, the Board shall have a 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) In approving a conditional use permit, the Board shall find that the public facilities and services that will be needed are, or will soon be, adequate to serve the proposed use. The Board shall give consideration to the road system sewage disposal facilities, utilities, fire and police protection and other services and facilities as are relevant to the proposed use. The Board may establish conditions to ensure that the proposed conditional use will not have an adverse influence on the subject property or the surrounding neighborhood.

(3) In approving a conditional use permit, the Board shall provide for the continuation of existing or proposed collector streets, and whenever possible, provide for the continuation of local streets.

(4) The granting of a conditional use permit does not exempt the applicant from complying with all other requirements of law.

(5) In any case where a conditional use permit has not been exercised within the time limit set by the Board; or within one (1) year, if no specific time limit has been set, the granting of such conditional use permit shall not revert to its original designation unless there has been a public hearing, with notice as required herein below. Exercised, as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in 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.

(6) The Division of Building Inspection 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 listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the Division of Building Inspection shall report the fact in writing 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 hearings shall be furnished to the landowner at least one (1) week prior to the hearing. If the Board of Adjustment finds that the facts alleged in the report of the Division of Building Inspection 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 Division of Building Inspection 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.

(7) Once the Board of Adjustment has granted a conditional use permit, and all of the conditions required are of such type that they can be completely and permanently satisfied, the Division of Building Inspection, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been
satisfied and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the County Clerk. Thereafter, said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(8) The granting of a conditional use permit for a “functional family” shall be based on application of the following considerations by the Board:

a. Members of the functional family will share a strong bond or commitment to a single purpose (e.g., religious orders);

b. Members of the functional family are not legally dependent on others not part of the functional family;

c. Members can establish a legal domicile as defined by Kentucky law;

d. Members share a single household budget;

e. Members prepare food and eat together regularly;

f. Members share in the work to maintain the premises;

g. Members legally share in the ownership or possession of the premises;

h. Members demonstrate stability in the arrangement, as opposed to transient living arrangements.

7-6(b) VARIANCES - The Board shall have the power to hear and decide on applications for variances that are defined as departures from dimensional terms of the Zoning Ordinance pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departures meet with the requirements of this section. The Board may grant a variance to vary the lot coverage or floor area ratio in the Single Family Residential (R-1A, R-1B, R-1C, R-1D, R-1E) zones or in the Two-Family Residential (R-2) zone, as these factors do not increase the permitted number of dwelling units. The Board may grant a variance for dimensional requirements only and may not vary the number of permitted signs, minimum number of required parking spaces outside of the Infill & Redevelopment Area, or other numeric requirements or limits of the zone. However, the Board may grant a variance to the maximum number of parking spaces allowed in a zone, or reduce the minimum number of parking spaces by fifty percent (50%) of the otherwise required number in accordance with Article 16-10 for projects within the defined Infill & Redevelopment Area. Any reduction granted by the Board shall account for and include all other allowable parking reductions. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant, and may revoke a variance for non-compliance with the conditions thereof. The Board shall not have the authority to vary lot coverage, floor area ratio (except in the R-1A, R-1B, R-1C, R-1D, R-1E and R-2 zones, as permitted above), nor lot size; nor to vary the maximum height of a building containing residential units in the Neighborhood Business (B-1) zone, as these are methods of controlling population density used in this Zoning Ordinance.

7-6(b)(1) FINDINGS REQUIRED FOR VARIANCE - Before any variance is granted, the Board must find the following, which shall be recorded along with any imposed conditions or restrictions in minutes and records and issued in written form to the applicant to constitute proof of the variance:

(a) The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

(1) The requested variance arises from special circumstances that do not generally apply to land in the general vicinity, or in the same zone;

(2) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

(3) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

(b) The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

7-6(b)(2) - The Board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by this Zoning Ordinance in the zone in question.

7-6(b)(3) - A variance applies to the property for which it is granted, and not the individual who applied for it. A variance also runs with the land and is transferable to any further owner of the land, but it cannot be transferred by the applicant to a different site.

7-6(c) NON-CONFORMING USE AND STRUCTURE APPEALS - The Board of Adjustment shall have the auth-
ority to hear and decide appeals, as authorized in Article 4, concerning non-conforming uses and structures. If it approves the appeal, the Board must find, in addition to all requirements of Article 4, that the non-conformity of the use or the non-conformity of the structure would not be increased in scope or area of its operation, and that it would not have an adverse effect on existing or future development of the subject property or the surrounding area. In approving an appeal, the Board may require appropriate conditions be met to ensure the health, safety, and welfare of the community and to protect the essential character of the surrounding area.

7-6(d) ADMINISTRATIVE REVIEW - The Board of Adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is an error in any order, requirement, decision, grant, or refusal made by the Division of Building Inspection in the enforcement of this Zoning Ordinance. Appeals under this section must be taken within thirty (30) days of the date of official action by the Division of Building Inspection.

7-6(e) ALL OTHER APPEALS - Appeals to the Board may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal or decision of the Division of Building Inspection. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action appealed from, by filing with the Board a notice of appeal specifying the grounds thereof, and giving notice of such appeals to any and all parties of record. The Division of Building Inspection shall forthwith transmit to the Board papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the Board, any interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

7-7 AUTHORIZATION - Based upon the official record of the Board's public hearing, a written report of the Board's action shall be prepared by the Division of Planning and shall be forwarded to the Division of Building Inspection. Such report shall constitute the authorization to the Division of Building Inspection to issue a permit, provided the permit application meets all other requirements of law, or take other action as appropriate.

7-8 RECORDING - All variances and conditional use permits approved by the Board shall be recorded at the expense of the applicant at the office of the County Clerk.
**ARTICLE 8**

**SCHEDULE OF ZONES**

The following zones and their requirements appear in the Schedule of Zones included therein:

<table>
<thead>
<tr>
<th>Section</th>
<th>Zone</th>
<th>Zone Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>8-1</td>
<td>A-R</td>
<td>Agricultural Rural</td>
</tr>
<tr>
<td>8-2</td>
<td>A-B</td>
<td>Agricultural Buffer</td>
</tr>
<tr>
<td>8-3</td>
<td>A-N</td>
<td>Agricultural Natural Areas</td>
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<tr>
<td>8-4</td>
<td>A-U</td>
<td>Agricultural Urban</td>
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<td>8-5</td>
<td>R-1A</td>
<td>Single Family Residential</td>
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<tr>
<td>8-6</td>
<td>R-1B</td>
<td>Single Family Residential</td>
</tr>
<tr>
<td>8-7</td>
<td>R-1C</td>
<td>Single Family Residential</td>
</tr>
<tr>
<td>8-8</td>
<td>R-1D</td>
<td>Single Family Residential</td>
</tr>
<tr>
<td>8-9</td>
<td>R-1E</td>
<td>Single Family Residential</td>
</tr>
<tr>
<td>8-10</td>
<td>R-1T</td>
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</tr>
<tr>
<td>8-11</td>
<td>R-2</td>
<td>Two-Family Residential</td>
</tr>
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<td>8-12</td>
<td>R-3</td>
<td>Planned Neighborhood Residential</td>
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<td>8-13</td>
<td>R-4</td>
<td>High Density Apartment</td>
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<td>8-14</td>
<td>R-5</td>
<td>High Rise Apartment</td>
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<td>P-1</td>
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<td>B-1</td>
<td>Neighborhood Business</td>
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<td>8-18</td>
<td>B-2A</td>
<td>Downtown Frame Business</td>
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<td>8-19</td>
<td>B-2B</td>
<td>Lexington Center Business</td>
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<td>8-20</td>
<td>B-3</td>
<td>Highway Service Business</td>
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<td>8-21</td>
<td>B-4</td>
<td>Wholesale and Warehouse Business</td>
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<td>I-1</td>
<td>Light Industrial</td>
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<tr>
<td>8-23</td>
<td>I-2</td>
<td>Heavy Industrial</td>
</tr>
<tr>
<td>8-24</td>
<td>P-2</td>
<td>Office, Industry and Research Park</td>
</tr>
</tbody>
</table>
8-1 AGRICULTURAL RURAL (A-R) ZONE

8-1(a) Intent - This zone is established to preserve the rural character of the agricultural service area by promoting agriculture and related uses, and by discouraging all forms of urban development except for a limited amount of conditional uses.

8-1(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Land used solely for agricultural purposes, including small farm wineries, as outlined in KRS 100.
2. Single family detached dwellings.

8-1(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Accessory uses in connection with agriculture, farming, dairying, stock raising or similar uses, such as agricultural structures; stables; and parking areas, provided all yard requirements for a principal residence are met.
2. Those specific agricultural uses outlined in KRS 100 that are incidental only to a small farm winery licensed as such by the Commonwealth of Kentucky, such as the manufacture and bottling of wines; tasting rooms for the purpose of serving complimentary samples; sale by the drink or bottle, either on or off premises; and sale and shipment of wine, either wholesale or retail.
3. Home offices and home occupations.
4. Temporary roadside stands offering for sale only agricultural products grown on the premises.
5. Keeping of not more than two (2) roomers or boarders by a resident family.
6. Non-commercial recreational facilities, such as baseball fields; soccer fields; polo fields; swimming pools; tennis courts and the like.
7. Private garages, storage sheds, parking lots, and private farm vehicle fueling facilities.
8. Living quarters, without kitchen facilities and not used for rental purposes, for guests and employees of the premises.
9. Satellite dish antennas, as regulated in Article 15-8.
10. Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
11. Mobile homes, as provided in Article 10.
12. Tenant homes, provided all yard requirements for a principal residence are met.

8-1(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Horse race tracks with allotted race meets, including accessory simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages, and horse riding and training facilities.
2. Horse sales establishments.
3. Hospitals for large animals, including equine hospitals.
4. Plant nurseries.
5. Commercial greenhouses, but only when all the following conditions are met:
   a. A 20-foot wide landscape easement shall be provided around all buildings and parking areas or at the perimeter of the tract of land, containing one tree per thirty (30) feet of length or fraction thereof, plus a continuous 6-foot high planting, hedge, fence, wall or earth mound. Plantings shall be both deciduous and non-deciduous. A detailed site plan showing proposed screening shall be provided, and a performance bond or letter of credit shall be posted with the Division of Building Inspection to ensure completion of screening. New screening shall not be required to be planted when existing screening is substantially similar to the screening mentioned above.
   b. No structure shall be built within three hundred (300) feet of any existing residential structure on another lot under different ownership, and driveways shall be one hundred (100) feet from property lines.
   c. There shall be no outdoor display or sale of fungicides, insecticides, chemicals, peat moss, humus, mulches or fertilizer.
   d. No commercial greenhouse shall be located within a floodplain.
   e. The commercial greenhouse shall be located where easily accessible by arterial roads. All roads to the site should be of sufficient width and constructed to safely handle all sizes of trucks. The Board shall review the location of access points to ensure that no traffic hazards are created.
   f. All driveways and parking areas shall be paved or sealed to prevent dust.
6. Commercial composting, but only when the following conditions are met:
   a. That only the open windrow or static pile method of aerobic processing using plant material, soils and animal manure, be permitted.
   b. That a permit-by-rule or letter of intent from the Division of Waste Management of the Kentucky Natural Resources and Environmental Protection Cabinet be obtained prior to submission of any application to the Board of Adjustment for a conditional use permit.
   c. That no commercial composting operation be conducted closer than one thousand (1,000) feet to any existing residence.
   d. That a development plan indicating access points and circulation routes, proposed signage, screening
and landscaping, fencing and other significant geological or physical features of the property be submitted as part of any application.

e. That the Board specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic or dust.

7. Agricultural market, but only when the following conditions are met:
   a. The minimum lot size shall be forty (40) acres and shall not be located in A-R zoned land within the Urban Service Area of Lexington-Fayette County.
   b. The property shall be within one (1) mile of an interstate interchange with a state or federal highway, excluding the two interchanges of Interstate 64 with Interstate 75. The property must also have frontage on a state or federal highway, and access is also to be within one (1) mile of the point of intersection of the centerlines of the interchange, and subject to approval by the Kentucky Transportation Cabinet.
   c. All roads to the property shall be of sufficient width, and constructed to safely handle all sizes of trucks when fully loaded during all weather conditions.
   d. The facility shall be at least one thousand (1,000) feet from any property in a residential zone, any property designated as a Rural Settlement (RS) or as an Existing Rural Residential (ERR) land use under the adopted Comprehensive Plan, and any property designated on the National Register of Historic Places. As used herein, “facility” shall mean all improvements, including parking and loading areas, but not including driveways for ingress and egress to the property.
   e. Improvements such as buildings; barns; and other structures, including storm water detention basins, truck parking and loading areas; above-ground and underground storage tanks and septic sewage disposal systems shall be located outside of any environmentally sensitive area, including any wellhead protection area.
   f. All sales and marketing of livestock shall take place in a completely enclosed facility, and no building may be located closer than one thousand (1,000) feet from a residence on a lot under different ownership; provided, however, that all pre-sale and post-sale handling of livestock shall take place under roof in a facility enclosed by a combination of fences and gates in order to secure the livestock while allowing adequate ventilation and air circulation.
   g. There shall be provision for the treatment and/or disposal of waste generated on the site, subject to all applicable local, state and federal requirements. Muck piles or the spreading of animal waste upon any part of the site shall be prohibited.
   h. All parking areas and driveways shall be paved.
   i. Any outdoor lighting proposed must be directed away from, and shielded from, adjacent agricultural and/or residential areas.
   j. The facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations, including those pertaining to noise, air and water quality.
   k. Storm water management shall be provided pursuant to the requirements of the LFUCG Engineering Manuals, and storm water shall be treated appropriately prior to its discharge.
   l. Screening shall be provided if the facility is visible from adjoining properties. Such screening and buffering shall be designed so as to minimize the impact of air, noise, odor and/or light generated by the facility upon adjoining properties to the greatest extent practicable. Article 18 of the Zoning Ordinance shall be used to guide the planting of the screening of loading docks and vehicular use areas, but the Board of Adjustment may impose additional screening requirements and landscape buffers, as necessary.
   m. There shall be a minimum of forty-five percent (45%) of the lot, regardless of size, provided as open space, which may not be varied by the Board of Adjustment.
   n. The following accessory uses may also be permitted in conjunction with the operation of an agricultural market, provided that the aggregate of these uses may not exceed twenty-five percent (25%) of the total square footage of buildings on the property, or 40,000 square feet, whichever is less; and, except as otherwise provided, shall be located in the principal structure on the property, provided they are operated primarily for the benefit of patrons and employees of the agricultural market; provided that no signs identifying such uses are visible from the right-of-way; and provided that all such uses are clearly identified on the site plan submitted to the Board of Adjustment:
   1) Accessory offices for banking, insurance and financial institutions;
   2) Meeting rooms, not to exceed five percent (5%) of the total floor area;
   3) One (1) coffee shop or restaurant, not to exceed 5,000 square feet, or five percent (5%) of the total floor area, whichever is less;
   4) Loading docks;
   5) State and federal government offices related to agriculture;
   6) Veterinary clinic, including the sale of livestock pharmaceutical supplies;
   7) One (1) dwelling unit for owners, operators or
employees; and one (1) dwelling unit
for watchmen or caretakers, which
dwelling units may be separate
structures;
8) Retail sale of agricultural products,
supplies and related items, including
the acceptance of orders for bulk
agricultural supplies, with no on-site
storage of such supplies, not to exceed
5,000 square feet;
9) Sale of agricultural products produced
on the premises;
10) Livestock and grain commodity trading
office;
11) Display area for farm machinery/
equipment, provided that no on-site
sales shall be permitted.
o. A detailed development plan, indicating
access points, including construction and
circulation routes; parking areas; lighting;
screening and landscaping; proposed
improvements; accessory uses; detention
areas; signage; fencing and other significant
physical or geological features of the
property shall be submitted as part of any
application.
p. One free standing sign per street frontage
may be permitted, limited to the agricultural
market and not any use accessory thereto,
with a maximum of two (2) signs, not
exceeding 50 square feet in area and 20 feet
in height. In addition to any free standing
sign, wall-mounted signs may also be
permitted, not to exceed a total of five
percent (5%) of the wall area to which they
are attached; provided the signs are for the
agriculture market and not for the purposes
of identification of any use accessory
thereto. Signs may only be non-illuminated
or indirectly illuminated.
q. An operational plan shall also be submitted
that outlines:
1) Provisions for animal and/or product
waste disposal, including grease,
subject to all applicable local, state and
federal requirements.
2) Provisions for sewage disposal,
maintaining air and water quality, and
odor management.
3) Hours of operation, and anticipated
hours for truck deliveries and truck
shipments.
4) Routing of trucks on the site, including
truck stacking, parking and loading
areas.
5) Protection measures proposed for any
environmentally sensitive area located
on the site, including any wellhead
protection area.
6) Existing and proposed utilities.
7) Where appropriate, a Kentucky No Discharge
Operational Permit (KNDOP), or other
appropriate permit from the Kentucky
Division of Water may be required as part of
the approval of an Operational Plan.
8) Any other pertinent information to indicate
clearly the orderly operation proposed.
r. The Board of Adjustment shall specifically
consider and be able to find that the proposed use
will not constitute a nuisance by creating excessive
noise, water pollution, traffic, dust or other public
health hazards.
s. The Board of Adjustment shall review all
accessory uses approved as part of an application,
on an annual basis, to ensure that such uses are
operating in compliance with the restrictions set
forth herein, and with any additional restrictions
and/or conditions imposed by the Board. The
Board may modify or revoke its approval of an
accessory use if it finds, based upon the evidence,
that such accessory use has been operated in
violation of this Ordinance or any conditions or
restrictions imposed by the Board.

For any of the following conditional uses established after
January 26, 1995, a total of 10,000 square feet shall be the
maximum allowable for all structures proposed for such
uses.

8. Cemeteries, crematories, columbariums, mausoleums,
including animal burial grounds.
9. Rehabilitation homes.
10. Non-service facilities of public utilities and common
 carriers by rail, including office, garage, and
 warehouse space when not incidental to a service
 facility as provided in KRS 100.324.
11. Commercial and non-commercial outdoor recreational
facilities (without outdoor lighting, loud speakers,
retail sales of merchandise, restaurants or food
service, and the like), including zoological gardens,
sportsmen's farms (including outdoor rifle and other
firearm ranges), native animal game preserves,
outdoor rodeos, hunting and trapping, riding stables,
campgrounds, and fishing lakes, including private
clubs for only these uses.
12. Commercial and non-commercial outdoor recreational
facilities (excluding golf courses), with outdoor
lighting; but without loud speakers, retail sales of
merchandise, restaurants or food service, and the like;
but only when located immediately adjacent to the
Blue Sky Rural Activity Center defined in the adopted
Comprehensive Plan.
13. Extraction of crude petroleum or natural gas and
mining of metal, anthracite, lignite or bituminous coal.
14. Mining and/or quarrying of non-metallic minerals, but
only when the proposal complies with the
requirements of the Mining/Quarrying Ordinance
(Code of Ordinances #252-91) and the conditions and
requirements as set forth therein. The Board of
Adjustment shall specifically consider and be able to
find:
  a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
  b. That a reasonable degree of reclamation and proper drainage control is feasible; and
  c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

15. Airports, including accessory restaurants and/or the serving of alcoholic beverages.

16. Radio, telephone or television transmitting or relay facilities, including line-of-sight relays and towers, except as permitted by KRS 100.324, and only under the following conditions:
  a. Such facilities shall be operated at all times in compliance with applicable Federal, State, and local laws and regulations, including all standards of the Federal Aviation Administration and the Federal Communications Commission.
  b. No transmitting or relay tower shall be located closer than the height of the tower from another lot under different ownership, or any public or private street or highway, unless the tower is constructed to withstand a minimum wind speed of one hundred (100) miles per hour.
  c. The plans of tower construction shall be certified by an engineer registered in the State of Kentucky.
  d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.

17. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, only when accessory to a residential use. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

18. Family child care for children for seven (7) and not more than twelve (12) children, provided that the total number of children living or being cared for on the premises shall not exceed twelve (12). A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

19. Churches, Sunday schools and parish houses, provided that churches may be allowed an additional 10,000 square feet of building over and above their existing square footage, provided that the church structure(s) existed or the church had approval of the Board of Adjustment and the church owned 20 or more contiguous acres prior to the adoption of the Rural Land Management Plan on April 8, 1999.

20. Schools for academic instruction, including accessory dormitories.

21. Kindergartens, nursery schools and child care centers for four (4) or more children when accessory to a church or school, as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

22. Concrete mixing, but only when associated with mining or quarrying operations which comply with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein, and only under the following conditions:
  a. That no concrete mixing and/or asphalt plant operation be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
  b. Noise, Air & Water Quality - The facility shall be operated at all times in compliance with applicable Federal, State and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Article 6-7: Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.
  c. Development Plan - The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, storm water and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
  d. Drainage and Erosion Control - The facility shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
  e. Roads - All access roads that intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point. Internal roads may be unpaved, provided dust is adequately controlled.
  f. Screening - Screening shall be provided as defined in accordance with LFUCG Article 18 of the Zoning Ordinance.
  g. Transportation Plan - A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
    1) Product shipping and deliveries;
    2) Mode of transportation;
    3) Route(s) to and from site;
    4) Schedule and frequency of shipments;
    5) Delivery and shipping spillage control methods;
6) Employee parking.

h. Storage - Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.

i. Excess Product and Waste - Excess product and waste, when disposed of on site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.

23. Asphalt plant, but only when associated with mining and/or quarrying which comply with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein, and only under the following conditions:

a. That no asphalt plant operation be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.

b. Noise, Air & Water Quality - The facility shall be operated at all times in compliance with applicable Federal, State, and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Article 6-7: Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.

c. Development Plan - The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, stormwater and sediment basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.

d. Drainage and Erosion Control - The facility shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.

e. Roads - All access roads that intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point. Internal roads may be unpaved, provided dust is adequately controlled.

f. Screening - Screening shall be provided as defined in accordance with LFUCG Article 18 of the Zoning Ordinance.

g. Transportation Plan - A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:

1) Product shipping and deliveries;

2) Mode of transportation;

3) Route(s) to and from the site;

4) Schedule and frequency of shipments;

5) Delivery and shipping spillage control methods;

6) Employee parking.

h. Storage - Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.

i. Excess Product and Waste - Excess product and waste, when disposed of on site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.

24. Commercial woodlots, but only when the following conditions are met:

a. A 50-foot open space area shall be required from the perimeter of the tract of land.

b. No commercial woodlot shall be located within four hundred (400) feet of any residential structure on another lot under different ownership, and driveways shall be a minimum of one hundred (100) feet from property lines.

c. A 20-foot wide landscape buffer area shall be provided around all commercial woodlots or at
the perimeter of the tract of land, containing one tree per thirty (30) feet of length or fraction thereof, plus a continuous 6-foot high planting hedge, fence, wall or earth mound. New screening shall not be required to be planted when existing screening is substantially similar to the screening mentioned above.

d. There shall be no storage or sale of wood chips, peat moss, humus, mulches or fertilizer, nor sale to the public of firewood at the site.

e. No commercial woodlot shall be located within a floodplain or sinkhole.

f. Commercial woodlots shall be located where easily accessible by Federal or State highways. All roads to site should be of sufficient width and constructed to safely handle all sizes of trucks. The Board shall review the location of access points to ensure that no traffic hazards are created.

g. All driveways and parking areas shall be paved or sealed to prevent dust.

h. Wood shall be stored in rows no greater than ten (10) feet in height, no greater than twenty (20) feet in width, and spaced no less than fifteen (15) feet apart.

i. Cutting and splitting of timber shall not occur in the 50-foot open space area of the site, and only between the hours of 8:00 a.m. - 5:00 p.m.

j. The Board of Adjustment shall specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, water pollution, traffic, dust or other public health hazards.

k. No signage shall be permitted on the premises.

l. Woodlots shall comply with all applicable Federal and State laws.

25. Bed and breakfast facilities, limited to the rental of not more than five (5) rooms per property, provided that no use permitted under this section shall be located less than one (1) mile, as measured from the facility, from another use permitted under this section. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.

26. Expansion of golf courses in existence or approved as of January 26, 1995 (including private clubs) with or without driving ranges, including the accessory retail sale of golf-related merchandise, and including an accessory restaurant and/or food service with or without the serving of alcoholic beverages. This use shall not be conducted in conjunction with more than one single family detached dwelling.

27. Any uses that are clearly incidental and subordinate to a small farm winery operation licensed as such by the Commonwealth of Kentucky, other than those specifically outlined in KRS 100, and permitted by Article 8-1(c)(2), which may include special events with or without live entertainment or a small bistro/restaurant of up to (2) seats per 1,000 gallons of wine, brandies and cordials produced or compounded on site per year. For special events, documentation shall be provided that arrangements have been made with the LFUCG Division of Fire and Emergency Services for approval of fire suppression and control; that Fayette County Health Department approval has been obtained for the septic system and/or portable toilets; that Fayette County Health Department approval has been obtained for any food services offered, whether it be provided on site or catered for each event; and that approval be obtained from the Division of Building Inspection for any temporary structures used (i.e., tents).

8-1(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Establishments for the processing of crude petroleum, natural gas, or oil shale.
2. Disposal of garbage and refuse, transfer stations.
3. Multi-family, two-family or townhouse dwelling units.
4. Retail sales or services, wholesale, or warehouse uses, except as provided herein.
5. Offices and institutional uses.
6. Commercial recreational facilities, such as amusement parks; bowling alleys; skating rinks; pool or billiard halls; establishments with coin-operated pool or billiard tables, or outdoor theaters.
7. Hotels, motels, boarding or lodging houses.
8. Manufacturing, compounding, assembling, processing and packaging and other industrial uses.
9. Automobile race tracks.
10. Garden centers, except those activities specifically allowed under the definition of commercial greenhouses and plant nurseries.
11. Major or minor automobile and truck repair.
12. Automobile service stations.
13. Storage, except as permitted herein.
15. Sale of new or used merchandise, except as provided
16. Slaughterhouses.
17. Penal or correctional institutions.
20. Hospitals, nursing homes, rest homes, orphanages, community residences.
21. Sewage disposal plants.
22. Fraternity and sorority houses.
23. Private clubs, including accessory restaurants and/or the serving of alcoholic beverages, except as permitted herein.
24. Adult entertainment establishments or other similar adult uses.

Lot, Yard and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-1(f) Minimum Lot Size - Forty (40) acres, except as noted in 8-1(o)(1) below.

8-1(g) Minimum Lot Frontage - 750', except as noted in 8-1(o)(1) below.

8-1(h) Minimum Front Yard - 300’ from the right-of-way line, except for the following:

1. Lots which have principal permitted residential structures less than 300’ from the right-of-way line; then the minimum front yard shall be coincident with the existing front yard, or 50’, whichever is greater;
2. Lots which were created by subdivision plats recorded prior to January 26, 1995 shall have the minimum front yard coincident with the platted building line, or 50’, whichever is greater;
3. Existing lots less than 350’ in lot depth shall have the minimum front yard coincident with the platted building line, or 50’, whichever is greater.

8-1(i) Minimum Each Side Yard - 25 feet.

8-1(j) Minimum Rear Yard - 25 feet.

8-1(k) Minimum Useable Open Space - No limitation.

8-1(l) Maximum Lot Coverage - No limitation.

8-1(m) Maximum Height of Building - 35 feet, except for buildings devoted solely to agricultural uses, then no limitation.

8-1(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Bed and Breakfast Facilities - One space per room rented other than the first room.

Churches and Sunday Schools - One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.

Commercial Greenhouses - Provided there are sales to the public on the premises, one (1) space per employee, and ten (10) additional spaces, plus one (1) additional space per four hundred (400) square feet of total floor area, up to five thousand (5,000) square feet of total floor area. Parking spaces not required to be paved, but must be durable and dustless.

Non-Commercial Outdoor Athletic Facilities, including Baseball Fields; Soccer Fields; Outdoor Rodeos - One (1) space for every five (5) spectator seats, or one for every three active participants in the sport, whichever is greater.

Commercial and Non-Commercial Riding Stables, Fishing Lakes, Campgrounds, Sportsmen’s Farms, Zoological Gardens, and Non-Commercial Recreational Facilities not otherwise stated herein - Five (5) spaces, plus one (1) space for each employee for each separate use.

Dormitories - Five (5) spaces, plus one (1) space for every five (5) beds.

Dwelling Units - One (1) parking space per dwelling unit.

Elementary and Junior High Schools - One (1) space for every fifteen (15) seats in the main auditorium; or one (1) space for each classroom, plus one (1) space for each employee, whichever is greater.

All Other Schools for Academic Instruction - One (1) space for each five (5) classroom seats, or one space for each five (5) seats in the main auditorium, whichever is greater.

Equine Hospitals or Large Animal Hospitals - One (1) space per four hundred (400) square feet of floor area, with a minimum of five (5) spaces; but not including any barns.

Golf Courses - Three (3) spaces for every hole on the main course.

Golf Driving Ranges - One (1) space per driving tee; plus one (1) space per employee, with a minimum of five (5) spaces.

Horse Race Tracks - One (1) space per five (5) seats, plus one (1) space for every three (3) employees.

Rehabilitation Homes - One (1) space for each three (3) beds; plus one (1) space for each employee on the maximum shift, with a minimum of five (5) spaces.

Kindergartens, Nursery Schools, Child Care Centers and Family Child Care for seven (7) or more children - Three (3) spaces for the first twelve (12) children, plus one space for every ten (10) (or fraction thereof) additional children.
Private Clubs - One (1) space for every four (4) members.

Small Farm Winery Restaurant/Bistro - One (1) space for every six (6) seats in the restaurant/bistro.

Conditional Uses - Parking requirements stated herein for conditional uses are minimum requirements; the Board of Adjustment may establish additional requirements, as needed. For any conditional use not otherwise stated herein: one (1) space per employee, with a minimum of five (5) spaces.

Combinations - Combined uses shall provide parking equal to the sum of the individual requirements.

8-1(o) Special Provisions

1. Existing single family residential structures containing, at a minimum, running water; indoor plumbing; and electricity; and which has been legally occupied at any time within six months of the date of the adoption of this section, may be subdivided from its parent tract on a 10-acre minimum lot with a minimum of 250’ of lot frontage, provided that the remaining parent tract has a minimum of 40 acres, and at least 250’ of frontage on an existing road; or approved access as provided for in Article 6-8(1) of the Land Subdivision Regulations. The provisions of this section shall expire three years from the date of its adoption.
8-2 AGRICULTURAL BUFFER (A-B) ZONE

8-2(a) Intent - This zone is established to preserve the rural character of the agricultural service area by establishing agricultural land that can serve as buffer areas between urban uses and agricultural land, and between land outside Fayette County and agricultural uses. It is the intent of this zone to provide separation between conflicting uses by requiring appropriate landscaping, fencing, and compatible uses. The Land Use Element of the Comprehensive Plan shall be used to determine the appropriate location for the Agricultural Buffer (A-B) zone.

8-2(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Land used solely for agricultural purposes, including small farm wineries, as outlined in KRS 100.
2. Single family detached dwellings.

8-2(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Accessory uses in connection with agriculture, farming, dairying, stock raising or similar uses, such as agricultural structures; stables; and parking areas, provided all yard requirements for a principal residence are met.
2. Those specific agricultural uses outlined in KRS 100 that are incidental only to a small farm winery licensed as such by the Commonwealth of Kentucky, such as the manufacture and bottling of wines; tasting rooms for the purpose of serving complimentary samples; sale by the drink or bottle, either on or off premises; and sale and shipment of wine, either wholesale or retail.
3. Home offices and home occupations.
4. Temporary roadside stands offering for sale only agricultural products grown on the premises.
5. Keeping of not more than two (2) roomers or boarders by a resident family.
6. Non-commercial recreational facilities, such as baseball fields; soccer fields; polo fields; swimming pools; tennis courts and the like.
7. Private garages, storage sheds, parking lots, and private farm vehicle fueling facilities.
8. Living quarters, without kitchen facilities and not used for rental purposes, for guests and employees of the premises.
9. Satellite dish antennas, as regulated in Article 15-8.
10. Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
11. Mobile homes, as provided in Article 10.
12. Tenant homes, provided all yard requirements for a principal residence are met.

8-2(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Hospitals for large animals, including equine hospitals.
2. Plant nurseries.

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of 10 acres and has frontage on a state highway, a total of 10,000 square feet shall be the maximum allowable for all structures proposed for such uses.

3. Cemeteries, crematories, columbariums, mausoleums, including animal burial grounds.
4. Rehabilitation homes.
5. Non-service facilities of public utilities and common carriers by rail, including office, garage, and warehouse space when not incidental to a service facility as provided in KRS 100.324.
6. Commercial and non-commercial outdoor recreational facilities (without outdoor lighting, loud speakers, retail sales of merchandise, restaurants or food service, and the like), including zoological gardens; sportsmen's farms (including outdoor rifle and other firearm ranges); native animal game preserves; outdoor rodeos; hunting and trapping; riding stables; campgrounds; and fishing lakes; including private clubs for only these uses.
7. Extraction of crude petroleum or natural gas and mining of metal, anthracite, lignite or bituminous coal.
8. Mining and/or quarrying of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements of the Mining Ordinance, except as permitted by KRS 100.324; also subject to such additional conditions as the Board of Adjustment shall specify.

8-2(e) Adjustment approval.

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of 10 acres and has frontage on a state highway, a total of 10,000 square feet shall be the maximum allowable for all structures proposed for such uses.

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of 10 acres and has frontage on a state highway, a total of 10,000 square feet shall be the maximum allowable for all structures proposed for such uses.
compliance with applicable Federal, State, and local laws and regulations, including all standards of the Federal Aviation Administration and the Federal Communications Commission.

b. No transmitting or relay tower shall be located closer than the height of the tower from another lot under different ownership, or any public or private street or highway, unless the tower is constructed to withstand a minimum wind speed of one hundred (100) miles per hour.

c. The plans of tower construction shall be certified by an engineer registered in the State of Kentucky.

d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.

10. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, only when accessory to a residential use. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

11. Family child care for seven (7) and not more than twelve (12) children, provided that the total number of children living or being cared for on the premises shall not exceed twelve (12). A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.


13. Schools for academic instruction, including accessory dormitories.

14. Kindergartens, nursery schools and child care centers for four (4) or more children when accessory to a church or school, as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

15. Bed and breakfast facilities, limited to the rental of not more than five (5) rooms per property, provided that no use permitted under this section shall be located less than one (1) mile, as measured from the facility, from another use permitted under this section. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.

16. Any uses that are clearly incidental and subordinate to a small farm winery operation licensed as such by the Commonwealth of Kentucky, other than those specifically outlined in KRS 100, and permitted by Article 8-1(c)(2), which may include special events with or without live entertainment or a small bistro/restaurant of up to two (2) seats per 1,000 gallons of wine, brandies and cordials produced or compounded on site per year. For special events, documentation shall be provided that arrangements have been made with the LFUCG Division of Fire and Emergency Services for approval of fire suppression and control; that Fayette County Health Department approval has been obtained for any food services offered, whether it be provided on site or catered for each event; and that approval be obtained from the Division of Building Inspection for any temporary structures used (i.e., tents).

**8-2(e) Prohibited Uses** (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Establishments for the processing of crude petroleum, natural gas, or oil shale.
2. Disposal of garbage and refuse, transfer stations.
3. Multi-family, two-family or townhouse dwelling units.
4. Retail sales or services, wholesale, or warehouse uses, except as provided herein.
5. Offices and institutional uses.
6. Commercial recreational facilities, such as amusement parks; bowling alleys; skating rinks; pool or billiard halls; establishments with coin-operated pool or billiard tables, or outdoor theaters.
7. Hotels, motels, boarding or lodging houses, except bed and breakfast facilities permitted herein.
8. Manufacturing, compounding, assembling, processing and packaging and other industrial uses.
9. Automobile race tracks.
10. Garden centers, commercial greenhouses and plant nurseries.
11. Major or minor automobile and truck repair.
12. Automobile service stations.
13. Storage, except as permitted herein.
15. Sale of new or used merchandise, except as provided herein.
16. Stockyards and slaughtering of animals.
17. Penal or correctional institutions.
20. Hospitals, nursing homes, rest homes, orphanages, community residences.
21. Sewage disposal plants.
22. Fraternity and sorority houses.
23. Private clubs, including accessory restaurants and/or the serving of alcoholic beverages, except as
permitted herein.
24. Horse race tracks.
25. Veterinarian offices.
27. Airports.
28. Concrete mixing and asphalt plants.
29. Commercial woodlots.
30. Golf courses.
31. Adult entertainment establishments or other similar adult uses.

Lot, Yard and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-2(f) Minimum Lot Size - Ten (10) acres.
8-2(g) Minimum Lot Frontage - 250 feet.
8-2(h) Minimum Front Yard - 300’ from the right-of-way line, except for the following:
   1. Lots which have principal permitted residential structures less than 300’ from the right-of-way line; then the minimum front yard shall be coincident with the existing front yard, or 50’, whichever is greater;
   2. Lots which were created by subdivision plats recorded prior to January 26, 1995 shall have the minimum front yard coincident with the platted building line, or 50’, whichever is greater;
   3. Existing lots less than 350’ in lot depth shall have the minimum front yard coincident with the platted building line, or 50’, whichever is greater.
8-2(i) Minimum Each Side Yard - 50 feet.
8-2(j) Minimum Rear Yard - 100 feet.
8-2(k) Minimum Useable Open Space - No limitation.
8-2(l) Maximum Lot Coverage - No limitation.
8-2(m) Maximum Height of Building - 35 feet, except for buildings devoted solely to agricultural uses, then no limitation.
8-2(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Bed and Breakfast Facilities - One space per room rented other than the first room.
Churches and Sunday Schools - One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.
Non-Commercial Outdoor Athletic Facilities, including Baseball Fields; Soccer Fields; Outdoor Rodeos - One (1) space for every five (5) spectator seats, or one for every three active participants in the sport, whichever is greater.

Commercial and Non-Commercial Riding Stables, Fishing Lakes, Campgrounds, Sportsmen’s Farms, Zoological Gardens, and Non-Commercial Recreation Facilities not otherwise stated herein - Five (5) spaces, plus one (1) space for each employee for each separate use.

Dormitories - Five (5) spaces, plus one (1) space for every five (5) beds.

Dwelling Units - One (1) parking space per dwelling unit.

Equine Hospitals or Large Animal Hospitals - One (1) space per four hundred (400) square feet of floor area, with a minimum of five (5) spaces; but not including any barns.

Rehabilitation Homes - One (1) space for each three (3) beds; plus one (1) space for each employee on the maximum shift, with a minimum of five (5) spaces.

Kindergartens, Nursery Schools, Child Care Centers and Family Child Care for seven (7) or more children - Three (3) spaces for the first twelve (12) children, plus one space for every ten (10) (or fraction thereof) additional children.

Private Clubs - One (1) space for every four (4) members.

Small Farm Winery Restaurant/Bistro - One (1) space for every six (6) seats in the restaurant/bistro.

Conditional Uses - Parking requirements stated herein for conditional uses are minimum requirements; the Board of Adjustment may establish additional requirements, as needed. For any conditional use not otherwise stated herein: one (1) space per employee, with a minimum of five (5) spaces.

Combinations - Combined uses shall provide parking equal to the sum of the individual requirements.

8-2(o) Special Provisions - For any development in an Agricultural Buffer Area (A-B) zone, the following provisions shall apply:
1. All Agricultural-Buffer Area (A-B) zone developments shall provide a fenced buffer yard along the boundary of the development with land recommended for Natural Areas and Core Agricultural and Rural Land in the Comprehensive Plan. In order to prevent the growth of plants that may be toxic to animals, the buffer yard shall be kept mowed and free of trees, shrubs and plants other than grasses. Existing vegetation may remain as specified under Article 6-3(b) of the Land Subdivision Plan.
Regulations. Buffer yards may, however, be used for utility installation and easements. Such buffer yard shall be the responsibility of the property owner in the A-B zone to install and to maintain, and shall consist of the following:

a. A double row of standard gauge diamond-mesh wire fences, of durable construction, at least eight (8) feet apart, with one fence to be not less than fifty-two (52) inches high, set on 7½-foot posts, with a required 6-inch top board, to be placed closest to the A-B development; and the second fence to be not less than fifty-eight (58) inches high, set on 8-foot posts, with a required 6-inch top board, placed nearest the adjoining agricultural property; or

b. A single, standard gauge, diamond mesh wire fence, of durable construction, not less than seventy-two (72) inches high, set on 9-foot posts, with a required 6-inch top board, with the mowed buffer yard to be eight (8) feet adjoining the fence; or

c. Other buffer yard and fencing which achieves the intent of this section and which is agreed upon by the developer of the Agricultural Buffer Area and the adjoining agricultural property.
8-3 AGRICULTURAL NATURAL AREAS (A-N) ZONE

8-3(a) Intent - This zone is established to preserve areas within the Rural Service Area that are physically unique, primarily due to their association with the Kentucky River and its tributaries. This area is characterized by steeper slopes, forested areas, and thinner/poorer soils, and is known as a habitat for rare and unusual flora and fauna. Because these lands are environmentally sensitive, special care is needed to ensure that the uses that are permitted are compatible with the goal of conservation and preservation of these lands. The Land Use Element of the Comprehensive Plan shall be used to determine the appropriate locations for the Agricultural Natural Areas (A-N) Zone.

8-3(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Land used solely for agricultural purposes, including small farm wineries, as outlined in KRS 100.
2. Single family detached dwellings.

8-3(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Accessory uses in connection with agriculture, farming, dairying, stock raising or similar uses, such as agricultural structures; stables; and parking areas, provided all yard requirements for a principal residence are met.
2. Those specific agricultural uses outlined in KRS 100 that are incidental only to a small farm winery licensed as such by the Commonwealth of Kentucky, such as the manufacture and bottling of wines; tasting rooms for the purpose of serving complimentary samples; sale by the drink or bottle, either on or off premises; and sale and shipment of wine, either wholesale or retail.
3. Home offices and home occupations.
4. Temporary roadside stands offering for sale only agricultural products grown on the premises.
5. Keeping of not more than two (2) roomers or boarders by a resident family.
6. Non-commercial recreational facilities, such as baseball fields; soccer fields; polo fields; swimming pools; tennis courts and the like.
7. Private garages, storage sheds, parking lots, and private farm vehicle fueling facilities.
8. Living quarters, without kitchen facilities and not used for rental purposes, for guests and employees of the premises.
9. Satellite dish antennas, as regulated in Article 15-8.
10. Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
11. Mobile homes, as provided in Article 10.
12. Tenant homes, provided all yard requirements for a principal residence are met.

8-3(d) Conditional Uses (Permitted only with Board of Adjustment approval.) For any of the following conditional uses established after January 26, 1995, a total of 10,000 square feet shall be the maximum allowable for all structures proposed for such uses. Prior to the approval of any conditional use containing environmentally sensitive land, such as flood hazard areas; areas of significant tree stands; sinkhole and karst areas; slopes exceeding 15%; “special natural protection” areas, as designated in the Comprehensive Plan; and stone fences, the applicant must prove, and the Board of Adjustment must find, that adequate safeguards will be in place to ensure the least negative impact on the land. This proof and finding shall extend to uses accessory to permitted conditional uses. In making its determination, the Board of Adjustment may require the submission of an environmental assessment prepared by a qualified professional.

1. Cemeteries, crematories, columbariums, mausoleums, including animal burial grounds.
2. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, only when accessory to a residential use. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
3. Family child care for seven (7) and not more than twelve (12) children, provided that the total number of children living or being cared for on the premises shall not exceed twelve (12). A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
5. Kindergartens, nursery schools and child care centers for four (4) or more children when accessory to a church or school as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
6. Non-service facilities of public utilities and common carriers by rail, including office, garage, and warehouse space when not incidental to a service facility as provided in KRS 100.324.
7. Commercial and non-commercial outdoor recreational facilities (without outdoor lighting, loud speakers, retail sales of merchandise, restaurants or food service, and the like), including zoological gardens; sportsmen's farms (including outdoor rifle and other firearm ranges); native animal game preserves; outdoor rodeos; hunting and trapping; riding stables; campgrounds; and fishing lakes, including private clubs for only these uses.
8. Extraction of crude petroleum or natural gas and mining of metal, anthracite, lignite or bituminous coal.

9. Mining and/or quarrying of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b. That a reasonable degree of reclamation and proper drainage control is feasible; and
   c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

10. Radio, telephone or television transmitting or relay facilities, including line-of-sight relays and towers, except as permitted by KRS 100.324, and only under the following conditions:
   a. Such facilities shall be operated at all times in compliance with applicable Federal, State, and local laws and regulations, including all standards of the Federal Aviation Administration and the Federal Communications Commission.
   b. No transmitting or relay tower shall be located closer than the height of the tower from another lot under different ownership, or any public or private street or highway, unless the tower is constructed to withstand a minimum wind speed of one hundred (100) miles per hour.
   c. The plans of tower construction shall be certified by an engineer registered in the State of Kentucky.
   d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.

11. Bed and breakfast facilities, limited to the rental of not more than five (5) rooms per property, provided that no use permitted under this section shall be located less than one (1) mile, as measured from the facility, from another use permitted under this section. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.

12. Any uses that are clearly incidental and subordinate to a small farm winery operation licensed as such by the Commonwealth of Kentucky, other than those specifically outlined in KRS 100, and permitted by Article 8-1(c)(2), which may include special events with or without live entertainment or a small bistro/restaurant of up to two (2) seats per 1,000 gallons of wine, brandies and cordials produced or compounded on site per year. For special events, documentation shall be provided that arrangements have been made with the LFUCG Division of Fire and Emergency Services for approval for fire suppression and control; that Fayette County Health Department approval has been obtained for the septic system and/or portable toilets; that Fayette County Health Department approval has been obtained for any food services offered, whether it be provided on site or catered for each event; and that approval be obtained from the Division of Building Inspection for any temporary structures used (i.e., tents).

8-3(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Establishments for the processing of crude petroleum, natural gas, or oil shale.
2. Disposal of garbage and refuse, transfer stations.
3. Multi-family, two-family or townhouse dwelling units.
4. Retail sales or services, wholesale, or warehouse uses, except as provided herein.
5. Offices and institutional uses.
6. Commercial recreational facilities, such as amusement parks; bowling alleys; skating rinks; pool or billiard halls; establishments with coin-operated pool or billiard tables, or outdoor theaters.
7. Hotels, motels, boarding or lodging houses, except bed and breakfast facilities permitted herein.
8. Manufacturing, compounding, assembling, processing and packaging, and other industrial uses.
9. Automobile race tracks.
10. Garden centers, commercial greenhouses and plant nurseries.
11. Major or minor automobile and truck repair.
12. Automobile service stations.
13. Storage, except as permitted herein.
15. Sale of new or used merchandise, except as provided herein.
16. Stockyards and slaughtering of animals.
17. Penal or correctional institutions.
20. Hospitals, nursing homes, rest homes, orphan-ages, community residences.
21. Sewage disposal plants.
22. Fraternity and sorority houses.
23. Private clubs, including accessory restaurants and/or the serving of alcoholic beverages, except as permitted herein.
24. Horse race tracks.
25. Veterinarian offices, including equine and large animal hospitals.
27. Airports.
28. Concrete mixing and asphalt plants.
29. Commercial woodlots.
30. Golf courses.
31. Adult entertainment establishments or other similar adult uses.

Lot, Yard and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-3(f) Minimum Lot Size - Forty (40) acres.
8-3(g) Minimum Lot Frontage - 750'.
8-3(h) Minimum Front Yard - 300’ from the right-of-way line, except for the following:

(1) Lots which have principal permitted residential structures less than 300’ from the right-of-way line; then the minimum front yard shall be coincident with the existing front yard, or 50’, whichever is greater;
(2) Lots which were created by subdivision plats recorded prior to January 26, 1995 shall have the minimum front yard coincident with the platted building line, or 50’, whichever is greater;
(3) Existing lots less than 350’ in lot depth shall have the minimum front yard coincident with the platted building line, or 50’, whichever is greater.

8-3(i) Minimum Each Side Yard - 50’.
8-3(j) Minimum Rear Yard - 100’.
8-3(k) Minimum Useable Open Space - No limitation.
8-3(l) Maximum Lot Coverage - No limitation.
8-3(m) Maximum Height of Building - 35’, except for buildings devoted solely to agricultural uses, then no limitation.
8-3(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Bed and Breakfast Facilities - One space per room rented other than the first room.
Churches and Sunday Schools - One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.
Non-Commercial Outdoor Athletic Facilities, including Baseball Fields; Soccer Fields; Outdoor Rodeos - One (1) space for every five (5) spectator seats, or one for every three active participants in the sport, whichever is greater.
Commercial and Non-Commercial Riding Stables, Fishing Lakes, Campgrounds, Sportsmen’s Farms, Zoological Gardens, and Non-Commercial Recreational Facilities not otherwise stated herein - Five (5) spaces, plus one (1) space for each employee for each separate use.

Dwelling Units - One (1) parking space per dwelling unit.
Kindergartens, Nursery Schools, Child Care Centers and Family Child Care for seven (7) or more children - Three (3) spaces for the first twelve (12) children, plus one space for every ten (10) (or fraction thereof) additional children.
Private Clubs - One (1) space for every four (4) members.
Small Farm Winery Restaurant/Bistro - One (1) space for every six (6) seats in the restaurant/bistro.
Conditional Uses - Parking requirements stated herein for conditional uses are minimum requirements; the Board of Adjustment may establish additional requirements as needed. For any conditional use not otherwise stated herein: one (1) space per employee with a minimum of five (5) spaces.
Combinations - Combined uses shall provide parking equal to the sum of the individual requirements.
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8-4 AGRICULTURAL URBAN (A-U) ZONE

8-4(a) Intent - This zone is intended to control the development of rural land within the Urban Service Area over a period of time so as to manage the growth of the community. In order to avoid premature or improper development, land should remain in this zone until public facilities and services are or will be adequate to serve urban uses.

8-4(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the A-R zone.

8-4(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. The permitted accessory uses in the A-R zone.

8-4(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Items 1-5, 9-11 (but excluding outdoor rifle and other firearm ranges), and 17-21 of the permitted conditional uses in the A-R zone, provided the square footage limitations shall not apply unless required by the Board of Adjustment.

2. Cemeteries, crematories, columbariums, and mausoleums for human burial; but only when adjacent to, or extensions of, existing cemeteries.

3. Garden centers, only when operated in conjunction with a commercial greenhouse or plant nursery on the same premises, and only when all conditions required of commercial greenhouses in Section 8-1(d)(5) above are met.

4. Offices of veterinarians, and animal hospitals and clinics.

5. Radio or television studios, offices and associated equipment used in conjunction with an existing transmitting or relay tower, provided that such studios, offices and associated equipment are entirely enclosed within a building any part of which is located within five hundred (500) feet of such existing tower.

6. Funeral homes.

7. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:

   a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;

   b. That a reasonable degree of reclamation and proper drainage control is feasible; and

   c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

8. Commercial and non-commercial outdoor recreational facilities, including golf courses; golf driving ranges; and outdoor athletic facilities, such as baseball fields; soccer fields; or polo fields.

9. Sewage disposal plants.

10. Private clubs, including accessory restaurants and/or the serving of alcoholic beverages.

11. Hospitals, nursing homes, rest homes, assisted living facilities, orphanages, community residences.

12. Schools for academic instruction, including dormitories, fraternity and sorority houses.

13. Any uses that are clearly incidental and subordinate to a small farm winery operation licensed as such by the Commonwealth of Kentucky, other than those specifically outlined in KRS 100, and permitted by Article 8-1(c)(2), which may include special events with or without live entertainment or a small bistro/restaurant of up to two (2) seats per 1,000 gallons of wine, brandies and cordials produced or compounded on site per year. For special events, documentation shall be provided that arrangements have been made with the LFUCG Division of Fire and Emergency Services for approval for fire suppression and control; that Fayette County Health Department approval has been obtained for the septic system and/or portable toilets; that Fayette County Health Department approval has been obtained for any food services offered, whether it be provided on site or catered for each event; and that approval be obtained from the Division of Building Inspection for any temporary structures used (i.e., tents).

8-4(e) Prohibited Uses (All uses, other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses, shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the A-R zone, except as permitted herein.

2. Extraction of crude petroleum or natural gas.

3. Quarrying of non-metallic minerals.

4. Airports.

5. Radios, television or telecommunication transmitting towers, antennas and line-of-sight relays, except as permitted herein.

6. Penal or correctional institutions.

7. Outdoor rifle and other firearm ranges.
8. Concrete mixing.
10. Adult entertainment establishments or other similar adult uses.

**Lot, Yard, and Height Requirements** (See Articles 3 and 15 for additional regulations.)

8-4(f) Minimum Lot Size - No limitation, except for single family detached residences as a principal permitted use; commercial greenhouses, garden centers and equine hospitals as conditional uses, then ten (10) acres minimum.

8-4(g) Minimum Lot Frontage - 250’.

8-4(h) Minimum Front Yard - 50’ from the right-of-way.

8-4(i) Minimum Each Side Yard - 25’.

8-4(j) Minimum Rear Yard - 25’.

8-4(k) Minimum Useable Open Space - No limitation.

8-4(l) Maximum Lot Coverage - No limitation.

8-4(m) Maximum Height of Building - No limitation.

8-4(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for A-R.

**Commercial and Non-Commercial Outdoor Athletic Facilities, including Baseball Fields, Soccer Fields, or Polo Fields** - One (1) space for every five (5) spectator seats, or one for every three active participants in the sport, whichever is greater.

Dormitories, Sorority and Fraternity Houses - Five (5) spaces, plus one (1) space for each five (5) beds.

Golf Courses - Three (3) spaces for every hole on the main course.

Golf Driving Range - One (1) space per driving tee, plus one (1) space per employee, with a minimum of five (5) spaces.

Hospitals, Nursing and Rest Homes, Orphanages, and Rehabilitation Homes - One (1) space for each three (3) beds; plus one (1) space for each employee on the maximum shift, with minimum of five (5) spaces.

**Offices of Veterinarians and Animal Hospitals and Clinics** - One (1) space per two hundred (200) square feet of floor area (not including any barns, or other indoor areas devoted principally to housing animals), with a minimum of five (5) spaces.

**Private Clubs** - One (1) space for every four (4) members.

**Assisted Living Facilities** - Three (3) spaces for each four (4) bedrooms, plus one (1) space for each employee on the maximum shift.

**Small Winery Restaurant/Bistro** - One (1) space for every six (6) seats in the restaurant/bistro.

**Combinations** - Combined uses shall provide parking equal to the sum of the individual requirements.
8-5 SINGLE FAMILY RESIDENTIAL (R-1A) ZONE

8-5(a) Intent - These zones are established to provide for single family detached residences and supporting uses. The zones should be located in areas of the community where services and facilities will be adequate to serve the anticipated population. The Comprehensive Plan should be used to determine the location and density (units/acre) of each single family zone.

8-5(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Single family detached residences.
2. Parks and playgrounds operated by government.

8-5(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Private garages, storage sheds, and parking areas.
2. Living quarters, without cooking facilities and not rented, for guests and employees of the premises.
4. Agricultural uses, excluding commercial stock raising.
5. Private, non-commercial parks and open space.
6. Home office.
7. A ground mounted satellite dish antenna, as regulated by Article 15-8.
8. Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).

8-5(d) Conditional Uses (Permitted only with Board of Adjustment approval.)
1. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, when accessory to and located in the same structure with the single family residence occupied by the owner or operator. All kindergartens and nursery schools shall provide a fenced and screened play area, which shall contain not less than twenty-five (25) square feet per child.
2. Kindergartens, nursery schools and child care centers for four (4) or more children, when accessory to a church, school or private club as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
3. Home occupations.
4. Temporary real estate sales offices for the sale of lots located only within the subdivision in which said lots are located, to be removed at the end of two years or when all the lots are sold, whichever comes first.
5. Cemeteries, columbariums, and mausoleums.
6. Outdoor commercial and non-commercial recreational facilities, such as golf courses; zoological gardens; sportsmen's farms; riding stables; fishing lakes and non-commercial swimming pools; tennis courts; campgrounds; and private clubs.
7. Churches, Sunday schools, and parish houses.
8. Schools for academic instruction.
9. A roof or pole mounted satellite dish antenna, as further regulated in Article 15-8.
10. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b. That a reasonable degree of reclamation and proper drainage control is feasible; and
   c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
11. Family child care for seven (7) and not more than twelve (12) children, provided that the total number of children living or being cared for on the premises shall not exceed twelve (12). A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
12. Bed and breakfast facilities, limited to the rental of not more than one (1) room. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.
13. Historic house museums.

8-5(e) Prohibited Uses (All uses, other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses, shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. Those uses prohibited in the A-U zone.
2. Commercial kennels, equine hospitals, and offices of veterinarians.
3. Any use dependent upon septic tanks or pit privies.
4. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas, and the above- or below-ground storage of more than five (5) gallons of gasoline.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-5(f) Minimum Lot Size - One acre; or 25,000 square feet for property rezoned to R-1A after July 14, 1994.

8-5(g) Minimum Lot Frontage - 150'; or 125' for property rezoned to R-1A after July 14, 1994.

8-5(h) Minimum Front Yard - 50'; or 40' for property rezoned to R-1A after July 14, 1994.


8-5(j) Minimum Rear Yard - 25'.

8-5(k) Minimum Useable Open Space - No limitation.

8-5(l) Maximum Lot Coverage - No limitation.

8-5(m) Maximum Height of Building - 35'.

8-5(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Churches, Sunday Schools, and Parish Houses - One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.

Dwelling Units - One (1) space per dwelling unit.

Elementary and Junior High Schools - One (1) space for every fifteen (15) seats in the main auditorium; or one (1) space for every classroom, plus one (1) space for each employee, whichever is greater.

All Other Schools for Academic Instruction - One (1) space for every five (5) seats in the main auditorium; or one (1) space for every five (5) classroom seats, whichever is greater.

Golf Courses - Three (3) spaces for every hole on the main course.

Keeping of Roomers or Boarders - One (1) space for every two (2) roomers or boarders.

Kindergartens, Nursery Schools, Day Nurseries and Child Care Centers - Three (3) spaces for the first twelve (12) children, plus one (1) space for every ten (10) (or fraction thereof) additional children.

Family Child Care for between seven (7) and twelve (12) children - One (1) space in addition to that required for the dwelling.

Private Clubs - One (1) space for every four (4) members.

Non-Commercial Outdoor Recreational Facilities, including Playgrounds, Sportsmen's Farms, and Riding Stables - One (1) space for every four (4) members, with a minimum of five spaces.

Temporary Real Estate Sales Offices - One (1) space for every four hundred (400) square feet of floor area to be used as the sales office.

Conditional Uses - Parking requirements stated herein for conditional uses are minimum requirements; the Board of Adjustment may establish additional requirements, as needed. Where no requirement is stated herein, the Board shall determine the required parking for the conditional use.

Combinations - Combined uses shall provide parking equal to the sum of individual requirements.
8-6 SINGLE FAMILY RESIDENTIAL (R-1B) ZONE

8-6(a) Intent - As for R-1A.

8-6(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the R-1A zone.

8-6(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. The permitted accessory uses in the R-1A zone.

8-6(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the R-1A zone.

8-6(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The uses prohibited in the R-1A zone.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-6(f) Minimum Lot Size - 15,000 square feet.

8-6(g) Minimum Lot Frontage - 100'.

8-6(h) Minimum Front Yard - 40'.

8-6(i) Minimum Each Side Yard - 10'.

8-6(j) Minimum Rear Yard - 10'.

8-6(k) Minimum Useable Open Space - No limitation.

8-6(l) Maximum Lot Coverage - No limitation.

8-6(m) Maximum Height of Building - 35'.

8-6(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for R-1A.
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8-7 SINGLE FAMILY RESIDENTIAL (R-1C) ZONE

8-7(a) Intent - As for R-1A.

8-7(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the R-1A zone.

8-7(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. The permitted accessory uses in the R-1A zone.

8-7(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the R-1A zone.

8-7(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the R-1A zone.

Lot, Yard and Height Requirements (See Articles 3, 8-7(o) below, and 15 for additional regulations.)

8-7(f) Minimum Lot Size - 8,000 square feet.

8-7(g) Minimum Lot Frontage - 60'.

8-7(h) Minimum Front Yard - 30'.

8-7(i) Minimum Each Side Yard - 8'.

8-7(j) Minimum Rear Yard - 10'.

8-7(k) Minimum Useable Open Space - No limitation.

8-7(l) Maximum Lot Coverage - No limitation.

8-7(m) Maximum Height of Building - 35'.

8-7(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for R-1A.

8-7(o) Special Provisions

1. Lot frontage, yard and height requirements for single family detached dwellings in defined Infill and Redevelopment areas are for existing lots as of December 5, 2002, and shall be as follows:

a. Where existing lot frontage is 24 feet but less than 35 feet, the provisions of Article 15-7 and the following shall apply:

1. Minimum lot frontage - 24 feet.
2. Minimum front yard - As per Article 8-7(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
3. Maximum front yard - 50 feet, unless the average depth of the existing front yards on each side of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
4. Minimum side yard - 3 feet. No wall, air-conditioning unit, structure or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.
5. Minimum rear yard - 20% of the lot depth.
7. Minimum lot coverage - No limitation.
9. Maximum lot coverage - No limitation.
10. Maximum floor area ratio - 0.35, or that which allows 2,600 square feet, whichever is greater.

b. Where existing lot frontage is 35 feet but less than 50 feet, the provisions of Article 15-7 and the following shall apply:

1. Minimum lot frontage - 35 feet.
2. Minimum front yard - As per Article 8-7(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
3. Maximum front yard - 50 feet, unless the average depth of the existing front yards on each side of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
5. Minimum rear yard - 20% of the lot depth.
7. Minimum lot coverage - No limitation.
9. Maximum lot coverage - No limitation.
10. Maximum floor area ratio - 0.35, or that which
allows 2,600 square feet, whichever is greater.

c. Where existing lot frontage is 50 feet or greater, the provisions of Article 15-7 and the following shall apply:
1. Minimum lot frontage - 50 feet.
2. Minimum front yard - As per Article 8-7(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less, then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
3. Maximum front yard - 50 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
4. Minimum side yard - As per Article 8-7(i).
5. Minimum rear yard - 20% of the lot depth.
7. Minimum lot coverage - No limitation.
8. Maximum height of building - As per Article 8-7(m).
9. Maximum lot coverage - No limitation.
10. Maximum floor area ratio - 0.7.
8-8 SINGLE FAMILY RESIDENTIAL (R-1D) ZONE

8-8(a) Intent - As for R-1A.

8-8(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the R-1A zone.
2. Existing two-family dwellings that were granted principal use status in the 1969 Zoning Ordinance. No building permits shall be issued for new two-family dwellings subsequent to the date of adoption of this Zoning Ordinance.

8-8(c) Accessory Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The permitted accessory uses in the R-1A zone.

8-8(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the R-1A zone.

8-8(e) Prohibited Uses - (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the R-1A zone.

Lot, Yard, and Height Requirements (See Articles 3, 8-8(o) below, and 15 for additional regulations.)

8-8(f) Minimum Lot Size - 6,000 square feet.

8-8(g) Minimum Lot Frontage - 60'.

8-8(h) Minimum Front Yard - 30'.

8-8(i) Minimum Each Side Yard - 6'.

8-8(j) Minimum Rear Yard - 10'.

8-8(k) Minimum Useable Open Space - No limitation.

8-8(l) Maximum Lot Coverage - No limitation.

8-8(m) Maximum Height of Building - 35'.

8-8(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for R-1A.

8-8(o) Special Provisions

1. Lot, yard and height requirements for single family detached dwellings in defined Infill and Redevelopment areas are for existing lots as of December 5, 2002, and shall be as follows:

a. Where existing lot frontage is 24 feet but less than 35 feet, the provisions of Article 15-7 and the following shall apply:
   1. Minimum lot frontage - 24 feet.
   2. Minimum front yard - As per Article 8-8(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
   3. Maximum front yard - 50 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
   4. Minimum side yard - 3 feet. No wall, air-conditioning unit, structure or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.
   5. Minimum rear yard - 20% of the lot depth.
   7. Minimum lot coverage - No limitation.
   9. Maximum lot coverage - No limitation.
   10. Maximum floor area ratio - 0.35, or that which allows 2,600 square feet, whichever is greater.

b. Where existing lot frontage is 35 feet but less than 50 feet, the provisions of Article 15-7 and the following shall apply:
   1. Minimum lot frontage - 35 feet.
   2. Minimum front yard - As per Article 8-8(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
   3. Maximum front yard - 50 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
   5. Minimum rear yard - 20% of the lot depth.
   7. Minimum lot coverage - No limitation.
9. Maximum lot coverage - No limitation.
10. Maximum floor area ratio - 0.35, or that which allows 2,600 square feet, whichever is greater.

c. Where existing lot frontage is 50 feet or greater, the provisions of Article 15-7 and the following shall apply:
   1. Minimum lot frontage - 50 feet.
   2. Minimum front yard - As per Article 8-8(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
   3. Maximum front yard - 50 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
   4. Minimum side yard - As per Article 8-8(i).
   5. Minimum rear yard - 20% of the lot depth.
   7. Minimum lot coverage - No limitation.
   8. Maximum height of building - As per Article 8-8(m).
   9. Maximum lot coverage - No limitation.
  10. Maximum floor area ratio - 0.7.
8-9 SINGLE FAMILY RESIDENTIAL (R-1E) ZONE

8-9(a) Intent - This zone is intended to provide for single family detached residences on small lots, and at a higher density than would be possible in other detached single family zones. It may be used for zero-lot-line houses and for patio houses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

8-9(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Single family detached residences.
2. Parks and playgrounds operated by government.

8-9(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Private garages, storage sheds and parking areas.
2. Swimming pools and tennis courts.
3. Agricultural uses, excluding commercial stock raising.
4. Private, non-commercial parks and open space.
5. Home office.
6. A ground mounted satellite dish antenna, as regulated by Article 15-8.
7. Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).

8-9(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. As for R-1A.

8-9(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. As for R-1A.

Lot, Yard, and Height Requirements (See Articles 3, 8-9(o) below, and 15 for additional regulations.)

8-9(f) Lot Size - 4,000 square feet minimum, with a maximum of 7,500 square feet for single family detached uses on lots not fronting upon a cul-de-sac or more than one public street; for all other uses and lots, there shall be no maximum lot size.

8-9(g) Minimum Lot Frontage - 40'.

8-9(h) Minimum Front Yard - 20'.

8-9(i) Minimum Each Side Yard - 3'. No wall, air-conditioning unit, structure or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot. (See Article 8-9(o)1 below.)

8-9(j) Minimum Rear Yard - 10'.

8-9(k) Minimum Useable Open Space - No limitation.

8-9(l) Maximum Lot Coverage - No limitation.

8-9(m) Maximum Height of Building - 35'.

8-9(n) Off-Street Parking (See Article 16 for additional parking regulations.)

One space per dwelling unit.

8-9(o) Special Provisions

1. There shall be not less than six (6) feet at any point between the walls of each single family residence.
2. Lot, yard and height requirements for single family detached dwellings in defined Infill and Redevelopment areas are for existing lots as of December 5, 2002, and shall be as follows:

   a. Where existing lot frontage is 24 feet but less than 40 feet, the provisions of Article 15-7 and the following shall apply:
      1. Minimum lot frontage - 24 feet.
      2. Minimum front yard - As per Article 8-9(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
      3. Maximum front yard - 40 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
      4. Minimum side yard - As per Article 8-9(i).
      5. Minimum rear yard - 20% of the lot depth.
      7. Minimum lot coverage - No limitation.
      9. Maximum lot coverage - No limitation.
      10. Maximum floor area ratio - 0.35, or that which
allows 2,600 square feet, whichever is greater.

b. Where existing lot frontage is 40 feet or greater, the provisions of Article 15-7 and the following shall apply:
   1. Minimum lot frontage - 40 feet.
   2. Minimum front yard - As per Article 8-9(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
   3. Maximum front yard - 40 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
   4. Minimum side yard - As per Article 8-12(i).
   5. Minimum rear yard - 20% of the lot depth.
   7. Minimum lot coverage - No limitation.
   9. Maximum lot coverage - No limitation.
 10. Maximum floor area ratio - 0.35, or that which allows 2,600 square feet, whichever is greater.
8-10 TOWNHOUSE RESIDENTIAL (R-1T) ZONE

8-10(a) Intent - This zone is intended to provide for attached single family dwellings and supporting uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

8-10(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Single family attached residences, except that not more than twelve (12) units shall be attached.
2. Group Residential Projects, as provided in Article 9.
3. Existing single family detached residences and single family detached residences for which a building permit was issued or a plan approved prior to the adoption of this Zoning Ordinance.
4. Parks and playgrounds operated by government.

8-10(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Private garages, storage sheds and parking areas.
2. Swimming pools and tennis courts.
3. Agricultural uses, excluding commercial stock raising.
4. Private, non-commercial parks and open space.
5. Home office.
6. A ground mounted satellite dish antenna, as regulated in Article 15-8.
7. Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).

8-10(d) Conditional Uses (Permitted only with Board of Adjustment approval.)
1. As for R-1A.

8-10(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. As for R-1A, except for townhouses.

Lot, Yard, and Height Requirements (See Articles 3, 8-10(o) below, and 15 for additional regulations.)
8-10(f) Minimum Lot Size - 1,500 square feet.
8-10(g) Minimum Lot Frontage - 15'.
8-10(h) Minimum Front Yard - 10' (See 8-10(o) below).
8-10(i) Minimum Each Side Yard (See 8-10(o) below).
8-10(j) Minimum Rear Yard - 10'.
8-10(k) Minimum Useable Open Space (See 8-10(o) below).
8-10(l) Maximum Lot Coverage - No limitation.
8-10(m) Maximum Height of Building - 35'.
8-10(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for R-1A.

8-10(o) Special Provisions
1. No more than three (3) contiguous townhouse units may be established at the same setback. A variation of at least three (3) feet shall be required where a break in setback occurs. Buildings may penetrate up to eighteen (18) inches over the building line into the required front yard, but the average setback of the contiguous units shall be at least as great as the required front yard.
2. Required side yard shall be six (6) feet for each side yard of townhouses when no units or only one unit fronts on a side yard; and a side yard of twenty (20) feet when more than one unit fronts on that side yard.
3. Not less than ten percent (10%) of the total lot area for any townhouse shall be devoted to private usable open space either on each lot or on land adjacent and directly accessible to each lot. Such open space shall be for the private use of the residents of each individual townhouse and shall be physically separated from other private open space or common open space by plantings, fences, or walls. The least dimension of the private open space shall be eight (8) feet.
4. In addition to the special provisions listed above, the lot, yard and height requirements for attached single family dwellings that are approved by the Planning Commission on a final development plan, in defined Infill and Redevelopment areas, shall be as follows:
   a. Minimum lot size - As per Article 8-10(f).
   b. Minimum lot frontage - As per Article 8-10(g).
   c. Minimum front yard - 5 feet.
   d. Maximum front yard - 15 feet.
   e. Minimum yard along an alley - 3 feet.
   f. Minimum side yard for the end of unattached units
- 3 feet. No wall, air-conditioning unit, structure, or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be located behind the front wall plane of the principal structure on the lot.
g. Minimum rear yard - 20% of the lot depth.
h. Minimum usable open space - As per Article 8-10(o)3 above.
i. Minimum lot coverage - No limitation.
j. Maximum height of building - As per Article 8-10(m) above.
k. Maximum lot coverage - No limitation.
8-11 TWO-FAMILY RESIDENTIAL (R-2) ZONE

8-11(a) Intent - This zone is primarily for two-family dwellings (duplexes). This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

8-11(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. As for R-1A.
2. Two-family dwellings.
3. Two-family dwellings, having a common vertical wall on the property line of two separate lots. Only one dwelling for one family shall be permitted on each lot, and no more than two dwelling units shall be attached.

8-11(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. The permitted accessory uses in the R-1A zone.

8-11(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the R-1A zone.

8-11(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the R-1A zone, except for two-family dwellings.

Lot, Yard, and Height Requirements (See Articles 3, 8-11(o) below, and 15 for additional regulations).

8-11(f) Minimum Lot Size - 7,500 square feet (See 8-11(o) below).

8-11(g) Minimum Lot Frontage - 60' (See 8-11(o) below).

8-11(h) Minimum Front Yard - 30'.

8-11(i) Minimum Each Side Yard - 6' (See 8-11(o) below).

8-11(j) Minimum Rear Yard - 10' or 20% of the lot depth, whichever is greater.

8-11(k) Minimum Usable Open Space - No limitation.

8-11(l) Maximum Lot Coverage - No limitation (See 8-11(o) below).

8-11(m) Maximum Height of Building - 35'.

8-11(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for R-1A.

Duplexes - Two (2) spaces per dwelling unit.

8-11(o) Special Provisions:

1. The minimum lot size and lot frontage may be reduced for a property subdivision along the common vertical wall of a two-family dwelling (duplex) as long as the structure meets the dwelling unit separation requirements for townhouses under the current Kentucky Building Code.

2. The minimum side yard may be eliminated on one side of a lot, for future or existing adjacent lots, if a common vertical wall dividing a two-family structure is located, or is to be located, on the common property line. The side yard that is not eliminated shall be a minimum of six (6) feet.

3. Lot, yard and height requirements for single family detached dwellings in defined Infill & Redevelopment areas shall be as required for R-1D.

4. Lot, yard and height requirements for two-family dwellings in defined Infill & Redevelopment areas are for existing lots as of December 5, 2002, and shall be as follows:
   a. Minimum lot size - As per Article 8-11(f) and Article 8-11(o)(1) above.
   b. Minimum lot frontage - As per Article 8-11(g) and Article 8-11(o)(2) above.
   c. Minimum front yard - As per Article 8-11(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lots are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
   d. Maximum front yard - 50 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
   e. Minimum side yard - As per Article 8-11(i) and Article 8-11(o)(3) above.
   f. Minimum rear yard - As per Article 8-11(j).
   g. Minimum usable open space - No limitation.
   h. Minimum lot coverage - No limitation.
   i. Maximum height of building - As per Article 8-11(m) above.
j. Maximum lot coverage - No limitation, except for a floor area ratio of 0.35, or that which allows 2,600 square feet, whichever is greater.

5. Habitable additions to two-family dwellings must have a common wall that shall be at least 15 feet or 25% of the length of the common wall on the existing structure, whichever is greater.
8-12 PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE

8-12(a) Intent - This zone is primarily for multi-family dwellings and other residential uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

8-12(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the R-2 zone.
2. Multi-family dwellings.
3. Dormitories.
4. Boarding or lodging houses, assisted living facilities, and hospitality houses for up to eight (8) persons.
5. Community residences.
6. Group Residential Projects, as provided by Article 9.
7. Townhouses, except that no less than three (3) and no more than twelve (12) units shall be attached.

8-12(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Items 1 through 3, 7 and 9 of the permitted accessory uses in the R-1A zone.
2. The keeping of not more than four (4) roomers or boarders per dwelling unit by a resident family for single family or two-family dwellings, except where a bed and breakfast facility is provided; then no roomers or boarders shall be permitted.
3. Satellite dish antennas, subject to the following:
   a. For townhouse dwellings, as permitted as an accessory use in the R-IT zone.
   b. For duplex dwellings, as permitted as an accessory use in the R-2 zone.
   c. For single family dwellings, as permitted as an accessory use in the R-1A zone.
4. Athletic club facilities, when operated solely for the use of occupants of residential units on the same property.

8-12(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the R-1A zone.
2. Hospitals, nursing homes, rest homes, and orphanages.
3. Community centers (such as YMCA, YWCA, etc.)
5. Kindergartens, nursery schools, and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
6. Parking, as permitted in Article 16-3.
7. Satellite dish antenna, subject to the following:
   a. For townhouse dwellings, as permitted as a conditional use in the R-IT zone.
   b. For duplex dwellings, as permitted as a conditional use in the R-2 zone.
   c. For single family dwellings, as permitted as a conditional use in the R-1A zone.
8. Sorority and fraternity houses.
9. Boarding or lodging houses, assisted living facilities, and hospitality houses for more than eight (8) persons and rehabilitation homes, provided that no use permitted under this section shall be located less than five hundred (500) feet, as measured from the nearest property line, from another use permitted under this section. However, the Board may reduce the 500-foot spacing requirement if it can determine that a reduction will not have an adverse influence on existing or future development of the subject property or its surrounding neighborhood.
10. Bed and breakfast facilities, limited to the rental of not more than five (5) rooms. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.
11. Athletic club facilities, when accessory to another permitted or conditional use.

8-12(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the R-1A zone, except for multi-family, two-family and townhouse dwellings; boarding or lodging houses; dormitories; and sorority and fraternity houses.

Lot, Yard, and Height Requirements (See Articles 3, 8-12(o) below, and 15 for additional regulations.)
8-12(f) Minimum Lot Size - 6,000 square feet.
8-12(g) Minimum Lot Frontage - 50'.
8-12(h) Minimum Front Yard - 20'.
8-12(i) Minimum Each Side Yard - 5', unless required to be a minimum of 30 feet by Article 15-2(b)(3).
8-12(j) Minimum Rear Yard - 10'.
8-12(k) Minimum Usable Open Space - 20%.
8-12(l) Maximum Lot Coverage - 25% and a floor area ratio of 0.5.
8-12(m) Maximum Height of Building - 35'.
8-12(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for R-1A, except as provided in Article 8-12(o)(4) below.

Multiple Family Dwellings (other than Elderly Housing) - Three (3) spaces for every two (2) dwelling units, or 0.9 spaces per bedroom in a multi-family dwelling, whichever is greater.

Elderly Housing - Three (3) spaces for every four (4) dwelling units.

Fraternity and Sorority Houses, Dormitories, Boarding and Lodging Houses and Hospitality Houses - Five (5) spaces, plus one (1) space for every five (5) beds.

Hospitals, Nursing Homes, Rest Homes, Orphanages, and Rehabilitation Homes - One (1) space for every four (4) beds; plus one (1) space for each employee on the maximum working shift, with a minimum of five (5) spaces.

Community Centers - Five (5) spaces, plus one (1) space for each employee.

Bed and Breakfast Facilities - One space per room rented other than the first room.

Assisted Living Facilities - Three (3) spaces for each four (4) bedrooms, plus one (1) space for each employee on the maximum shift.

Duplexes - Two (2) spaces per dwelling unit.

8-12(o) Special Provisions:

1. Lot, yard, and height requirements for townhouses shall be as required for R-1T.

2. Lot, yard, and height requirements for two-family dwellings shall be as required by R-2.

3. Lot, yard, and height requirements for Group Residential Projects shall be as required in Article 9.

4. Lot, yard, and height requirements for single family detached dwellings in defined Infill & Redevelopment areas are for existing lots as of December 5, 2002, and shall be as listed below. (Minimum lot sizes are listed below for the purpose of establishing minimum configurations that may be the result of consolidation among adjacent parcels.)

a. Where existing lot frontage is less than 24’, the provisions of Article 15-7 and the following shall apply:
   1. Minimum lot size - 2,000 square feet.
   2. Minimum lot frontage - 20 feet.
   3. Minimum front yard - As per Article 8-12(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
   4. Maximum front yard - 40 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
   5. Minimum side yard - 3 feet. No wall, air-conditioning unit, structure, or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.
   6. Minimum rear yard - 20 feet.
   7. Minimum usable open space - No limitation.
   8. Minimum lot coverage - No limitation.
   10. Maximum lot coverage - No limitation.
   11. Maximum floor area ratio - 0.35, or that which allows 2,600 square feet, whichever is greater.
   12. Minimum off-street parking - None required.

b. Where existing lot frontage is 24’ but less than 35’, the provisions of Article 15-7 and the following shall apply:
   1. Minimum lot size - 2,500 square feet.
   2. Minimum lot frontage - 24 feet.
   3. Minimum front yard - As per Article 8-12(h), unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
   4. Maximum front yard - 40 feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
   5. Minimum side yard - 3 feet. No wall, air-conditioning unit, structure, or other
obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.

6. Minimum rear yard - 20% of the lot depth.
7. Minimum usable open space - No limitation.
8. Minimum lot coverage - No limitation.
10. Maximum lot coverage - No limitation.
11. Maximum floor area ratio - 0.35, or that which allows 2,600 square feet, whichever is greater.

5. Lot, yard and height requirements for all other single family detached dwellings in the R-3 zone shall be as follows:

- Minimum lot size - 2,500 square feet.
- Minimum lot frontage - 25 feet.
- Minimum front yard - 20 feet, as per Article 8-12(h).
- Minimum side yard - 3 feet. No wall, air-conditioning unit, structure, or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.
- Minimum rear yard - 10 feet.
- Minimum usable open space - No limitation.
- Maximum lot coverage - No limitation.
- Maximum height of building - 35 feet.
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8-13 HIGH DENSITY APARTMENT (R-4) ZONE

8-13(a) Intent - This zone is primarily for multi-family dwellings, but at a higher density than the R-3 zone. The R-4 zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

8-13(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the R-3 zone.

8-13(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. The permitted accessory uses in the R-3 zone.

8-13(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the R-3 zone.

8-13(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the R-3 zone.

Lot, Yard, and Height Requirements (See Articles 3, 8-13(o) below, and 15 for additional regulations.)

8-13(f) Minimum Lot Size - 6,000 square feet.

8-13(g) Minimum Lot Frontage - 50 feet.

8-13(h) Minimum Front Yard - 20 feet.

8-13(i) Minimum Each Side Yard - 5 feet.

8-13(j) Minimum Rear Yard - 10 feet.

8-13(k) Minimum Useable Open Space - 20%.

8-13(l) Maximum Lot Coverage - 30% and a floor area ratio of 0.7.

8-13(m) Maximum Height of Building - 2:1 height-to-yard ratio, except that buildings under 35' may have side and rear yards as required in the R-3 zone.

8-13(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for R-3.

8-13(o) Special Provisions

1. Lot, yard, and height requirements for townhouses shall be as required for R-1T.
2. Lot, yard, and height requirements for two-family dwellings shall be as required by R-2.
3. Lot, yard, and height requirements for Group Residential Projects shall be as provided in Article 9.
4. Lot, yard, and height requirements for single family detached dwellings shall be as provided in Section 8-12(o): Special Provisions of the R-3 zone.
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8-14 HIGH RISE APARTMENT (R-5) ZONE

8-14(a) Intent - This zone is primarily for multi-family dwellings and particularly for high rise apartments. The R-5 zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

8-14(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Multi-family dwellings.
2. Dormitories.
3. Offices, limited to multi-family structures with six (6) or more stories, provided offices are limited to no more than the first two stories with no mixing of offices and apartments on the same floor.

8-14(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. The permitted accessory uses in the R-1A zone, items 1 through 3, and 7 and 8.
2. Athletic club facilities, when operated solely for the use of occupants of residential units on the same property.

8-14(d) Conditional Uses (Permitted only with Board of Adjustment approval.)
1. The permitted conditional uses in the R-3 zone.
2. Incidental retail uses to any permitted use, but having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of 5,000 square feet.
3. Extended-stay hotels.
4. Restaurants, without a cocktail lounge, live entertainment and/or dancing, provided it meets the following conditions:
   a. It shall be located in a building containing a minimum of 100 dwelling units.
   b. It shall occupy no more than ten percent (10%) of the gross floor area of the building it occupies.
   c. It shall have no primary access to the exterior; however, one service entrance directly to the outside of the building may be permitted.
   d. It shall have no drive-in or drive-through food service.
   e. There shall be no more than two restaurants within a building, provided that the 10% limitation is not exceeded.

f. None of its public floor area may be devoted exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.
g. Signs permitted per multi-family residential building may be used to identify the restaurant.
h. This shall not apply to extended-stay hotels.

8-14(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. The prohibited uses in the R-4 zone, except for offices, as permitted herein, extended-stay hotels, and incidental retail uses.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-14(f) Minimum Lot Size - 6,000 square feet.
8-14(g) Minimum Lot Frontage - 50 feet.
8-14(h) Minimum Front Yard - 20 feet.
8-14(i) Minimum Each Side Yard - 10 feet.
8-14(j) Minimum Rear Yard - 10 feet.
8-14(k) Minimum Usable Open Space - 20%.
8-14(l) Maximum Lot Coverage - 35% and a floor area ratio of 1.3.
8-14(m) Maximum Height of Building - 4:1 height-to-yard ratio.
8-14(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for R-3

Accessory Offices - One (1) space for every two hundred (200) square feet of floor area, with a minimum of three (3) spaces per office tenant.

Extended-Stay Hotels - One (1) space for every dwelling unit, plus one (1) space for each employee on the maximum shift.
8-15  PROFESSIONAL OFFICE (P-1) ZONE

8-15(a) Intent - This zone is primarily for offices and related uses. Retail sales are prohibited, except where directly related to office functions. This zone should be located as recommended in the Comprehensive Plan.

8-15(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
2. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including, but not limited to, real estate sales offices.
3. Research development and testing laboratories or centers.
4. Schools for academic instruction.
5. Libraries, museums, art galleries, and reading rooms.
6. Funeral parlors.
7. Medical and dental offices, clinics, and laboratories.
8. Telephone exchanges, radio and television studios.
9. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
11. Hospitals, nursing homes and rest homes.
12. Computer and data processing centers.
13. Ticket and travel agencies.
14. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
15. Cable television system signal distribution centers and studios.
16. Dwelling units, provided the units are not located on the first floor of a structure and provided that at least the first floor is occupied by another permitted use or uses in the P-1 zone, with no mixing of other permitted uses and dwelling units on any floor.
17. Business colleges, technical or trade schools or institutions.
18. Athletic club facilities, when located at least one hundred fifty (150) feet from a residential zone.
19. Beauty shops not exceeding 2,000 square feet in floor area, which employ not more than five licensed cosmetologists, with all service provided only by licensed cosmetologists.
20. Assisted living facilities and rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.

8-15(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Establishments limited to the filling of prescriptions and retail sale of pharmaceutical and medical supplies.
2. Parking areas or structures.
3. Incidental retail sales or personal services, including facilities for serving food, only for employees, residents or visitors to any permitted use, and having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of 5,000 square feet.
4. Sales offices for the display of merchandise and the acceptance of orders.
5. Swimming pools, tennis courts, putting greens, and other similar non-commercial recreational uses.
6. Satellite dish antennas, as further regulated by Article 15-8.
7. One dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be part of the building and located above, to the side, or to the rear of such permitted use.
8. Retail sales and storage areas accessory to internet-based businesses, for which Certificates of Occupancy are issued after November 15, 2001; provided that the retail sales and storage area occupies no more than twenty-five percent (25%) of the business area, nor more than 2,500 square feet, whichever is less; and having no display space, storage space or signs visible from the exterior of the building.

8-15(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Offices of veterinarians, animal hospitals.
2. Drive-through facilities for sale of goods or products or the provision of services otherwise permitted herein.
3. Parking lots and structures.
4. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b. That a reasonable degree of reclamation and proper drainage control is feasible; and
   c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or
local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

5. Assisted living facilities and rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.

6. Extended-stay hotels, except as permitted in a Professional Office Project.

8-15(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. As for A-R, except offices, institutional uses, dwelling units, and other uses as permitted herein.
2. Any use dependent upon septic tanks or pit privies.
3. Pawn shops.
4. Golf driving ranges.
5. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas; and the above- or below-ground storage of more than five (5) gallons of gasoline. However, jet fuel may be stored only in conjunction with a heliport.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-15(f) Minimum Lot Size - 7,500 square feet.

8-15(g) Minimum Lot Frontage - 60 feet.

8-15(h) Minimum Front Yard - 20 feet.

8-15(i) Minimum Each Side Yard - 12 feet.

8-15(j) Minimum Rear Yard - 12 feet.

8-15(k) Minimum Usable Open Space - No limitation, except where residences are provided, then 10%.

8-15(l) Maximum Lot Coverage - 35% and a floor area ratio of 1.3.

8-15(m) Maximum Height of Building - 3:1 height-to-yard ratio.

8-15(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Athletic Club Facilities - One (1) space for every two hundred (200) square feet of floor area, plus one (1) space for each employee on the maximum working shift.

Offices, Fine Arts Studios, Banks and Financial Establishments, Offices of Veterinarians, and Animal Hospitals, Medical and Dental Offices, Clinics and Laboratories, and the like - One (1) space for each two hundred (200) square feet of floor area.

Telephone Exchanges, Radio and Television Stations - One (1) space for every two (2) employees on a maximum shift; plus one (1) space for each vehicle owned by the use, with a minimum of five (5) spaces.

Elementary and Junior High Schools - One (1) space for every fifteen (15) auditorium seats; or one (1) space for each classroom, plus one (1) space for each employee, whichever is greater.

All Other Schools for Academic Instruction - One (1) space for every five (5) main auditorium seats, or one (1) space for every five (5) gymnasium seats, or one (1) space for every five (5) classroom seats, whichever is greater.

Professional Office Projects - One (1) space for every four hundred (400) square feet of floor area.

Kindergartens, Nursery Schools, and Child Care Centers - Three (3) spaces for the first twelve (12) children, plus one (1) space for every ten (10) (or fraction thereof) additional children.

Churches, Sunday Schools and Parish Houses - One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.

Libraries, Museums, Community Centers, Art Galleries and Reading Rooms - One (1) space for each six hundred (600) square feet of floor area.

Funeral Parlors - One (1) space for every five (5) seats under maximum occupancy, plus one (1) for each vehicle owned by the use.

Dwelling Units - One (1) space for each dwelling unit.

Private Clubs - One (1) space for every four (4) members.

Accessory Retail Facilities - One (1) space for every six hundred (600) square feet of floor area for each retail use.

Restaurants - One (1) space for each two hundred (200) square feet of floor area; or one (1) for every four (4) indoor seats plus one (1) for every eight (8) outdoor seats, whichever is greater.

Hospitals, Nursing Homes, Rest Homes, and Rehabilitation Homes - One (1) space for every three (3) beds;
plus one (1) space for each employee on the maximum working shift, with a minimum of five (5) spaces.

Professional Office Project - One (1) space for every four hundred (400) square feet of floor area.

Assisted Living Facilities - Three (3) spaces for each four (4) bedrooms, plus one (1) space for each employee on the maximum shift.

Extended-Stay Hotels - One (1) space for every dwelling unit, plus one (1) space for each employee on the maximum shift.

Conditional Uses - Parking requirements stated herein for conditional uses are minimum requirements; the Board of Adjustment may establish additional requirements as needed.

Combinations - Combined uses shall provide parking equal to the sum of the individual requirements.

8-15(o) Special Provisions

1. A Professional Office Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, upon the approval of a preliminary development plan and a final development plan as provided in Article 21, and subject to the P-1 zone regulations.

Subdivision of land in a Professional Office Project is permitted, subject to the following regulations:

a. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.

b. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

In addition to the uses otherwise permitted in the Professional Office zone, the following uses shall be permitted in the Professional Office Project:

As a principal permitted use:
Extended-Stay Hotels.

As accessory uses:
Receiving, shipping, and storage of new fixtures, equipment and other non-perishable materials for distribution to corporate or affiliated units subsidiary to the tenant(s) of a principal structure. Such activity, including loading and unloading, shall be conducted entirely within the walls of the principal structure and shall be limited to a maximum of twenty percent (20%) of the total floor area of said principal structure.

As a conditional use:
Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.

In addition to the uses otherwise permitted in the Professional Office zone, the following accessory use shall be permitted in a P-1 area of at least twenty (20) contiguous acres:

Restaurant(s), with or without a cocktail lounge, entertainment, dancing, and sale of alcoholic beverages, provided it meets the following conditions:

a. It shall be located in an office building containing a minimum of 40,000 square feet of floor area.

b. It shall occupy not more than twenty-five percent (25%) of the building in which it is located.

c. It shall have no more than one public entrance and one service entrance directly to the outside of the building, and that this use shall be at least one hundred fifty (150) feet from any residential zone.

d. It shall have no drive-in or drive-through food service.

e. There shall be no more than two restaurants within an office building, provided that the 25% limitation is not exceeded.

f. Signs permitted per office building may be used to identify the restaurant and/or the office use.

2. Where dwelling units are provided and the Planning Commission has approved a final development plan, the required parking spaces may be reduced, when specific permission is given by the Commission to reduce said required parking by not more than one percent (1%) for each one percent (1%) of additional useable open space that is provided over the minimum. Also, for every one percent (1%) of the dwelling units that will be provided as a mixed-income housing unit, the Commission may decrease the required parking by one percent (1%). In any case, the maximum parking reduction shall not exceed the minimum parking otherwise required in the zone by more than ten percent (10%) by only providing additional open space or only providing mixed-income housing, or twenty-five percent (25%) by using a combination of mixed-income housing and additional open space.
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8-16 NEIGHBORHOOD BUSINESS (B-1) ZONE

8-16(a) Intent - This zone is intended to accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area. Generally, they should be planned facilities and should be located as recommended in the Comprehensive Plan. This zone should be oriented to the residential neighborhood, and should have a roadway system which will be adequate to accommodate the anticipated vehicular traffic.

8-16(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the P-1 zone, not including a Professional Office Project.
2. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
3. Restaurants, except as prohibited under Section 8-16(e)(14) and (15), which offer no live entertainment or dancing.
4. Establishments for the retail sale of merchandise, including: clothing, shoes, fabrics, yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products, paint and other interior or exterior care products, hobby items, toys, gifts, antiques, newspapers and magazines, stationery and books, flowers, music, cameras, jewelry and luggage, business supplies and machines; prescription and non-prescription medicines and medical supplies.
5. Beauty shops, barber shops, shoe repair, self service laundry, or laundry pick-up stations, including clothes cleaning establishments of not more than 40 pounds capacity and using a closed-system process.
6. Automobile service stations, provided such use conforms to all requirements of Article 16.
7. Parking lots and structures, provided such use conforms to the conditions of Article 16.
9. Retail sale of plant nursery or greenhouse products, except as prohibited herein.
10. Outdoor miniature golf or putting courses.
11. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
12. Circuses and carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect public health, safety, or welfare; or deny such if public health, safety, or welfare are adversely affected.
13. Indoor theaters.
14. Rental of equipment whose retail sale would be permitted in the B-1 zone.
15. Dwelling units, provided the units are not located on the first floor of a structure, and provided that at least the first floor is occupied by another permitted use or uses in the B-1 zone, with no mixing of other permitted uses and dwelling units on any floor, not to exceed thirty-five (35) feet in height.
16. Arcades, including pinball and electronic games.
17. Pawnshops which (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
18. Athletic club facilities.

8-16(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Parking areas or structures.
2. One (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted use.
3. Warehousing, wholesaling, and storage, excluding outdoor storage; and provided that no building for such accessory use shall have openings other than stationary windows within one hundred (100) feet of any residential zone.
4. The rental of trucks (single rear axle - 28' maximum overall length); trailers, and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Division of Building Inspection for the control of such activities and shall show the entire property, signs, parking and location of the proposed storage area.
5. The sale of malt beverages, wine, or alcoholic beverages, when accessory to a restaurant permitted under Section 8-16(b)(3). Such accessory use shall not devote more than twenty percent (20%) of its public floor area exclusively to the preparation and
service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.

6. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.

7. Satellite dish antennas, as further regulated by Article 15-8.

8. One (1) or two (2) pool or billiard tables within an establishment.

8-16(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Self-service car washes, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.

2. Animal hospital or clinic, provided that all exterior walls are completely soundproofed, and further provided that animal pens shall be completely within the principal building and used for the medical treatment of small animals.

3. The rental of trucks (single rear axle - 28’ maximum overall length); trailers and related items in conjunction with the operation of an automobile service station, provided that the service station abuts a state or federal highway when abutting a residential zone. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs, parking and location of the proposed storage area.

4. A restaurant, without live entertainment or dancing, which devotes more than twenty percent (20%) of its public floor area exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.

5. Restaurants offering live entertainment and/or dancing, cocktail lounges, brew-pubs or nightclubs [unless prohibited under Section 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.

6. A combination business, office and residential project, provided the following conditions and requirements are met:
   a. The maximum residential density shall be twenty (20) units per net acre.
   b. The minimum lot size shall be one acre and shall be located in a B-1 area with a minimum of twenty (20) contiguous acres, which must have any part thereof being within one and one-half (1½) miles of the center of Lexington-Fayette Urban County, as measured from the Courthouse Block bounded by Main, Cheapside, Short and Upper Streets, and shall be within an Urban Activity Center.
   c. The minimum lot frontage shall be one hundred fifty (150) feet.
   d. The minimum front yard shall be an average of ten (10) feet, but shall be not less than 5 feet at any point. In addition, for every story in excess of three stories, two percent (2%) of the total area shall be added to the otherwise required front yard, or such area shall be provided as ground level open space on land adjoining the right-of-way.
   e. The minimum side street side yard shall be an average of ten (10) feet, but shall be not less than five (5) feet at any point. In addition, for every story in excess of three stories, two percent (2%) of the total area shall be added to the otherwise required side street side yard, or such area shall be provided as ground level open space on land adjoining the right-of-way.
   f. The minimum usable open space shall be twenty percent (20%).
   g. The maximum lot (building) coverage shall be eighty-five percent (85%).
   h. The maximum floor area ratio shall be 1.6.
   i. The maximum height shall be five (5) stories or sixty-five (65) feet, whichever is less. For all stories above twenty-five (25), feet there shall be an average minimum setback ratio of three to one (3:1) from the front wall of the first two floors, measured from the top of the front wall of the second floor.
   j. The project must be located at least five hundred (500) feet from any other such project, measured from property line to property line.
   k. The project must be located at least one hundred (100) feet from any historic district or from any residential zone, except R-4 or R-5, measured from property line to property line.
   l. Minimum parking for business uses shall be as required in the B-1 zone; minimum parking for office uses shall be as required in the P-1 zone; and minimum parking for residential uses shall be as required in the R-3 zone, with all parking to be provided on site. The provisions of Article 16-3 shall not be applicable.
   m. The first floor of the structure must be occupied by a business or office use with no business or office use located above the third floor, and with no mixing of dwelling units and other permitted uses on any floor. No more than fifty percent (50%) of the floor area may be used for residential uses, and no more than fifty percent
(50%) of the floor area may be used for office purposes.

n. The permitted conditional uses shall be those principal and accessory uses in the B-1 zone, with the exception that no drive-through windows shall be permitted. The petitioner shall submit to the Board of Adjustment a list of proposed uses, and the Board may further limit the uses that are allowed.

o. Signs shall be as otherwise permitted in the B-1 zone, with the exception that no free standing sign shall be permitted.

p. The total land area for the project shall not exceed two (2) acres in size, or ten percent (10%) of the gross land area within the designated B-1 zone, whichever is the greater acreage.

q. A development plan shall be submitted with the appeal containing sufficient information to determine compliance with the B-1 zone and the requirements and conditions of this conditional use.

r. Before voting upon any application for a conditional use permit for a combination business, office and residential project, in addition to all other notice required by law or regulation, notice of the time, place and reason for holding a public hearing shall be given by first-class letter at least forty-five (45) days in advance of the hearing to: the owners of all property within one thousand (1,000) feet of the subject property; the officers of all neighborhood associations, registered with the Planning Commission, having any part of their boundaries within one thousand (1,000) feet of the subject property and the County Government, Mayor and Council.

s. The Board of Adjustment may approve the conditional use only if the proposal complies with the requirements of the B-1 zone and the additional requirements as set forth in this section, and provided the Board finds the following:

1) The proposal will not have an adverse effect on existing or future development of the subject property or surrounding neighborhood.

2) The proposal will not alter the essential character of the surrounding neighborhood.

3) The proposed site is located in a declining or transitional business area, and the proposed development will encourage needed rehabilitation in the surrounding area.

4) Traffic that is anticipated, based on the proposed uses, will not have a material adverse effect on the traffic on adjoining streets.

5) The proposed design and use of materials will be compatible with existing development on surrounding properties.

6) All business and office uses within the project shall comply with the stated intent for the B-1 zone.

7) The project is in accordance with the Comprehensive Plan.

7. Upholstery shop.

8. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:

a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;

b. That a reasonable degree of reclamation and proper drainage control is feasible; and

c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

9. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:

a. To check all operating equipment;

b. To check fire suppression system(s);

c. To check the condition of the fire alarm(s);

d. To check for indications of fuel leaks and spillage;

e. To remove trash from the site;

f. To monitor the general condition of the site.

10. Assisted living facilities and rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.

8-16(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Establishments primarily engaged in agricultural sales and services.

2. Warehouses, as well as storage uses, except as accessory uses herein.

3. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; printing; electrical; sign painting; tile, mosaic and terrazzo work; electro-plating; drilling; excavating; wrecking; construction; and paving. This is not intended to prohibit the administrative offices of such.
4. Manufacturing, compounding, assembling, bottling, processing and packaging and other industrial uses for sale or distribution other than as retail on the premises.
5. Truck terminals and freight yards, transfer stations.
6. Amusement enterprises, such as outdoor theaters, automobile racing, horse racing.
7. Kennels, outdoor runways, or pens for animals.
8. Establishments engaged in the display, rental, sales, service and major repair of automobiles, repair of motorcycles, boats, trucks, travel trailers, farm implements, contractor's equipment, mobile homes, and establishments primarily engaged in the sale of supplies and parts for any of the above-mentioned vehicles or equipment, except as permitted herein.
9. Establishments for cleaning, dyeing, laundering and the like, other than self-service and pickup stations, except for clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
10. Dwellings, except as permitted herein.
11. Hotel or motel, boarding house.
12. Wholesale establishments.
14. Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
15. Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
16. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy; or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
17. Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy; or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
18. Above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas.
19. Pawnshops, except as permitted herein.
20. Pool or billiard halls.

Lot, Yard, and Height Requirements

(See Articles 3 and 15 for additional regulations.)

8-16(f) Minimum Lot Size - No limitation.
8-16(g) Minimum Lot Frontage - No limitation.
8-16(h) Minimum Front Yard - 20 feet.
8-16(i) Minimum Each Side Yard - No limitation.
8-16(j) Minimum Rear Yard - No limitation.
8-16(k) Minimum Usable Open Space - No limitation, except where dwelling units are provided as principal uses; then 10%.
8-16(l) Maximum Lot Coverage - No limitation.
8-16(m) Maximum Height of Building - 25 feet for business uses; 35 feet for residential uses, as permitted herein; and 65 feet as a conditional use, as established in Section 8-16(d)(6).
8-16(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for P-1.

Accessory Warehousing, Wholesaling, Storage and the like - One (1) space for every six hundred (600) square feet of floor area.

Accessory Dwellings - One (1) space per dwelling unit.

Beauty Shops, Barber Shops, and Shoe Repair Shops - One space for every two hundred (200) square feet, with a minimum of three (3) spaces.

Restaurants with no live entertainment or dancing - One (1) space for every two hundred (200) square feet of floor area; or one (1) space for every four (4) indoor seats plus one (1) for every eight (8) outdoor seats, whichever is greater.

Cocktail Lounges, Night Clubs, Banquet Facilities or Restaurants with live entertainment or dancing - One (1) space for every one hundred fifty (150) square feet; or one (1) space for every three (3) indoor seats plus one (1) for every six (6) outdoor seats, whichever is greater.

Retail Uses - For the first 10,000 square feet, one (1) space for every four hundred (400) square feet of floor area.
area, with a minimum of three spaces; for all floor area exceeding the first 10,000 square feet, one (1) space for every two hundred (200) square feet. Combined uses located in a single building shall calculate required parking on the total square footage of the building and not the individual retail uses therein.

**Self-Service Laundry** - One (1) space for every six (6) machines (washers, dryers, and the like.)

**Indoor Theaters** - One (1) space for every five (5) seats.

**Outdoor Miniature Golf or Putting Course** - One and one-half (1½) spaces per hole.

**Arcades, with or without accessory billiard or pool tables** - One (1) space for every one hundred (100) square feet of floor area, plus one (1) space for every three (3) employees.

**Combined Uses** - Combined uses shall provide parking equal to the sum of the individual uses.

**8-16(o) Special Provisions:**

1. No building to be used principally as a single store selling food, produce, grocery items or general merchandise shall exceed 50,000 square feet in floor area unless approved by the Planning Commission prior to April 27, 2000 for at least 40,000 square feet in size. No such building may exceed 60,000 square feet in size, in any event.

2. Where dwelling units are provided and the Planning Commission has approved a final development plan, the required parking spaces may be reduced when specific permission is given by the Commission to reduce said required parking by not more than one percent (1%) for each one percent (1%) of additional useable open space that is provided over the minimum. Also, for every one percent (1%) of the dwelling units that will be provided as a mixed-income housing unit, the Commission may decrease the required parking by one percent (1%). In any case, the maximum parking reduction shall not exceed the minimum parking otherwise required in the zone by more than ten percent (10%) by only providing additional open space or only providing mixed-income housing; or twenty-five percent (25%) by using a combination of mixed-income housing and additional open space.
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8-17 DOWNTOWN BUSINESS (B-2) ZONE

8-17(a) Intent - This zone is intended to accommodate existing and future development in the Central Business District.

8-17(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the B-1 (and P-1) zone.
2. Amusement enterprises, such as indoor billiard or pool halls; bowling alleys; dance halls; skating rinks.
3. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing or the sale of alcoholic beverages.
4. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats, provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
5. Establishments engaged in blueprinting, printing, publishing, and lithographing, interior decorating; upholstering; laundering; clothes cleaning and dyeing; dressmaking and tailoring.
7. Passenger transportation terminals.
8. Any type of dwelling unit.
10. Minor automobile and truck repair.
11. Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
13. Stadium and exhibition halls.
14. Cable television system signal distribution centers and studios.
15. Animal hospitals or clinics, provided all exterior walls are completely soundproofed and all animal pens are completely within the principal building and used only for the medical treatment of small animals.
16. Athletic club facilities.
17. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.

8-17(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Storage, wholesaling, and warehousing.
2. Storage yards for delivery vehicles of a permitted use.
3. Sidewalk café, when accessory to any permitted restaurant.
4. Major automobile and truck repair, when accessory to an establishment primarily engaged in the sale of automobiles and trucks.
5. Satellite dish antennas, as further regulated in Article 15-8.
6. Micro-brewery, when accessory to a restaurant permitted herein, and shall be located at least one hundred (100) feet from a residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.

8-17(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Helistops, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.
2. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b. That a reasonable degree of reclamation and proper drainage control is feasible; and
   c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
4. Adult arcades, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, except as permitted herein, provided none shall be located within a 500-foot radius of any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
5. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
   a. To check all operating equipment;
   b. To check fire suppression system(s);
   c. To check the condition of the fire alarm(s);
   d. To check for indications of fuel leaks and spillage;
e. To remove trash from the site;
f. To monitor the general condition of the site.

6. Assisted living facilities and rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.

8-17(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-1 zone, items 1 through 7, except as permitted herein.
2. Outdoor kennels, or outdoor animal runs.
3. Establishments engaged in the display, rental, or repair of farm equipment, trucks exceeding one and one-half (1½) tons, and contractor’s equipment.
4. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas.

Lot, Yard and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-17(f) Minimum Lot Size - No limitation.
8-17(g) Minimum Lot Frontage - No limitation.
8-17(h) Minimum Front Yard - No limitation.
8-17(i) Minimum Each Side Yard - No limitation.
8-17(j) Minimum Rear Yard - No limitation.
8-17(k) Minimum Usable Open Space - No limitation (except that residential uses shall provide useable open space equal to not less than 10% of only those floors occupied by dwelling units).
8-17(l) Maximum Lot Coverage - No limitation.
8-17(m) Maximum Height of Building - No limitation.
8-17(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Dwelling Units - No requirements, except for buildings with 25 or more dwelling units; then one (1) space for every two thousand (2,000) square feet of residential floor area.

All Other Permitted Uses - Off-street parking not required.

8-17(o) Special Provisions:

1. For any development within the Urban Renewal Project Area, all provisions of the Urban Renewal Plan shall take precedence over any provisions of this B-2 zone where such provisions are more restrictive than those set out in this zone.
2. For those floors of buildings containing dwelling units with windows for habitable rooms, there shall be provided a height-to-yard ratio of 3:1 for light and air. Public street right-of-way width may be used as part of this setback requirement, except that a minimum setback of five (5) feet from the property line, other than property lines adjoining street right-of-way, shall be required in any case. No setback shall be required for those floors containing non-residential uses or dwelling unit walls without windows.
3. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
8-18 DOWNTOWN FRAME BUSINESS (B-2A) ZONE

8-18(a) Intent - This zone is intended to accommodate existing and proposed development in the transitional "frame," which surrounds the downtown core area, by providing for comparable and compatible uses while anticipating the future expansion of the downtown core area.

8-18(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the B-2 zone.

8-18(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. The permitted accessory uses in the B-2 zone.

8-18(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the B-2 zone.

8-18(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-2 zone.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-18(f) Minimum Lot Size - No limitation.

8-18(g) Minimum Lot Frontage - No limitation.

8-18(h) Minimum Front Yard - 10 feet.

8-18(i) Minimum Each Side Yard - No limitation, except that side street side yard shall be ten (10) feet.

8-18(j) Minimum Rear Yard - No limitation.

8-18(k) Minimum Usable Open Space - No limitation, except that residential uses shall provide useable open space equal to not less than ten percent (10%) of only those floors occupied by dwelling units.

8-18(l) Maximum Lot Coverage - No limitation.

8-18(m) Maximum Height of Building - Three (3) stories, or thirty-five (35) feet, except that buildings up to ten (10) stories shall be permitted if the Planning Commission approves a development plan; and for every story in excess of three (3) stories, one percent (1%) of the total lot area shall be added to the otherwise required front yard, or such area shall be provided as ground level open space on land adjoining the right-of-way.

8-18(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Twenty-five percent (25%) of the least parking area required in any zone, other than the B-2 or B-2B zones which permit the principal or a similar use. Off-street loading and unloading areas shall be as required in Article 16.

8-18(o) Special Provisions:

1. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
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8-19 LEXINGTON CENTER BUSINESS (B-2B) ZONE

8-19(a) Intent - This zone is intended to ensure compatible land uses, the preservation of existing attractions compatible with the Lexington Center, and the encouragement of new uses necessary to the proper development of the downtown area. The permitted land uses in the zone should have some logical relation to the Lexington Center and to the downtown core, should promote tourism, should promote the economic health of the community, should provide for an aesthetically pleasing environment, and should prevent the creation of influences adverse to the prospering of the Lexington Center and the downtown area.

8-19(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Civic Center and convention facilities.
2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions; savings and loan companies, holding and investment companies.
3. Offices and clinics.
4. Schools for academic instruction.
5. Libraries, museums, art galleries, and reading rooms.
6. Studios for work or teaching of fine arts, such as photography, music, drama, dance or theater.
7. Churches, Sunday schools, and parish houses.
8. Ticket and travel agencies.
9. Restaurants, cocktail lounges and nightclubs, including those serving alcoholic beverages and/or offering live entertainment, except as prohibited under Section 8-19(e).
10. Establishments for the retail sale of primarily new merchandise.
11. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
12. Retail sale of plant, nursery or greenhouse products, or agricultural produce.
13. Hotels or motels.
15. Antique shops.
16. Establishments for the display, rental or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats; provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
17. Amusement enterprises, such as circuses; carnivals; horse racing or automobile racing, provided such activity is operated on a temporary basis of a duration not exceeding two weeks.
18. Establishments engaged in blueprinting, printing, publishing, and lithography; interior decoration and upholstering; repair of household appliances.
19. Bookstores, except as prohibited under Section 8-19(e).
20. Indoor amusement enterprises, such as motion picture theaters, except as prohibited under Section 8-19(e); billiard or pool halls; bowling alleys; dance halls, skating rinks; and arcades.
22. Telephone exchanges, radio and television studios.
23. Cable television system signal distribution centers and studios.
24. Private clubs, except as prohibited under Section 8-19(e)(7, 8 and 9).
25. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
26. Pawnshops which: (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.

8-19(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Storage area for delivery vehicles of a permitted use.
2. Sidewalk café, when accessory to any permitted restaurant.
3. Health clubs, athletic clubs and spas, when operated solely for the use of occupants of residential uses, employees, tenants and owners of office uses, or registered guests of hotels and motels.
4. Major automobile and truck repair, when accessory to an establishment primarily engaged in the sale of automobiles and trucks.
5. Parking lots and parking structures, when accessory to principal permitted uses.
6. Satellite dish antennas, as further regulated by Article 15-8.
7. Micro-brewery, when accessory to a restaurant permitted herein; and shall be located at least one hundred (100) feet from a residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.

8-19(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Automobile service stations at which only minor automobile and truck repair is performed, and provided such use conforms to all requirements of Article 16.
2. Automobile rental facilities; parking lots and parking
structures, when not accessory to a principal permitted use, provided such uses conform to all requirements of Article 16.

3. Secondhand shops.

4. Self-service laundry or laundry pick-up stations, including clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.

5. Helistops, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.

6. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.

7. Health clubs, athletic clubs and spas, except as a permitted in 8-19(c)(3).

8. Recycling drop-off centers for aluminum; steel; plastic; glass; newspapers; cardboard and other paper products; oil and other household recyclable waste, provided that such an establishment shall be located at least two hundred (200) feet from any residential zone. Any appeal for a conditional use permit to operate a recycling drop-off center shall include as part of the application: Reasons for the location of the proposed use at a specific site, description of equipment to be used, physical arrangement, and operation of the proposed center. The Board of Adjustment shall consider the necessity of screening, if needed.

9. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b. That a reasonable degree of reclamation and proper drainage control is feasible; and
   c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

10. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
    a. To check all operating equipment;
    b. To check fire suppression system(s);
    c. To check the condition of the fire alarm(s);
    d. To check for indications of fuel leaks and spillage;
    e. To remove trash from the site;
    f. To monitor the general condition of the site.

8-19(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Establishments primarily engaged in agricultural equipment sales and services.
2. Warehouse, as well as storage uses, except as accessory uses herein.
3. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; electrical; sign painting; tile, mosaic and terrazzo work; electroplating; drilling; excavating; wrecking; construction, and paving. This is not intended to prohibit administrative offices of such.
4. Manufacturing, compounding, assembling, bottling, processing and packaging, and other industrial uses for sale or distribution other than as retail on the premises.
5. Truck terminals and freight yards.
6. Drive-in restaurants or drive-in theaters.
7. Establishments offering live entertainment in which a person is unclothed, or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
8. Establishments at which any employee is unclothed or in the attire, costume, or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
9. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities, as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy, or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
10. Animal kennels, hospitals, clinics, outdoor runways or pens.
11. The above- or below-ground storage of any flammable material in gaseous form including compressed natural gas.
12. Pawnshops, except as permitted herein.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-19(f) Minimum Lot Size - No limitation.
8-19(g) Minimum Lot Frontage - No limitation.
8-19(h) Minimum Front Yard - No limitation.

8-19(i) Minimum Each Side Yard - No limitation.

8-19(j) Minimum Rear Yard - No limitation.

8-19(k) Minimum Usable Open Space - No limitation, except that 10% shall be required for any residential area.

8-19(l) Maximum Lot Coverage - No limitation.

8-19(m) Maximum Height of Building - No limitation.

8-19(n) Off-Street Parking (See Article 16 for additional parking regulations.)

   Dwelling Units - No requirements, except for buildings with 25 or more dwelling units: then one (1) space for every two thousand (2,000) square feet of residential floor area.

   Hotels or Motels - One (1) space per suite, with a minimum of five (5) spaces.

8-19(o) Special Provisions:

1. For any development within the Urban Renewal Project Area, all provisions of the Urban Renewal Plan shall take precedence over any provisions of this B-2B zone where such provisions are more restrictive than those set in this zone.

2. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
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8-20  HIGHWAY SERVICE BUSINESS (B-3) ZONE

8-20(a) Intent - This zone is intended to provide for retail and other uses, which are necessary to the economic vitality of the community but may be inappropriate in other zones. The Comprehensive Plan should be used to determine the locations for this zone. Special consideration should be given to the relationship of the uses in the zone to the surrounding land uses and to the adequacy of the street system to serve the traffic needs.

8-20(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
2. Automobile service stations, subject to the conditions of Article 16.
3. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of alcoholic beverages.
4. Car washing establishments, provided that surface water from such use shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
5. Motel or hotel.
6. Indoor amusements, such as billiard or pool halls; dancing halls; skating rinks; theaters, or bowling alleys.
7. Self-service laundry, or laundry pick-up station, or clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
8. Garden centers.
9. Kennels, animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
10. Drive-in restaurants, provided that all outside food service areas shall be at least one hundred (100) feet from any residential zone.
11. Establishments for the retail sale of merchandise as permitted in the B-1 zone, unless prohibited by Section 8-20(e).
13. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
14. Barber shops, beauty shops.
15. Circuses and carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access or in other ways to protect public health, safety, or welfare; or deny such if public health, safety or welfare are adversely affected.
16. Offices and medical clinics.
17. Taxidermy establishments.
18. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
19. Business colleges, technical or trade schools or institutions.
20. Schools for academic instruction.
21. Kindergartens, nursery schools and child care centers, where enrollment of children is sponsored and licensed by established churches and non-profit community-based groups, and/or where enrollment may be limited to children of employees and staff of an office, business or commercial establishment which is located on or abutting the same lot as the proposed child care facility. A fenced and screened play area shall be provided in an area, located a minimum of ten (10) feet from a collector or arterial street, and shall contain not less than twenty-five (25) square feet per child.
22. Pawnshops which: (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
23. Athletic club facilities.
24. Parking lots and structures.
25. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.

8-20(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Wholesale, warehouse, and storage facilities.
2. Parking areas and structures.
4. Newsstands and retail shops when accessory to a motel or hotel, provided there are no exterior entrances or signs visible from outside the structure in which they are located.
5. Not more than one (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of and located...
8-20(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

Required conditions for any conditional use permitted herein shall be as follows:

Any conditional use shall be located, in relationship to the arterial roadway system, so that the conditional use has a minimal effect on the adjoining streets and the surrounding uses.

Any outdoor theater screen or illuminated scoreboard or other similar surface shall not be visible from any street for a distance of one thousand (1,000) feet from said structure.

Entrances of ingress or egress, acceleration lanes, and deceleration lanes shall be provided in conformance with requirements as established by the Urban County Traffic Engineer.

1. Indoor and outdoor athletic facilities that may also require buildings which, as a result of their size and design, are not compatible with residential and business zones, but would be compatible in a Highway Service Business (B-3) zone, such as a field house; gymnasium; football stadium; tennis courts; soccer field or polo field, and baseball field.

2. Amusement parks, fairgrounds, or horse racing tracks, if all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, church, hospital, nursing home, or rest home.

3. Outdoor theaters, provided that all facilities, other than highway access drives, are not less than one thousand (1,000) feet from any residential zone, residence, school, church, hospital, nursing home, or rest home; and further provided that a vehicle storage area equal to thirty percent (30%) of the capacity of the theater be provided between the highway and theater ticket gate.

4. Outdoor recreational facilities, including go-cart tracks; archery courts; skate-board and roller skating tracks; trampoline centers; rifle and other fire-arm ranges; swimming pools; water slides and other water-related recreational facilities, and other similar uses.

5. Passenger transportation terminals.

6. Pawnshops, except as permitted herein.

7. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b. That a reasonable degree of reclamation and proper drainage control is feasible; and
   c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

8. Adult arcades, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, except as permitted herein, provided none shall be located within a 500-foot radius of any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.


10. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas, except in conformance with the Kentucky Building Code and all applicable fire safety codes. Total above-ground storage of gas is limited to 600 square feet. There may be no filling or re-filling of gas containers in this zone.

8-20(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-1 zone, items 1 through 5.
2. Automobile race tracks.
3. Establishments for cleaning, dyeing, and the like,
4. Dwellings, except as accessory uses herein.
5. Major automobile and truck repair, except as permitted herein.
7. Outdoor retail sale of merchandise, unless accessory to a permanent retail sales establishment that conducts most of its activities within a completely enclosed building or group of buildings.
8. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas, except as permitted herein.
9. Hospitals.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-20(f) Minimum Lot Size - No limitation.
8-20(g) Minimum Lot Frontage - 40'.
8-20(h) Minimum Front Yard - 20'.
8-20(i) Minimum Each Side Yard - No limitation, except as provided in Section 8-20(o).
8-20(j) Minimum Rear Yard - No limitation, except as provided in Section 8-20(o).
8-20(k) Minimum Useable Open Space - No limitation.
8-20(l) Maximum Lot Coverage - No limitation.
8-20(m) Maximum Height of Building - 75', except where a side or rear yard abuts a Professional Office or a Residential zone, then a 3:1 height to yard ratio.
8-20(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for B-1.

Establishments for display, rental, sale, service or repair of farm implements, contractor equipment, automobiles, motorcycles, boats, travel trailers, mobile homes, or supplies for such items - One (1) space for every six hundred (600) square feet of floor area, with a minimum of five (5) spaces.

Motels and Hotels - One (1) space per suite with a minimum of five (5) spaces.

Bowling Alleys - Four (4) spaces per alley; however, snack bars and food service provided primarily to patrons shall not require additional parking.

Offices of Veterinarians, Animal Hospitals or Clinics, and Kennels - One (1) space for every two hundred (200) square feet of floor area.

Billiard or Pool Halls, Arcades, Dance Halls, Indoor Athletic Facilities, and other amusement places without fixed seats - One (1) space for every one hundred (100) square feet of floor area, plus one space for every three (3) employees.

Skating Rinks - One (1) space for each four hundred (400) square feet of floor area, plus one (1) space for every employee.

Theaters - One (1) space for every five (5) seats.

Indoor and Outdoor Athletic Facilities, Horse Race Tracks, and other amusement places with fixed seats - One (1) space for every five (5) seats, plus one (1) space for every three (3) employees.

Garden Centers - One (1) space for every four hundred (400) square feet of floor area; plus one (1) space for each employee, with a minimum of five (5) spaces.

Adult Arcades and Massage Parlors - As for retail uses in the B-1 zone (with a minimum of three (3) spaces) or one (1) space for every five (5) seats, whichever is greater.

Adult Bookstores or Adult Video Stores - As for retail uses in the B-1 zone (with a minimum of three (3) spaces.)

Adult Cabarets, Adult Dancing Establishments, Adult Entertainment Establishments, and Sexual Entertainment Centers - As for retail uses in the B-1 zone (with a minimum of three (3) spaces), or one (1) space for every three (3) seats, whichever is greater.

Conditional Uses - Parking requirements for conditional uses shall be minimum requirements; the Board of Adjustment may require additional parking, as needed.

Combinations - Combined uses shall provide parking equal to the sum of individual requirements.

8-20(o) Special Provisions

1. Landscape buffer areas shall be required as set forth in Article 18.
2. No building to be used principally as a single store selling food, produce, grocery items or general merchandise shall exceed 80,000 square feet in floor area unless:
   a) approved by the Planning Commission prior to April 27, 2000 for a larger area, or
   b) the building is designed to meet the design guidelines for “big-box” retail establishments (Article 12-8), unless specific guidelines are waived by the Planning Commission through its
approval of a final development plan.
8-21 WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE

8-21(a) Intent - This zone is intended primarily for wholesaling, warehousing, storage operations and establishments whose activity is of the same general character as the above. To a lesser extent, this zone is also intended to provide for the mixture of professional offices and warehouses that promote reuse and redevelopment of older warehouses, allowing businesses to combine their entire operation in one building, as recommended for the Office/Warehouse land use category in the Comprehensive Plan. This zone is also intended to encourage the adaptive reuse of older structures in or adjoining the Infill and Redevelopment Area to promote revitalization of these buildings. The Comprehensive Plan should be used to determine the appropriate locations for this zone. Consideration should be given to the relationship of this zone to the surrounding land uses and the adequacy of the street system to serve the anticipated traffic needs.

8-21(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Wholesale establishment, wholesale establishment with warehouses, storage, and warehousing.
2. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; plastering; metal work; printing; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; interior decorating.
3. Laundry (excluding self-service laundry), clothes cleaning or dyeing shop.
4. Ice plant.
5. Tire re-treading and recapping.
6. Parking lots and structures.
8. Kennels, animal hospitals or clinics, provided that such structures or areas used, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
9. Offices of purchasers, processors and handlers of agricultural products, limited to administrative uses only.
10. Sales of feed, grain, or other agricultural supplies.
12. Establishments and lots for the display, rental, sale, and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles, such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
13. Truck terminals and freight yards.
14. Automobile service stations, subject to the conditions of Article 16.
15. Major or minor automobile and truck repair.
16. Establishments for the display and sale of precut, prefabricated, or shell homes.
17. Circuses and carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access or other ways to protect public health, safety, or welfare; or deny such if public health, safety or welfare are adversely affected.
18. Retail sale of building materials and lumber.
19. Pawnshops which (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
20. Mail order business.
21. Office uses, limited to a maximum square footage of 60% of the floor area in the building in which the use is located.
22. Office/warehouse mixed-use project, as further regulated by Article 8-21(o)(3).
23. Adaptive Reuse Projects, as further regulated in 8-21(o)4.

8-21(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Parking areas and structures, and loading areas.
2. Financial and insurance offices, the principal activities of which are oriented towards agricultural loans and farm insurance.
3. Laundry pick-up station, when accessory to a laundry or dry-cleaning establishment.
4. Retail sale of hardware-related items, when accessory to the sale of building materials and/or lumber.
5. Satellite dish antennas, as further regulated by Article 15-8.
6. Sale of manufactured products, goods, merchandise and finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than 30% of the total floor and storage area.
7. The retail sale of groceries; dairy products; bakery goods; meat; beer; health and beauty items; stationery; and similar convenience-type merchandise, when accessory to an automobile service station.
8. Beauty salons where accessory to an athletic club facility, provided that the area of the salon shall not constitute more than 10% of the total floor area, that the salon has no separate external entrance, nor separate business signage.

8-21(d) Conditional Uses (Permitted only with Board of Adjustment approval.)
1. Indoor recreational activities, except as provided as a part of an adaptive reuse project that require buildings which, as a result of their size and design, are not compatible with residential and business zones, but would be compatible in a Wholesale and Warehouse Business (B-4) zone, including indoor tennis courts; skating rinks; athletic club facilities and bowling alleys. Also included would be any outdoor recreational facilities that are customarily accessory, clearly incidental and subordinate to such indoor recreational activities.

2. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b. That a reasonable degree of reclamation and proper drainage control is feasible; and
   c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

3. Churches, Sunday schools, and church-related schools for academic instruction, except as provided as part of an adaptive reuse project.

4. Retail sale (except as provided as part of an adaptive reuse project) of furniture and household-related items, such as antiques; fabrics; fixtures; furnishings; glassware and china; when accessory to its storage, refinishing, repairing or upholstery on the same premises.

8-21(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Heavy manufacturing, heavy assembling, compounding, packaging, bottling, processing, and other industrial uses, except as permitted herein.
2. Storage of commodities, the storage of which is permitted for the first time in the industrial zones.
3. Amusement enterprises, such as indoor theaters; drive-in theaters; horse race tracks; pool halls; billiard halls; dancing halls and amusement parks.
4. Retail sales and offices, except as permitted herein.
5. Motels and hotels, boarding houses.
6. Personal service establishments, except as permitted herein.
7. Dwellings, except as permitted in an office/warehouse project herein.
8. Schools and colleges for academic instruction, except as permitted herein.
9. Restaurants, cocktail lounges, and nightclubs.
10. Car washing establishments.
11. Refuse dumps, landfills, transfer stations, and incinerators.
12. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas.
13. Pawnshops, except as permitted herein.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-21(f) Minimum Lot Size - No limitation.
8-21(g) Minimum Lot Frontage - No limitation.
8-21(h) Minimum Front Yard - No limitation, except as provided in Section 8-21(o).
8-21(i) Minimum Each Side Yard - No limitation, except as provided in Section 8-21(o).
8-21(j) Minimum Rear Yard - No limitation, except as provided in Section 8-21(o).
8-21(k) Minimum Useable Open Space - No limitation.
8-21(l) Maximum Lot Coverage - No limitation.
8-21(m) Maximum Height of Building - 75', except when a side or rear yard abuts a Professional Office or a Residential zone, then a 3:1 height-to-yard ratio.

8-21(n) Off-Street Parking - (See Article 16 for additional parking regulations.)

Wholesale business, warehousing, storage; Establishments for special trade and general contractors; Machine shops; Sale of feed, grain or other agricultural supplies; Garden centers; and Establishments for the rental, sale, service and repair of farm equipment, contractor equipment, trucks, travel trailers and mobile homes - One (1) space for every six hundred (600) square feet of floor area, with a minimum of five (5) spaces.

Tire re-treading or recapping; Truck terminals and Ice plants - One (1) space for each two (2) employees on a maximum working shift; plus one (1) space for each vehicle owned or operated by the use, with a minimum of
five (5) spaces total.

**Offices, as permitted herein; Animal Hospitals or Clinics; Laundry, clothes cleaning or dyeing shop** - One (1) space for every two hundred (200) square feet of floor area, with a minimum of five (5) spaces.

**Kennels** - One (1) space for every six hundred (600) square feet of floor area, plus one (1) space per two (2) employees on the maximum shift, with a minimum of five (5) spaces.

**Office/Warehouse mixed-use project** - One (1) space for every five hundred (500) square feet of parking floor area, with a minimum of five (5) spaces.

**Skating Rinks** - One (1) space for every four hundred (400) square feet of floor area, plus one (1) space for each employee.

**Bowling Alleys** - Five (5) spaces for each alley, plus one (1) space for each employee.

**Tennis Courts and other similar indoor recreational uses** - One (1) space for every two (2) participants, plus one (1) space for every three (3) spectator seats, plus one (1) space for each employee.

**Mail Order Business** - One (1) for every two (2) employees on a maximum working shift, with a minimum of five (5) spaces; plus one (1) space for every four hundred (400) square feet of accessory retail sales area.

**Retail Sales, Bulk Merchandise** - One (1) space for every 250 square feet of floor area.

**Conditional Uses** - Parking requirements for conditional uses are minimum requirements; the Board of Adjustment may require additional parking, as needed.

**Combinations** - Combined uses shall provide parking equal to the sum of individual requirements.

8-21(o) Special Provisions:
1. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no opening except stationary windows and doors which are designed and intended solely for pedestrian access.
2. Landscape buffer areas shall be required as set forth in Article 18.
3. An Office/Warehouse mixed-use project may be permitted by the Planning Commission upon the approval of a final development plan, as provided in Article 21 of the Zoning Ordinance, and subject to the following requirements:

In addition to the uses permitted in Article 8-21(b), the following uses shall also be permitted in an Office/Warehouse Project:

As principal permitted uses:
- a. Offices, laboratories and data processing centers, limited to a maximum of 75% of the floor area of the building or project. This square footage limitation shall not apply if the project is located within the defined Infill and Redevelopment Area.

As accessory uses:
- a. Drive-through facilities for the provision of services allowed in an Office/Warehouse mixed-use project;
- b. Dwelling units for on-site security personnel.

4. Adaptive Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:

- a. The property must be located in or adjacent to, or across a public right-of-way from, the defined Infill and Redevelopment Area. The area of the Project will be defined by the development plan and may include noncontiguous properties that can function together as an interrelated development.

- b. The Project must include at least one existing building that will be adaptively reused as a principal structure.

- c. The applicant shall provide documentation demonstrating that the Project meets at least three of the following criteria:
  1. It will incorporate sustainable features such as LEED Certification, “green” infrastructure, alternative energy or other innovative design or system.
  2. It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; is located within an Historic District (H-1) overlay zone; or is over 50 years old.
  3. It is in a district that has applied for, or has obtained, special funding such as tax increment financing or similar government incentives.
  4. It will provide residential housing, at least 10% of which will be set aside for affordable housing.
  5. It will provide a high degree of innovative
accommodation for non-vehicular transportation.
6. It is in an area specified in the Comprehensive Plan for adaptive reuse or revitalization.
7. It is within an area that is a brownfields recovery site.
8. Public art is provided by the development that will be publicly displayed in an accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement.
9. It has a single building of over 30,000 square feet that is over 50 years old, or a total project of over 80,000 square feet with at least two adaptive reuse buildings over 50 years old. A single building may not be used to meet both criteria #2 and #9.

d. Principal uses in Adaptive Reuse Projects:
1. Any of the principal uses permitted in the underlying zone.
2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance drama or theater; theaters, including movie theaters and other indoor amusements, except as prohibited under Section 8-19(e), including billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
3. Community centers, churches and private clubs.
4. Restaurants, with or without outdoor seating and with or without live entertainment.
5. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics and similar items.
6. Pharmacies, provided that they are within a structure containing other uses and do not occupy a separate building.
7. Banquet facilities or private clubs with live entertainment, brew pubs, bars, cocktail lounges and nightclubs.
8. Offices, banks or clinics.
9. Hotels or motels.
10. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
11. Quick copy services not using offset printing methods.
12. Residences of any kind.
13. Health clubs, athletic clubs and spas.
15. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods.
16. Indoor recreational facilities.
17. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least 25 square feet per child.
18. Indoor or outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two weeks.
19. Passenger transportation terminals.

e. Accessory uses that are clearly incidental and subordinate to the principal uses are permitted.

f. Conditional uses:
1. Drive-through facilities.

g. Prohibited uses:
1. All adult uses, as listed in Section 8-16(e)(14 through 17).

h. Parking
1. Dwelling Units - One (1) space for every two (2) units.
2. Non-Residential Uses - Fifty percent (50%) of the least parking required in any zone other than the B-2, B-2A or B-2B zone, which permits the use or a similar use.
3. Allowable Reductions in Parking:
   a. Bicycle Reduction - Sites having fifty (50) or more parking spaces may reduce the total minimum automobile parking space requirement by one (1) parking space for every one (1) bicycle space provided in a permanent, constructed bicycle locker. The maximum reduction of required parking spaces, based on provision of bicycle parking, shall not be reduced less than five percent (5%) of the otherwise required amount.
   b. Allowable Transit Stop Reductions - Sites located within 300 feet of a transit stop with a shelter may be allowed a ten percent (10%) reduction of the minimum required parking. Sites located within 300 feet of a transit stop without a shelter shall be allowed a five percent (5%) reduction of the minimum required parking. If the site is located within 300 feet of more than one transit stop, the maximum reduction allowed will be ten percent (10%) for this specific parking reduction.
   c. Reductions in required off-street parking for transit stops and bicycle lockers may be combined for the same property, but in any
event may not reduce the total amount of required off-street parking by more than 15 percent (15%).

i. Signage - Shall be as permitted under Article 17-7(o) for an MU-2 zone.

j. Lot and Yard Requirements - No minimum.

k. Height - No maximum height for adaptive reuse of existing buildings. New buildings shall not be more than 12 feet taller than the tallest structure that is being adaptively reused, or 48 feet, whichever is greater.

l. The applicant shall submit a compliance statement with the development plan that shall specify how the project will further the Goals and Objectives and other elements of the Comprehensive Plan.

m. Prior to holding a hearing on the development plan, the applicant shall post a sign, with dimensions set out in Article 23B-5(b), at a visible location on the property at least 14 days prior to the hearing, informing the public of the location, date and time of the hearing. Evidence of the sign having been posted shall be submitted to the Planning Commission at the hearing.

n. The Planning Commission shall have the power to approve, modify or disapprove the development plan, as set out in Article 21. In addition, if the Planning Commission approves the development plan, it must adopt a finding that the development plan furthers the Goals and Objectives or other elements of the Comprehensive Plan.
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8-22  LIGHT INDUSTRIAL (I-1) ZONE

8-22(a)  Intent - This zone is intended for manufacturing, industrial and related uses not involving a potential nuisance in terms of smoke, noise, odor, vibration, heat, light or industrial waste. In addition, the Comprehensive Plan recognizes that it is important to promote adaptive reuse of older industrial areas and to allow Industrial Mixed-Use projects and Adaptive Reuse Projects. The Comprehensive Plan should be used to determine appropriate locations for this zone and for Industrial Mixed-Use Projects. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.

8-22(b)  Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the B-4 zone.
2. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of articles of merchandise from the following previously prepared materials: asbestos, bone, canvas, cellophane, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semi-precious metals, precious and semi-precious stones, rubber, sheet metal (excluding large stampings), shell, textiles, tobacco, wax, wire, wood (excluding sawmills, planing mills), and yarn.
3. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of such products as: bakery goods; billboards; candy; ceramics; cosmetics; drafting instruments; electrical parts; appliances; electric or neon signs; electronic instruments; food products; meat packaging; ice cream; medical and dental instruments; musical instruments; pharmaceuticals; pottery, china, or figurines; radios; record players; rubber and metal stamp; rubber products; scientific instruments and equipment; shoes; television receivers; toileries, soaps and detergents; toys; and watches and clocks.
4. Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; mini-brewery as regulated by KRS 243.157 and KRS 243.150; dairy and nondairy and food and nonfood product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; canny; caterers; cooperage; crematory; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.
5. Recycling, sorting, baling and processing of glass and nonferrous metals, including copper; brass; aluminum; lead and nickel, but not including automobile wrecking yard; building materials salvage; junk yards or other uses first permitted in the I-2 zone. Recycling, sorting, baling and processing of paper scrap and storage of waste paper shall be permitted only when wholly conducted in a completely enclosed building.
6. Industrial Mixed-Use Projects, as further regulated by Article 8-22(o).
7. Adaptive Reuse Projects, as set out in Section 8-21(b)23 and Section 8-21(o)4.

8-22(c)  Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Off-street parking areas and structures, and loading facilities.
2. Dwelling units for watchmen or caretakers, provided that such facilities shall be located on the same premises as the permitted use.
3. Outdoor storage of products manufactured on the premises or materials to be used in manufacture on the premises.
4. Facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building.
5. Offices.
6. Recreational facilities.
7. Sale of manufactured goods.
8. Sale of finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than thirty percent (30%) of the total floor and storage area.
9. Satellite dish antennas, as further regulated by Article 15-8.
10. Beauty salons where accessory to an athletic club facility, provided that the area of the salon shall not constitute more than 10% of the total floor area, that the salon has no separate external entrance, nor separate business signage.

8-22(d)  Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Automobile race tracks.
2. Public utilities and public service uses and structures.
3. Columbariums and crematories.
4. Penal or correctional institutions.
5. Indoor recreational activities, except as provided as part of an Adaptive Reuse Project, that require buildings, which as a result of their size and design, are not compatible with residential and business zones, but would be compatible in a Light Industrial (I-1) zone, including indoor tennis courts; skating rinks; athletic club facilities and bowling alleys.
6. Grain drying, when operated in a fully enclosed building at least three hundred (300) feet from the nearest residential, business, or professional office zone.
7. The above- or below-ground storage for resale of any flammable or nonflammable gas or oxidizer in liquid or gaseous form, the storage of any empty container which contained any gas in any form; and the receiving of or dispensing of any gas in any form, unless limited by 8-22(e); and provided such operations conform to the standards prescribed by the National Fire Protection Association, the Kentucky Occupational Safety and Health Standards for General Industry, and any requirements of the Fire Marshall. Such conformance shall be certified in writing by the Fire Marshall, and any required protective measures for the containers shall be met in all ways.
8. Banks, with or without drive-through facilities, except as provided as part of an Industrial Mixed-Use Project or an Adaptive Reuse Project, provided:
   a. The site lies within the area of a development plan approved by the Planning Commission, having a minimum one hundred (100) acres zoned industrial;
   b. There shall be an on-site stacking capacity of a minimum of twenty (20) cars for each bank having drive-through facilities;
   c. The site shall not have direct access to an arterial street;
   d. There exists, within the development plan area, industrial businesses having a full-time, non-seasonal, on-site total employee population of at least five hundred (500) employees;
   e. There exists, within a one-mile radius of the property boundaries of the proposed site, industrial businesses having a full-time, non-seasonal, on-site total employee population of at least twenty-five hundred (2,500) employees;
   f. A site development plan is submitted to, and approved by, the Board of Adjustment and the Planning Commission.
9. Concrete mixing and concrete products, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein, and only under the following conditions:
   a. That no concrete mixing operation be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
   b. Noise, Air & Water Quality - The facility shall be operated at all times in compliance with applicable Federal, State and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Article 6-7: Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.
   c. Development Plan - The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, storm water and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
   d. Drainage and Erosion Control - All operations shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event that adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
   e. Roads - All access roads that intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point. Internal roads may be unpaved, provided dust is adequately controlled.
   f. Screening - Screening shall be provided as defined in accordance with LFUCG Article 18 of the Zoning Ordinance.
   g. Transportation Plan - A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
      1) Product shipping and deliveries;
      2) Mode of transportation;
      3) Route(s) to and from the site;
      4) Schedule and frequency of shipments;
      5) Delivery and shipping spillage control methods;
      6) Employee parking.
   h. Storage - Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a
minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.

i. Excess Product and Waste - Excess product and waste, when disposed of on site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.

10. Cable television system facilities, including transmitting towers; antennas; earth stations; microwave dishes; relays; business offices; television studios; and storage facilities.

11. Vehicle storage yards, for which occupancy permits were applied for on or after May 1, 1985.

12. Offices, except as provided as part of an Adaptive Reuse Project, other than as accessory uses under Section 8-22(c)(5), provided that the following requirements are met:

a. That no more than fifty percent (50%) of the total floor area of any structure may be used for office purposes, not counting as accessory uses under Section 8-22(c)(5).

b. That minimum parking requirements shall be met as under the P-1 zone.

c. The office use would be located in a structure that would qualify for designation as a landmark under the provisions of Article 13: Historic Preservation herein.

13. Commercial composting, provided that the following requirements are met:

a. That all such composting shall be conducted in a fully enclosed building.

b. That a permit-by-rule or letter of intent from the Division of Waste Management of the Kentucky Natural Resources and Environmental Protection Cabinet be obtained prior to submission of any application to the Board of Adjustment for a conditional use permit.

c. That a development plan, indicating access points and circulation routes; proposed signage; screening and landscaping; fencing and other significant geological or physical features of the property, be submitted as part of any application.

d. That the Board specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic or dust.

14. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.

15. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:

a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;

b. That a reasonable degree of reclamation and proper drainage control is feasible; and

c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

16. Churches, Sunday schools, and church-related schools for academic instruction, except as provided as part of an Adaptive Reuse Project.

17. Retail sale, except as provided as part of an Adaptive Reuse Project, of furniture and household-related items, such as antiques; fabrics; fixtures; furnishings; glassware and china, when accessory to its storage, refinishing, repairing or upholstery on the same premises.

18. Community centers, except as provided as part of an Adaptive Reuse Project.

19. Child care centers, except as provided as part of an Adaptive Reuse Project.

20. Agricultural market.

8-22(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-4 zone, items 3 through 11.

2. All uses first permitted in the I-2 zone, except as specifically permitted herein.

3. A facility for the storage and distribution of gas by railroad tank cars, through gas piping, or by tank trucks, which each have a water capacity in excess of 4,000 gallons.

4. Slaughterhouses.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-22(f) Minimum Lot Size - No limitation.

8-22(g) Minimum Lot Frontage - No limitation.
8-22(h) Minimum Front Yard - 20'.

8-22(i) Minimum Each Side Yard - No limitation, except as provided in Section 8-22(o).

8-22(j) Minimum Rear Yard - No limitation, except as provided in Section 8-22(o).

8-22(k) Minimum Useable Open Space - No limitation.

8-22(l) Maximum Lot Coverage - No limitation.

8-22(m) Maximum Height of Building - 75', except when a side or rear yard abuts a Professional Office or Residential zone, then a 3:1 height to yard ratio.

8-22(n) Off-Street Parking (See Article 16 for additional parking regulations.)

8-22(o) Special Provisions

1. All industrial uses shall be conducted in a completely enclosed building, except for outdoor storage uses, which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.

2. Except for Industrial Mixed Use Projects, all buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no openings except stationary windows and doors which are designed and intended solely for pedestrian access.

3. Landscape buffer areas shall be required as set forth in Article 18.

4. An Industrial Mixed Use Project may be permitted by the Planning Commission upon the approval of a development plan, subject to the following requirements:

   a. The property must be in a location recommended in the Comprehensive Plan for Industrial Mixed Use, and should not displace an existing agriculture-related use permitted in the I-1 zone.

   b. At least twenty percent (20%) of the total floor area shall be devoted to residential use, at least ten percent (10%) shall be devoted to a principal permitted use in this zone or the Wholesale and Warehouse Business (B-4) zone, and no more than forty percent (40%) of the total floor area shall be occupied by retail uses.

   c. At least forty percent (40%) of the front building wall(s) of new buildings proposed for an Industrial Mixed Use Project shall be required to be built at the 20-foot setback.

   d. In addition to the uses otherwise permitted in the Light Industrial (I-1) zone, the following uses shall be permitted in an Industrial Mixed Use Project:

      As Principal Permitted uses:
      1. Dwelling units.
      2. Uses permitted in the Professional Office (P-1) zone, excluding a Professional Office Project.
      3. Uses permitted in the Neighborhood Business (B-1) zone.

      As Conditional uses:
      1. Restaurants, without live entertainment or dancing, which devote more than twenty percent (20%) of the public floor area exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.

      2. Restaurants or nightclubs offering live entertainment and/or dancing, brew-pubs, or nightclubs, wine or spirit-tasting rooms [unless prohibited under Section 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.

      As Prohibited uses:
      1. All adult uses listed in Section 8-16(e)(14)
through (17) of the Zoning Ordinance.

e. The minimum and maximum mix of uses shall be calculated based on the overall Industrial Mixed Use Project shown on the development plan. Each building within the Industrial Mixed Use Project shall not be required to contain a mixture of uses, provided that at least one structure shall contain a mixture of uses.
8-23 HEAVY INDUSTRIAL (I-2) ZONE

8-23(a) Intent - This zone is intended for manufacturing, industrial, and related uses that involve potential nuisance factors. It is also intended to encourage Adaptive Reuse Projects of older structures in or adjoining the Infill and Redevelopment Area. The Comprehensive Plan should be used to determine the appropriate locations for this zone. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.

8-23(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Any principal permitted use in the I-1 zone, provided that all provisions outlined therein shall apply for said uses in this zone.
2. Abrasives manufacturing.
3. Acid (non-corrosive) manufacturing.
5. Agricultural uses, including hatcheries.
6. Asbestos manufacturing.
7. Automobile assembling, rebuilding, and reconditioning.
8. Bleaching plant.
9. Boiler shops, structural steel fabricating shops, steel car or locomotive shops, railway repair shops, metal working shops, operative reciprocating hammers or chisels or other noise-producing machine operated tools.
10. Bolt or screw thread rolling or cutting.
15. Bronze casting.
16. Candle or sperm oil manufacturing.
17. Canvas manufacturing.
18. Carpet or rug manufacturing.
20. Concrete mixing, concrete products.
21. Correctional institutions.
22. Die casting and making.
23. Disinfectant, insecticide, or poison manufacturing.
24. Dye or dyestuff manufacturing and printing ink manufacturing.
25. Electric power generating plant.
27. Fencing, woven wire manufacturing.
29. Forge.
30. Foundry.
31. Gas storage: Above- or below-ground storage for resale of flammable or non-flammable gas or oxidizer in liquid or gaseous form, the storage of any empty container which contained any gas in any form, and the receiving of or dispensing of any gas in any form unless the method of distribution is first permitted as a conditional use in this zone; and provided such operations conform to the standards prescribed by the National Fire Protection Association, the Kentucky Occupational Safety and Health Standards for General Industry, and any requirements of the Fire Marshall. Such conformance shall be certified in writing by the Fire Marshall, and any required protective measures for the containers shall be met in all ways. Any outside storage area must be enclosed on all sides by a fence or a solid wall, not less than six (6) feet in height.
32. Glass fiber manufacturing.
33. Glucose manufacturing.
34. Grain drying and poultry feed manufacturing from refuse, mash, or grain.
35. Hair manufacturing.
36. Iron storage, sorting, collecting or baling.
37. Leaf mold and similar plant material processing or manufacturing.
38. Linoleum, oil cloth or oiled goods manufacturing.
40. Nitration processes.
41. Oil, paint, shellac, turpentine, varnish or enamel manufacturing or the grinding of colors by machine.
42. Paper or pulp manufacturing.
43. Paper scrap or waste storage, sorting, collecting or baling.
44. Perfume manufacturing.
45. Plaster manufacturing and products.
46. Potash manufacturing or refining.
47. Pyroline plastic manufacturing.
48. Railroad roundhouse or yards.
49. Roofing material factory.
50. Rubber manufacturing, treating or reclaiming plant.
51. Sand blasting.
52. Sewage treatment plant.
53. Shoe blacking or polish manufacturing.
54. Soda ash, caustic soda or washing compound, containing chlorine bleaching powder manufacturing or refining.
55. Stadium.
56. Steam power plant.
57. Storage, drying, or cleaning of rags, glass, cloth, paper or clippings, including sorting, refining, baling, wool pulling and scouring.
58. Sugar refining or starch manufacturing.
59. Tar or asphalt roofing or waterproofing manufacturing.
60. Textile manufacturing.
61. Tire manufacturing.
63. Adaptive Reuse Projects, as set out in Section 8-21(b)3 and Section 8-21(o)4.

8-23(c) Accessory Uses (Uses and structures which are
customarily accessory, clearly incidental and subordinate to permitted uses.)

The permitted accessory uses in the I-1 zone.

8-23(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Acid (corrosive) manufacturing.
2. Ammonia, chlorine or bleaching powder manufacturing.
3. Animal black, lamp black or bone black manufacturing.
4. Asphalt plant, but only when the following conditions are met:
   a. That no asphalt plant be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
   b. Noise, Air & Water Quality - The facility shall be operated at all times in compliance with applicable Federal, State, and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Article 6-7: Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.
   c. Development Plan - The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, stormwater and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
   d. Drainage and Erosion Control - All operations shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event, adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
   e. Roads - All access roads which intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point.
   f. Screening - Screening shall be provided as defined in accordance with LFUCG Article 18 of the Zoning Ordinance.
   g. Transportation Plan - A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
      1) Product shipping and deliveries;
      2) Mode of transportation;
      3) Route(s) to and from the site;
      4) Schedule and frequency of shipments;
      5) Delivery and shipping spillage control methods;
      6) Employee parking.
   h. Storage - Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.
   i. Excess Product and Waste - Excess product and waste, when disposed of on site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.
5. Automobile wrecking, scrap iron storage or wrecking.
8. Celluloid and pyroxylin manufacturing or explosives, or inflammable cellulose or pyroxylin products manufacturing or storage.
9. Cement, lime, gypsum, or plaster of paris manufacturing.
10. Coal storage.
11. Commercial composting, provided that the following requirements are met:
   a. That all such composting shall be conducted in a fully enclosed building.
   b. That a permit-by-rule or letter of intent from the Division of Waste Management of the Kentucky Natural Resources and Environmental Protection Cabinet be obtained prior to submission of any application to the Board of Adjustment for a conditional use permit.
   c. That a development plan, indicating access points and circulation routes; proposed signage; screening and landscaping; fencing and other significant geological or physical features of the property, be submitted as part of any application.
   d. That the Board specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic or dust.
13. Cupola or metal smelting furnace and ore or metal reduction.
14. Distillation of coal, petroleum, refuse, grain, wood, or
b. That a reasonable degree of reclamation and proper drainage control is feasible; and
c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
34. Indoor recreational activities, except as provided as part of an Adaptive Reuse Project, that require buildings which, as a result of their size and design, are not compatible with residential and business zones, but would be compatible in the Heavy Industrial (I-2) zone, including indoor tennis courts; skating rinks; athletic club facilities and bowling alleys.
35. Transfer station, but only when the following conditions are met:
   a. This use shall be conducted in a completely enclosed building. No transfer station shall be closer than one thousand (1,000) feet to any A-R zone, to any residential zone, nor to any existing residence on another lot under different ownership.
   b. The facility shall be operated at all times in compliance with applicable Federal, State and local laws, including Health Department regulations; regulations on noise, air, and water quality; and this Zoning Ordinance. A plan demonstrating proposed conformance with these requirements shall be submitted as part of any application.
   c. A site/development plan, indicating existing screening and landscaping, fencing and significant geological or physical features of the property, shall be submitted as part of any application. The development plan shall be prepared by either an engineer, architect, landscape architect, land surveyor, or certified planner. This plan should also indicate all existing contours, drainage courses, retention, stormwater and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet of the proposed transfer station. The facility shall have adequate groundwater monitoring, waste spillage, and liquid waste/leachate containment measures incorporated into the building and site, and all liquid waste must be disposed of via sanitary sewers. In the event adequate waste liquids/leachate containment, delivery controls and spillage control methods cannot be provided, the conditional use permit may be denied.
   d. The site/development plan should also indicate access points, proposed signage, and internal circulation designed to minimize the impact of traffic, dust, and vehicle noise on areas outside the site. All roads to the site should be of sufficient width and constructed to safely handle all sizes of trucks, while being easily accessible to Federal or State highways. The plan shall identify (at a minimum) the route(s) to and from the site, the schedule and frequency of shipments, employee parking areas, and stacking areas for trucks. The Board shall review the location of access points to ensure that no traffic hazards are created.
e. All driveways and stacking areas shall be paved or sealed to prevent dust.
f. No transfer station shall be located within a 100-year floodplain or sinkhole area.
g. No waste shall remain overnight at the site.
h. This use shall be conducted only between the hours of 7:00 a.m. - 7:00 p.m.
i. The operator shall identify and employ misting, spritzing, masking agents, or absorption agents to control offensive odors.
j. The Board of Adjustment shall specifically consider and be able to find that the proposed use will not constitute a nuisance by creating excessive noise, water pollution, odor, truck traffic, vermin or other disease vectors, dust or other public health hazards. The Board shall also be able to find that the applicant has demonstrated specific measures in their application and plans that assure compliance with the applicable state environmental performance standards of 401 KAR 47.030.

8-23(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-4 zone, items 3 through 11.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-23(f) Minimum Lot Size - No limitation.

8-23(g) Minimum Lot Frontage - No limitation.

8-23(h) Minimum Front Yard - 20'.

8-23(i) Minimum Each Side Yard - No limitation, except as provided in Section 8-23(o).

8-23(j) Minimum Rear Yard - No limitation, except as provided in Section 8-23(o).

8-23(k) Minimum Useable Open Space - No limitation.

8-23(l) Maximum Lot Coverage - No limitation.

8-23(m) Maximum Height of Building - As for I-1.

8-23(n) Off-Street Parking (See Article 16 for additional parking regulations.)

8-23(o) Special Provisions

1. All buildings, outside storage areas, loading and working areas (except accessory parking) in conjunction with uses which are first permitted in the I-2 zone shall be located at least three hundred (300) feet from any residential zone and at least one hundred (100) feet from any other zone except B-4, I-1, or A-R.

2. Landscape buffer areas shall be required as set forth in Article 18. As to transfer stations, except in all cases at least a 15-foot landscape buffer shall surround the transfer station use.

3. Outside storage and working areas (except accessory parking) shall be enclosed by a solid wall or fence, not less than six (6) feet in height.
8-24 OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE

8-24(a) Intent - This zoning category is created to provide for a mixture of compatible office, research, warehouse and industrial uses in a park-like setting with high quality standards of development. This zone shall be located as recommended by the Comprehensive Plan. While it is recognized that actual development of property zoned P-2 may occur in increments smaller than the total acreage shown on the Comprehensive Plan, the terms "P-2 area" and "P-2 park" as used herein are intended to mean the entire contiguous area of ORP as designated on the Comprehensive Plan. The limitations on retail and hotel/motel uses stated herein have been drafted with the expectation that a P-2 project will include all such property as shown on the plan.

8-24(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
2. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations.
3. Research development and testing laboratories or centers.
4. Colleges, universities, business colleges, technical or trade schools, and other schools and institutions for academic instruction, including dormitory facilities.
5. Libraries, museums, art galleries, and reading rooms.
6. Medical and dental offices, clinics, and laboratories.
7. Telephone exchanges, radio, and television studios.
8. Studios for work or teaching of fine arts, such as photography; music; drama; dance; and theater.
9. Community centers and private clubs.
10. Computer and data processing centers.
11. Ticket and travel agencies.
12. Television system signal distribution centers and studios.
13. Meeting and conference centers.
14. Storage and warehousing, when conducted in a completely enclosed building.
15. Parking lots and structures.
16. Offices of purchasers, processors, and handlers of agricultural products, limited to administrative uses only.
17. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of articles of merchandise from the following previously prepared materials: bone, canvas, cellophane, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semi-precious metals, precious and semi-precious stones, rubber, sheet metal (excluding large stampings), shell, textiles, tobacco, wax, wire, wood (excluding sawmills, planing mills), and yarn.
18. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of such products as: bakery goods; billboards; candy; ceramics; cosmetics; drafting instruments; electrical parts; appliances; electric or neon signs; electronic instruments; food products; meat packaging; ice cream; medical and dental instruments; musical instruments; pharmaceuticals; pottery, china, or figurines; radios; record players; rubber and metal stamps; rubber products; scientific instruments and equipment; shoes; television receivers; toiletries, soaps and detergents; toys; and watches and clocks.
19. Other industrial and manufacturing uses, such as beverage manufacturing; dairy and non-dairy, and food and non-food product bottling plants; box and crate assembly; cabinet shop; cannery; caterers; cooperage; crematory; dextrose and starch manufacturing; enameling, lacquering and japanning; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; and tool manufacturing.
20. Recycling, sorting, baling and processing of glass, nonferrous metals (not including automobile wrecking yard), paper scrap and storage of waste paper, when wholly conducted in a completely enclosed building.
21. Hotels and motels, as specifically regulated under Article 8-24(o)(12) herein below.
22. Indoor and outdoor athletic facilities, such as field houses; gymnasiaums; soccer; polo; and baseball fields.
23. Outdoor recreational facilities, including swimming pools; tennis courts; golf courses and golf driving ranges, and similar uses.
25. Kindergartens, nursery schools, and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five square feet per child.
26. One designated retail sales area per P-2 project, limited to the following uses:
   Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations.
   Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
   Establishments for the retail sale of food products, as per Article 8-16(b)(2).
   Medical and dental offices, clinics, and laboratories.
Ticket and travel agencies.

Restaurants, cocktail lounges and night clubs, with entertainment, dancing, and/or sale of alcoholic beverages.

Establishments for the retail sale of merchandise, as per Article 8-16(b)(4).

Beauty shops, barber shops, and shoe repair.

Automobile service stations.

Quick copy services utilizing xerographic or similar processes, but not including offset printing methods.

Laundry and laundry pick-up stations, but not including self-service laundry.

Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five square feet per child.

Athletic club facilities.

27. Temporary cellular telephone transmitting facility; not to exceed 70' in height and with a 1:1 height-to-yard ratio.

8-24(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental, and subordinate to permitted uses.)

1. The accessory uses permitted in the P-1, B-4, and I-1 zones, except as specifically prohibited in Article 8-24(e) below.

2. Within the designated retail area, the following accessory uses shall be permitted:

Parking areas and structures.

One dwelling unit for the owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted use.

Warehousing, wholesaling, and storage, excluding outdoor storage.

Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.

Satellite dish antennas, as further regulated by Article 15-8.

3. Residential uses solely for incidental use by employees of a permitted use.

8-24(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Helistops and/or heliports, provided such facilities conform to the requirements of all appropriate Federal, State, and local regulations.

2. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:

a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;

b. That a reasonable degree of reclamation and proper drainage control is feasible; and

c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

3. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:

a. To check all operating equipment;

b. To check fire suppression system(s);

c. To check the condition of the fire alarm(s);

d. To check for indications of fuel leaks and spillage;

e. To remove trash from the site;

f. To monitor the general condition of the site.

8-24(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses, or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)

1. Dwellings, except as accessory uses for watchmen or caretakers, or as permitted under 8-24(c)(2) and (3) above

2. All outdoor storage, display, and/or sales areas, including any vehicular sales facilities; but excluding outdoor patio areas operated in conjunction with a restaurant.

3. Any uses first permitted in the Heavy Industrial (I-2) zone.

4. Refuse dumps, incinerators, and landfills.

5. A facility for the storage and distribution of gas by railroad tank cars, through gas piping, or by tank trucks which each have a water capacity in excess of 4,000 gallons.
Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations)

8-24(f) Minimum Lot Size - Five (5) acres, except in the designated retail area and areas which have been approved for a final development plan, then no limitation. See 8-24(o)6 below.

8-24(g) Minimum Lot Frontage - No limitation.

8-24(h) Minimum Front Yard - 200' on streets classified as expressways and major arterials on the official functional classification map; 100' for all other street frontages, except cul-de-sacs, which shall have a minimum front yard of 50'.

8-24(i) Minimum Side Yard - A combined side yard of 50', with a minimum of 25'.

8-24(j) Minimum Rear Yard - 25'.

8-24(k) Minimum Useable Open Space - See 8-24(o) below.

8-24(l) Maximum Lot Coverage - 30%; with a maximum floor area ratio of .4, except in the designated retail area, which shall have a maximum lot coverage of 25%, with a maximum floor area ratio of .5.

8-24(m) Maximum Height of Building - 1:1 height-to-yard ratio.

8-24(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Office Uses - One (1) space for each four hundred (400) square feet of floor area.

Uses first permitted in the B-4 zone - As per B-4.

Uses first permitted in the I-1 zone - As per I-1.

Designated Retail Area - One (1) space for each four hundred (400) square feet of floor area for the first ten thousand (10,000) square feet; one (1) space for each two hundred (200) square feet of floor area after the first ten thousand (10,000) square feet.

Combinations - Combined uses shall provide parking equal to the sum of individual requirements.

8-24(o) Special Provisions

1. Any site to be zoned in a P-2 zoning category shall be a minimum of fifty (50) net acres in size.
2. No more than fifty percent (50%) of any P-2 project shall be covered with buildings and parking lots or other paved surfaces designed for vehicular use. All open space areas shall be permitted, however, to contain outdoor recreational/athletic facilities, such as ball fields; jogging trails; tennis courts; picnic areas; golf courses; or similar outdoor activities for the use of the employees of the principal use of the property or the public at large. Land owned by the developer at the time of rezoning, which is subsequently dedicated at no cost to the public as recreational or open spaces (not streets), shall be included in such open space requirement.

3. The developer shall be required to provide proof of at least the following private covenants having been created prior to the approval of any final development plan:
   a. A design committee of at least three registered architects and landscape architects (mixed 2 to 1 in either combination) shall be required to review and approve all site and architectural designs within the development.
   b. An owners' association or other mechanism which provides for uniform maintenance of all open space areas and common areas.

4. Landscaping shall be required as per Article 18 of the Zoning Ordinance, except as modified herein. Perimeter landscaping around the exterior boundary of the project shall be as provided under Article 18 for the I-1 zone; however, the Commission may permit such portions of required perimeter planting to be reallocated to areas interior to the site, where it finds that solid screening is not needed to screen the uses from the adjoining rights-of-way or properties. In addition, ten (10) square feet of landscape area for each one hundred (100) square feet, or fraction thereof, of vehicular use area shall be required within the park. Street trees shall be required as outlined in the Land Subdivision Regulations. Each lot shall be required to provide on-site tree planting at a standard of twenty-five (25) trees per acre, which shall include any street trees and trees planted within vehicular use areas. Existing trees may be substituted for such required new trees as outlined in Article 18-3(a)(7).

5. Signage within the P-2 zone shall be specifically regulated under Article 17-7(m) of the Zoning Ordinance.

6. A preliminary development plan shall be required to be filed in conjunction with any zoning map amendment to a P-2 zone. No building permits shall be issued for any lot or building within the development unless and until final development plans are approved, as provided in Article 21. The minimum size project for any final development plan shall be five (5) acres. A final development plan with two or more buildings shall be designed as a cohesive architectural statement, with all development features exhibiting compatible design elements. Where lots are proposed less than five (5) acres in size, the minimum lot, yard, and height requirements shall apply to the entire project, rather than to each subdivided lot.
7. Parking areas shall not be permitted to encroach into required front, side, and rear yards. However, no more than 10 visitor parking spaces may be permitted within such required yards.

8. In addition to the required development plan, the applicant for any P-2 zoning category shall be required to file a comprehensive development statement at the time of filing. Such comprehensive development statement shall include, at a minimum:
   a. A traffic impact analysis.
   b. A preliminary site analysis of all significant natural and man-made features with a particular emphasis on any environmentally sensitive areas, geologic hazard areas, existing vegetation which should be given priority as use for open space areas.
   c. Any proposed use restrictions, building requirements, architectural requirements, or similar restrictions over those required herein.

Such studies shall be evaluated by the staff as part of the overall review of the map amendment request and development plan. Based upon such review, the Planning Commission and/or Council may impose restrictions on uses or other development aspects, including design criteria, as a part of the approval of the P-2 project.

9. A designated retail area can be included within the project at the option of the developer for any project containing over one hundred (100) net acres. If included, such designated retail area shall be defined on the preliminary development plan at the time of creation of any P-2 zone and shall be able to be expanded or relocated only with the approval of the legislative body as for a zone change. The designated retail area shall be designed and located to primarily serve the needs of employees and visitors to the Office, Industry and Research Park. It shall be located internal to the park and shall not be located on adjoining arterial streets. The retail area shall not be less than one percent (1%) of the total area of the park, nor greater than five percent (5%) of the total area of the park, in any case.

10. Except to the extent otherwise permitted in Article 8-24(e) above, all uses shall be conducted in a completely enclosed building.

11. No site utilities shall be permitted to be above ground, with the exception of major electric and telephone distribution lines (which shall generally be located on lot perimeters), pad mounted transformers, and similar facilities. Service connections of such utilities to individual buildings shall be required to be underground. Any utilities to be located above ground shall be shown on required final development plans. All such overhead utilities shall be designed, located, and, where appropriate, screened, so as to preclude visibility from adjoining arterial roadways and public open space and/or greenway areas to the greatest extent feasible.

12. The number of hotels and/or motels within a P-2 project shall not exceed a total of one (1) per fifty (50) net acres of the P-2 project; and the total acreage in motel/hotel uses shall not exceed ten percent (10%) of the area of the P-2 project.
9-1 INTENT - The intent of this Article is to provide a means to permit two or more detached buildings for residential purposes to be placed on the same parcel or lot of land in any R-1T, R-3, or R-4 zone, if approved as a Group Residential Project as provided herein, and to allow slight variations from the requirements of the zone in which it is located only as specifically provided herein.

9-2 WHERE REQUIRED - Any development in an R-1T, R-3 or R-4 zone, which proposes two or more detached buildings for residential purposes on the same lot or parcel, shall be considered a Group Residential Project, and shall conform to the provisions of this Article.

9-3 PERMITTED USES - The permitted uses shall be those principal and accessory uses listed in Article 8 for the zone in which the Group Residential Project is located. All other uses are prohibited, except that schools for academic instruction and churches shall be permitted in a project approved by the Commission. Single family detached units permitted under the R-3 and R-4 zone are also prohibited from construction under the provisions of this Article. Such uses shall follow the requirements for subdividing, as required for single family residential zones.

9-4 DETACHED BUILDINGS DEFINED - For the purposes of this Article, detached buildings for residential purposes shall be defined as single family, two-family, or multi-family residential buildings, including ranch, motel or garden design types; townhouses; apartment buildings butted against each other; or apartment buildings connected by an open breezeway or similar connection. Buildings connected by breezeways or similar connections shall be considered to be detached buildings rather than one building. Ranch, motel, garden, butted buildings or other design types may be counted as single detached buildings, as long as they do not exceed two hundred (200) feet in length; and buildings exceeding this length shall be considered as two or more detached buildings, and shall be permitted only in Group Residential Projects.

9-5 REVIEW AND APPROVAL - The Division of Building Inspection may issue permits for the construction of a Group Residential Project on a lot of five (5) acres or less, provided the proposed Project meets the requirements set forth under Section 9-6. The Planning Commission shall review all Group Residential Projects on lots of more than five (5) acres. Projects of five (5) acres or less may also be submitted to the Commission. Regardless of the size, the Commission may only approve those Projects which meet the requirements of Section 9-7.

9-6 GROUP RESIDENTIAL PROJECTS APPROVED BY THE DIVISION OF BUILDING INSPECTION - All Group Residential Projects approved by the Division of Building Inspection shall conform to the following minimum design standards.

9-6(a) SIZE - The parcel on which the Project is located shall not exceed five (5) acres in size, nor be less than the minimum lot area for the zone in which it is located.

9-6(b) MAXIMUM FLOOR AREA - The maximum floor area shall not exceed eighty percent (80%) of the otherwise permitted maximum floor area in the zone in which the Project is located.

9-6(c) YARD REQUIREMENTS - The minimum width of required yards shall be as follows:

9-6(c)(1) PROJECT EXTERIOR YARD - The distance between principal buildings and the outside boundary of the property on which the Project is located shall be not less than the height of the building, nor less than twenty (20) feet. Where the wall of any principal building is not parallel to the outside boundary of the property or is broken or otherwise irregular, the average distance shall not be less than as specified above. At no point shall such distance be less than fifteen (15) feet.

9-6(c)(2) REQUIRED FRONTAGE YARD - Buildings containing dwelling units shall adjoin a public or private street, vehicular use area, or open space providing access to a street. This yard shall be the required frontage yard, and shall be sized according to the following:

If the frontage yard is flanked by buildings on only one side, the least width shall be:

<table>
<thead>
<tr>
<th>BUILDING HEIGHT</th>
<th>REQUIRED MINIMUM YARD WIDTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 18 feet</td>
<td>30 feet</td>
</tr>
<tr>
<td>More than 18 feet and up to 30 feet</td>
<td>35 feet</td>
</tr>
<tr>
<td>More than 30 feet and up to 36 feet</td>
<td>40 feet</td>
</tr>
</tbody>
</table>

For each twelve (12) feet (or fraction thereof) in height in excess of thirty-six (36) feet, five (5) feet of yard width shall be added; but not more than sixty (60) feet in yard width shall be required, in any case.

If the frontage yard is flanked on both sides by buildings, the least width of such yard shall be:
9 - 2

REQUIRED MINIMUM  BUILDING HEIGHT  YARD WIDTH
0 to 18 feet  40 feet
More than 18 feet and up to 30 feet  50 feet
More than 30 feet and up to 36 feet  60 feet

For each twelve (12) feet (or fraction thereof) in height in excess of thirty-six (36) feet, ten (10) feet of yard width shall be added; but not more than eighty (80) feet in yard width shall be required, in any case.

9-6(c)(3) DISTANCES REQUIRED BETWEEN BUILDINGS - The distances between principal buildings, other than those specified above, shall not be less than twice the required side yard in the zone in which the Project is located. Where the walls of the buildings are not parallel, or are broken or otherwise irregular, the average distance between the principal buildings shall not be less than as specified above, and shall at no point be less than the required side yard for the zone in which it is located.

9-6(d) PROXIMITY TO DRIVE - A part of every residential building shall not be farther than sixty (60) feet from an access roadway or drive providing vehicular access from a public street.

9-6(e) PARKING AREA - Off-street parking spaces shall be provided in accordance with the requirements of the zone in which the Project is located.

9-6(f) OTHER REQUIREMENTS - Except as modified herein, the Project shall conform to the requirements of this Zoning Ordinance for the zone in which it is located.

9-7 GROUP RESIDENTIAL PROJECTS APPROVED BY THE PLANNING COMMISSION

9-7(a) PROCEDURE - The following procedure shall be followed for approval of Group Residential Projects by the Commission:

9-7(a)(1) DEVELOPMENT PLAN REQUIRED - The Commission shall require a final development plan containing the information as required by Article 21; and, in addition, specifying the number and type of dwelling units for each building and use of other structures. The Commission shall review the plan for provision of safe, convenient, efficient and harmonious groupings of buildings in relation to their intended use; transportation and utilities in relation to the buildings served and general circulation needs; open space in relation to needs of the occupants; and for conformance to any other necessary requirements. The Project shall be planned to properly blend with all surrounding property.

9-7(a)(2) PUBLIC HEARING REQUIRED - The Commission shall advertise and hold a public hearing before proceeding to postpone, approve, conditionally approve or disapprove the plan for a Group Residential Project. Amendments to the plan shall follow the same procedure as provided in Section 21-7.

9-7(a)(3) CERTIFICATION OF APPROVAL - The certification of approval for a Group Residential Project development plan shall be as provided in Section 21-4(d).

9-7(a)(4) BUILDING PERMIT REQUIRED - After certification by the Secretary of the Commission, the Division of Building Inspection may issue permits in conformance with the approved plan upon receipt of a certified copy of the plan.

9-7(b) MINIMUM DESIGN STANDARDS - All Group Residential Projects approved by the Planning Commission shall conform to the following minimum design standards.

9-7(b)(1) MINIMUM SIZE - The Project area shall not be less than the minimum lot area for the zone in which it is located.

9-7(b)(2) MAXIMUM FLOOR AREA RATIO AND LOT COVERAGE - For Projects in the R-3 or R-4 zone, the total floor area of all buildings shall not exceed the maximum floor area permitted in the zone in which the Project is located, unless specific permission is given by the Commission to exceed said permitted floor area by not more than one percent (1%) for each one percent (1%) of additional usable open space that is provided over the minimum required by Section 9-7(b)(6). In any case, the maximum floor area shall not exceed by more than ten percent (10%), the maximum floor area otherwise permitted in the zone. The maximum lot coverage shall be as provided in the zone in which the Project is located. For Projects located in the R-1T zone, the total lot coverage shall not exceed twenty-five percent (25%). There shall be no maximum floor area ratio for Group Residential Projects in the R-1T zone.

9-7(b)(3) YARD REQUIREMENTS - The requirements for frontage and interior yards shall be as provided under Section 9-6(c) herein above.

9-7(b)(4) PARKING AREA - One and one-half (1½) off-street parking spaces shall be provided per dwelling unit.

9-7(b)(5) SERVICE AREAS - Proper open spaces shall be devoted to service needs of the Project, including, among others, refuse collection areas and equipment service areas.

9-7(b)(6) USABLE OPEN SPACE AND SCREENING -
Proper usable open spaces shall be devoted to recreation needs of the Project for active and passive use. At least twenty percent (20%) of the total area shall be devoted to such properly planned permanent usable open space. Appropriate screening for visual and noise barriers shall be provided as required by Article 18.

9-7(b)(7) PRIVATE STREETS - Private streets may be permitted by the Commission. Plans containing private streets shall conform to the requirements of the Subdivision Regulations concerning private streets.

9-7(b)(8) MAINTENANCE OF COMMON SPACES - Where the design of the Group Residential Project indicates a need or desire to subdivide property and to provide for common areas, a Home Owners’ Association, or other mechanism for the provision of maintenance, improvement, and operations for all common areas, including streets; parking areas; open space, etc.; shall be required to be established by the applicant. The applicant's responsibility to create such a mechanism shall be noted on the development plan of the Group Residential Project. A requirement that each property owner be individually responsible for maintenance of the common space abutting the lot shall not be considered as acceptable for fulfilling the requirements of this section.

9-7(b)(9) OTHER REQUIREMENTS - Except as modified herein, the Project shall conform to the requirements of this Zoning Ordinance for the zone in which it is located.
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MOBILE HOME PARK (M-1P) ZONE

10-1 INTENT - The intent of the Mobile Home Park (M-1P) zone is to permit the establishment of mobile home parks in areas which will provide a residential setting and which will be convenient to major traffic arterials. Because of unusual characteristics, mobile home parks pose special problems in the application of land use control techniques and require special consideration as to their proper location and character in relation to adjacent uses and to the proper integration of such uses into the community. The standards contained in this provision are intended to provide adequate protection and consideration for both the community and the mobile home dweller.

10-2 PERMITTED USES - The uses permitted in an M-1P zone are mobile home parks and those uses and structures which are customarily accessory, clearly incidental and subordinate to a mobile home park, such as satellite dish antennas, playgrounds, swimming pools, tennis courts, and similar non-commercial recreational buildings and facilities.

10-3 CONDITIONAL USES PERMITTED WHEN AUTHORIZED BY THE BOARD OF ADJUSTMENT

a. Incidental retail uses, such as barber and beauty shops; self-service laundries; news and novelty stands; snack bars and commissaries conducted for the convenience of the residents of any mobile home park containing one hundred fifty (150) or more mobile home lots, when located wholly within a principal building with access only to an interior arcade or open court and having no exterior display space or identification sign visible from any adjacent public right-of-way; and provided that such uses do not exceed a total of 2,500 square feet in area.

b. Nursery schools, day nurseries, and child care centers for four (4) or more children when located in a permanent structure, provided there is a fenced and screened play lot.

c. No vehicular entrance or exit from a mobile home park shall be within two hundred (200) feet, measured along streets, from any property line of any lot containing a school; public playground; church; hospital; library; hospital; nursing or rest home; orphanage or rehabilitation home, except where such building or property is in another block or fronts on a street on which such mobile home park will have no entrance or exit.

d. Each proposed mobile home park shall be well drained and properly graded to ensure proper drainage; shall have water service, sanitary sewer service, and shall be located so as to provide for the availability of community facilities and services such as schools, parks, shopping facilities, and police and fire protection.

10-4 PROHIBITED USES - In any M-1P zone, all uses other than as specifically permitted are prohibited.

10-5 STRUCTURES ACCESSORY TO MOBILE HOMES

a. No accessory building shall be constructed as a permanent part of a mobile home, nor shall any other device be attached other than a cloth or metal awning or similar device.

b. Cabanas, ramadas, and other similar permanent structures may be erected in conjunction with a mobile home parking space, and shall not be closer to any other structure or mobile home other than the one it is intended to serve, than the minimum distance required between mobile homes.

10-6 MAXIMUM HEIGHT - The maximum height of any structure in an M-1P zone shall be twenty-five (25) feet.

10-7 LOCATIONAL STANDARDS - The following locational standards shall be met in the design of a mobile home park:

a. A mobile home park shall have a minimum of two hundred (200) feet of frontage on a street designated by the Commission as an arterial or collector street and shall have its principal access to and from said street.

b. The principal access to and from the mobile home park shall be at a location where traffic congestion does not exist at the present on the street or streets to be utilized for access to the proposed mobile home or trailer park; and the possibility of such congestion in the future shall be minimized by provision in the development plans for proper entrances and exits, and by internal provisions for traffic circulation and parking.

c. Each proposed mobile home park shall be well drained and properly graded to ensure proper drainage; shall have water service, sanitary sewer service, and shall be located so as to provide for the availability of community facilities and services such as schools, parks, shopping facilities, and police and fire protection.
a. All new mobile home parks shall have a minimum site area of ten (10) acres. There shall be no area limitations on additions to existing parks containing fifty (50) or more mobile home spaces.

b. There shall be a minimum of four thousand (4,000) square feet for each mobile home space.

c. Not less than ten percent (10%) of the site on which a mobile home park is located shall be devoted to open space available to the residents of the entire park.

d. Each mobile home lot shall have a minimum of twenty (20) feet of frontage on an improved access road or driveway.

e. Each mobile home shall be located at least twenty (20) feet from any other mobile home, except that the end-to-end clearance shall not be less than fifteen (15) feet.

f. Each mobile home shall be located at least twenty (20) feet from any permanent structure, service building or service area within the mobile home park, at least ten (10) feet from any property line, and at least twenty (20) feet from any street or dedicated right-of-way.

g. No mobile home shall be located closer than twenty (20) feet to any other zone.

10-9 ACCESS ROADS AND PARKING

10-9(a) REQUIRED WIDTH - All access roads and driveways within a mobile home park shall be paved to a width of not less than twenty (20) feet and shall be improved in accordance with the requirements of the Division of Engineering.

10-9(b) PEDESTRIAN ACCESS - There shall be provided, along one (1) side of each access road and/or driveway, a sidewalk not less than three (3) feet in width to provide for pedestrian circulation throughout the mobile home park.

10-9(c) REQUIRED PARKING - There shall be provided on the same space with the mobile home, or on a lot contiguous thereto, or on an access road, at least two (2) parking spaces per mobile home lot. The required parking spaces may be located within the access road or driveway, provided that the portion thereof to be used exclusively for such parking is improved in accordance with the requirements of the Division of Engineering. The minimum width of an access road or driveway on which parking is permitted shall be twenty-nine (29) feet for one-side parking and thirty-eight (38) for both-side parking.

10-10 LANDSCAPING

10-10(a) SCREENING - Landscaping and screening shall be provided as required by Article 18: Landscape and Land Use Buffers.

10-10(b) OPEN SPACE - All required open space and other areas not used for mobile home spaces, access, parking, traffic circulation, buildings or service areas, shall be landscaped with grass or a ground cover as defined in Article 18 of this Zoning Ordinance.

10-11 PROCEDURE - The procedure for obtaining a zoning map amendment to the M-1P zone shall be the same as provided in Article 6 herein above and, in addition, as follows:

10-11(a) PRELIMINARY DEVELOPMENT PLAN REQUIRED - A preliminary development plan shall be submitted with the application for a zoning map amendment, with the information as required in Article 21: Development Plans herein below; and, in addition, the location and dimensions of all mobile home spaces, parking spaces and recreation areas.

10-11(b) FINAL DEVELOPMENT PLAN REQUIRED - Within two (2) years of final approval by the legislative body of any M-1P zoning map amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and approval; otherwise, an application to change the M-1P zone to its previous zone, or other appropriate zone may be filed by the Commission as provided by Article 6 herein above. The final development plan shall show the information required by Article 21 herein below; and, in addition, the exact location of all mobile home spaces, parking spaces, and recreational areas. The Commission shall approve a final development plan with such conditions as are found necessary to comply with the Ordinance within ninety (90) days after the applicant submits the development plan.

10-11(c) BUILDING PERMIT REQUIRED - No building permit shall be issued until a final development plan has been approved by the Commission and certified to the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building permits; and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as provided in Article 21.
10-11(d) CERTIFICATE OF OCCUPANCY REQUIRED - No certificate of occupancy shall be issued until a minimum of fifty (50) mobile home spaces have been completed, have sanitary sewer service available, and are otherwise ready for occupancy, unless a performance bond or letter of credit in an amount specified by the Division of Engineering has been submitted to the Commission to ensure completion of all improvements for the aforesaid fifty (50) spaces.

10-12 MOBILE HOMES IN OTHER ZONES - No mobile home shall be parked, or maintained and used as a dwelling unit, on any lot or tract of land other than one located in an M-1P zone except as provided therein.

10-12(a) MOBILE HOMES IN INDUSTRIAL ZONES - In any industrial (I-1, I-2) zone, not more than one (1) mobile home or trailer for each establishment may be occupied as sleeping quarters for a caretaker or watchman.

10-12(b) MOBILE HOMES IN AGRICULTURAL ZONES - In any A-R, A-B, A-N or A-U zone, one (1) mobile home used as a tenant home accessory to the principal residence, which shall not be permitted to be a mobile home, may be located on a farm of forty (40) net acres or more as provided in Section 10-12(b)(1) through (3) below. On a farm of one hundred (100) net acres or more, a second mobile home used as a tenant home shall be permitted as set forth in Section 10-12(b)(1) through (3). On farms of two hundred (200) net acres or more, mobile homes used as tenant homes, in addition to the first two (2) permitted, shall be allowed at the rate of one (1) per one hundred (100) net acres, as set forth in Section 10-12(b)(1) through (3). The placement of any mobile home shall comply with all requirements set forth by the Board of Health of the Lexington-Fayette Urban Government and as follows:

<table>
<thead>
<tr>
<th>Lot Size (net acres)</th>
<th>Number of Permitted Mobile Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 Acres</td>
<td>1</td>
</tr>
<tr>
<td>100 Acres</td>
<td>2</td>
</tr>
<tr>
<td>200 Acres</td>
<td>3</td>
</tr>
<tr>
<td>300 Acres</td>
<td>4</td>
</tr>
</tbody>
</table>

(1) In any A-R, A-B, A-N or A-U zone, no mobile home shall be located closer than three hundred (300) feet to any existing or proposed right-of-way, nor shall any mobile home be located in a designated floodplain. One or more of the occupants of all mobile homes must be employed full-time in agricultural activity on the farm on which such mobile is located; or the mobile home must be used as an accessory dwelling by parents, or natural or adopted children of the owner of the primary dwelling unit of the farm. No mobile home shall be located closer than three hundred (300) feet to any property line.

(2) No more than one (1) driveway to any or all mobile homes located on property having common ownership shall be permitted for the first seven hundred fifty (750) feet of frontage. For property having more than seven hundred fifty (750) feet of frontage, additional driveways shall be permitted at the rate of one (1) per five hundred (500) feet of frontage.

(3) In an A-R, A-B, A-N or A-U zone, all mobile homes shall be fitted with skirtings around the base so as to conceal any wheels and/or chassis, and the towing tongue shall be removed.

(4) Any mobile home unoccupied for a period of one year shall be required to be removed from the premises.

10-13 ENLARGEMENT OF EXISTING PARKS - Any enlargement or extension of any existing mobile home park shall be in accordance with the requirements of this Article.

10-14 COMPLIANCE WITH OTHER LAW - Conformity with the standards established in this Ordinance shall not relieve the owner or operator of a mobile home park from compliance with all other requirements of the law.
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ARTICLE 11

INTERCHANGE SERVICE BUSINESS (B-5P) ZONE

11-1 INTENT - The intent of the Interchange Service Business (B-5P) zone is to permit the establishment of limited commercial facilities at limited access highway interchange areas so that the traveling public is conveniently provided with transient type services without endangering the movement along, as well as access to and from, the limited access highway. The standards contained in this Article are intended to provide adequate protection for, and consideration of, the traveling public.

11-2 PRINCIPAL USES PERMITTED - The following are principal permitted uses in an Interchange Service Business (B-5P) zone:

a. Automobile Service Stations providing full service, self service, or a combination thereof, including the sale of convenience type merchandise in conjunction therewith in an enclosed building not exceeding three thousand (3,000) square feet in floor area.

b. Facilities for the sale of convenience type merchandise in an enclosed building not exceeding three thousand (3,000) square feet in floor area in conjunction with pumps for the sale of fuel for vehicles.

c. Restaurants, excluding drive-in restaurants.

d. Cocktail Lounges, Nightclubs, and Discotheques, with or without live entertainment or dancing.

e. Brew-pubs, when located at least one hundred (100) feet from a residential zone, which shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.

f. Hotels and Motels.

g. One Confectionery or Candy Store, not exceeding fifteen hundred (1,500) square feet, per interchange quadrant.

h. Overnight Trailer and Camping Facilities.

i. Circuses and carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect public health, safety, or welfare or deny such if public health, safety, or welfare are adversely affected.

j. Temporary cellular telephone transmitting facility; not to exceed 70' in height and with a 1:1 height to yard ratio.

k. Car washing establishments, provided that surface water from such uses shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes. The use shall be located at least one hundred fifty (150) feet from a residential zone or residential structure in a non-residential zone; or the use shall be designed so that all vehicular stacking areas and machine operations, including vacuuming and mechanical washing, shall be conducted inside a building, or shall be separated from the residential zone or residential structure in a non-residential zone by a building or an eight-foot solid wall.

11-3 ACCESSORY USES PERMITTED - Accessory uses permitted in the B-5P zone are those uses which are customarily accessory, clearly incidental, and subordinate to any permitted principal use, such as:

a. Swimming pools.

b. Meeting rooms.

c. Tennis courts, putting greens, handball courts, and other similar indoor or outdoor recreational facilities.

d. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.

e. Bus agencies.

11-4 CONDITIONAL USES - The following are conditional uses in an Interchange Service Business (B-5P) zone (Permitted only with Board of Adjustment approval):

a. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:

1) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;

2) That a reasonable degree of reclamation and proper drainage control is feasible; and
3) That the owner and/or applicant has had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

11-5 PROHIBITED USES - All uses, other than those specifically named as permitted uses, shall be prohibited in the B-5P zone.

11-6 LOCATIONAL STANDARDS - A B-5P zone may be established only upon land having a minimum of five hundred (500) feet of frontage on a street designated by the Commission as an arterial and abutting a limited access highway interchange. The location of such B-5P zone shall have an acceptable relationship to the design of the limited access highway which it abuts.

11-7 MINIMUM DESIGN STANDARDS

11-7(a) ACCESS - There shall be no direct entrances or exits from any establishments to any arterial street unless acceleration and deceleration lanes not less than two hundred (200) feet in length and eleven (11) feet in width are provided for both directions of travel.

11-7(b) NON-CONFORMING USES - Development of a B-5P zone in accordance with the provisions of this Article shall include the removal of any non-conforming use located on the property involved.

11-7(c) PARKING - Off-street parking areas for each permitted principal use shall be provided at least equal to those required for each such use in the B-3 zone.

11-7(d) SCREENING - Landscaping and screening shall be provided as required in Article 18.

11-7(e) LOT, YARD AND HEIGHT REQUIREMENTS - Lot and yard requirements shall be as for the Highway Service Business (B-3) zone. There shall be no height restriction except when a side or rear yard adjoins a residential zone, then a 3:1 height-to-yard ratio.

11-8 PROCEDURE - The procedure for obtaining a Zoning Map Amendment to the B-5P zone shall be the same as provided in Article 6 herein above; and in addition, as follows:

11-8(a) PRELIMINARY DEVELOPMENT PLAN REQUIRED - A preliminary development plan shall be submitted with the application for a Zoning Map Amendment with the information as specified in Article 21 herein below.

11-8(b) FINAL DEVELOPMENT PLANS REQUIRED - Within two (2) years of approval by the Urban County Council of any B-5P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and approval; otherwise, an application to change the B-5P zone to its previous zone or other appropriate zone may be filed by the Commission, as provided under Article 6 herein above. The final development plan shall show the information as specified by Article 21 herein below. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits the development plan.

11-8(c) BUILDING PERMIT REQUIRED - No building permit shall be issued until a final development plan has been approved by the Commission and certified to the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21: Development Plans.
PLANNED SHOPPING CENTER (B-6P) ZONE

12-1 INTENT - The intent of the Planned Shopping Center (B-6P) zone is to encourage the logical and timely development of land for commercial purposes and the expansion of existing shopping centers in accordance with the Comprehensive Plan. The protective standards contained in this provision are intended to:

Assure convenience by providing commercial areas of sufficient size and in the proper location to serve conveniently the people of the area in relation to their purchasing power and their needs and demands for goods and services;

Assure traffic safety and provide for the improvement of major thoroughfare traffic capacities by properly locating and grouping commercial areas and by designing such commercial areas so as to provide safe and convenient access thereto and adequate off-street parking for automotive vehicles and by effectively separating vehicular from pedestrian traffic both within the commercial area and on adjacent public rights-of-way;

Provide for service vehicles by including convenient access and loading facilities in the design of commercial areas;

Protect adjacent residential neighborhoods from depreciation of property values resulting from commercial over-zoning, from the over-development or intrusion of undesirable commercial uses, and from the possible blighting effect of failed “big-box” retail establishments;

Promote community attractiveness by encouraging the design of commercial areas and “big-box” retail establishments which will integrate with residential areas by utilizing effectively topographic features, transitional areas, and the liberal application of landscaping and screening devices, thus minimizing any adverse effect of any such commercial area upon adjacent land uses and providing a pleasant environment for the shopping and working experience;

Improve the economic base and tax structure of the Lexington metropolitan area by encouraging the development of stable, economically sound commercial concentrations;

Protect the investments of existing and future commercial concentrations by providing the basis for convenient and stable commercial development through the application of sound planning principles.

12-2 TYPES OF SHOPPING CENTERS - The types of shopping centers provided for in this section may be generally described as follows:

A neighborhood shopping center is one which provides for the sale of convenience goods such as food, drugs, hardware and personal services, and has a minimum area of three (3) acres.

A community shopping center provides not only convenience goods, but a range of facilities for the sale of "shopping goods" such as apparel and home furnishings, as well as banking, professional services, and recreation. A community shopping center shall have a minimum area of ten (10) acres.

A regional shopping center generally provides more and larger facilities than the community shopping center. A regional shopping center shall have a minimum area of thirty (30) acres.

12-3 PERMITTED USES - The uses permitted in a B-6P zone shall be those principal and accessory uses as permitted in the B-1 and P-1 zones.

12-4 CONDITIONAL USES

a. Restaurants, cocktail lounges, brew-pubs, nightclubs, and discotheques offering live entertainment and/or dancing, unless otherwise prohibited. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.

b. Self-service car wash, provided that such uses shall be located at least one hundred (100) feet from any residential zone; and that surface water from such establishment shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.

c. Recycling drop-off centers for aluminum, steel, glass, newspapers, cardboard and other paper products, oil, and other household recyclable waste, provided that such establishment shall be located at least two hundred (200) feet from any residential zone. Any appeal for a conditional use permit to operate a recycling drop-off center shall include as part of the application:

1. Reasons for the location of the use at a specific site; description of equipment to be used; physical arrangement; and operation of the proposed center.
The Board of Adjustment shall consider the necessity of screening, if needed.

d. Animal hospital or clinic, provided all exterior walls are completely soundproofed and all animal pens are completely within the principal building and used only for the medical treatment of small animals.

e. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:

1. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
2. That a reasonable degree of reclamation and proper drainage control is feasible; and
3. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

f. Assisted living facilities and rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.

12-5 PROHIBITED USES - In a B-6P zone, all uses other than as permitted herein are prohibited.

12-6 LOCATIONAL STANDARDS - A neighborhood or community shopping center shall abut, front on and have its principal access to and from a street designated by the Commission as an arterial or collector street as deemed to be appropriate by the Commission. A regional shopping center shall abut, front on and have its principal access to and from a street designated by the Commission as an arterial.

The proposed shopping center shall be at a location where traffic congestion does not exist at present on the streets to be utilized for access to the proposed shopping center, and where such congestion will be minimized by provision in the plan for proper entrances and exits, and by internal provisions for traffic circulation and parking.

The need for the proposed center at the proposed location, to provide adequate shopping facilities or service to the surrounding neighborhood or community, as the case may be, shall be demonstrated by the applicant by means of market studies or such other evidence as the Commission may require.

The proposed shopping center shall be of sufficient but not excessive size to provide adequate shopping facilities for the population which reasonably may be expected to be served by such shopping facilities.

12-7 MINIMUM DESIGN STANDARDS - The following minimum standards shall be met in the design of a planned shopping center:

12-7(a) HEIGHT REQUIREMENT - There shall be no height limitation.

12-7(b) REQUIRED SETBACK - All buildings shall be at least fifty (50) feet from the perimeter boundary of the B-6P zone. However, no more than one hundred (100) feet of exterior walls may be established at the same setback. A variation of at least three (3) feet shall be required where a break in setback occurs. Buildings may penetrate up to three (3) feet over the building line into the required setback, but the average setback shall be at least as great as the required setback.

12-7(c) SCREENING - Landscaping and screening shall be provided as required by Article 18 herein.

12-7(d) LOT COVERAGE - The ground area occupied by all the buildings shall not exceed, in the aggregate, thirty-five percent (35%) of the total area of the B-6P zone. Parking structures shall not be considered as a building for the purposes of this section.

12-7(e) REQUIRED PARKING - Notwithstanding any other requirements of this Zoning Ordinance:

1. For a neighborhood shopping center, two square feet of off-street parking area, including driveways, shall be provided for every square foot of parking floor area.
2. For a community or regional shopping center after May 29, 2003, one parking space shall be provided for every 250 square feet of gross floor area.
3. For community or regional shopping centers before May 29, 2003, three square feet of off-street parking, including driveways, shall be provided for every square foot of parking floor area.
4. For any shopping center containing residential use(s), the residential use(s) shall require 0.5 parking space per dwelling unit.

12-7(f) LOADING AREAS - Notwithstanding any other requirements of this Zoning Ordinance, there shall be provided one off-street loading space for each twenty thousand (20,000) square feet, or fraction thereof, of aggregate floor space of all buildings in the center. At least one-third of the space required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type. Such loading facilities shall be permanently and fully screened. The exact type and nature of such screening shall be determined by Article 18.
12-7(g) **LIGHTING** – Access ways and parking areas shall be lighted adequately by lighting fixtures, which shall be so installed as to reflect light away from adjoining properties. Cut-off shields, or equivalent lighting design, shall be utilized to prevent spillover of light from the shopping center to adjoining properties under different zoning. Security lighting and lighting located on the side and rear of buildings must also reflect light away from adjoining properties.

12-8 **DESIGN GUIDELINES FOR “BIG-BOX” RETAIL ESTABLISHMENTS** - It is in the best interest of Lexington-Fayette County to minimize the possible “blighting” effect that abandoned shopping centers and large retail establishments can have on the larger area or neighborhood in which they are located. By imposing additional standards in the form of design guidelines for such centers, these effects can be minimized, and future redevelopment and reuse of vacant retail buildings encouraged through proper facility design, without expenditure of public funds. For this reason, the Planning Commission has adopted design guidelines for shopping centers containing a single “big-box” establishment larger than 80,000 square feet in size. These additional standards are listed in “Design Guidelines for ‘Big-Box’ Establishments” incorporated by reference, and are consistent with guidelines which have been established in other cities and counties across the United States for such facilities. These design guidelines are intended to provide professional designers and the Planning Commission with direction for improved development plans which address the following issues:

(a) Variation in building heights and identifiable customer service entrances and pedestrian entryways;

(b) Uninterrupted facades, windows, allowance for smaller stores or departments having exterior entrances, and back or side facades;

(c) Landscaping and/or screening of outdoor display of building materials or other similar bulky products, and of trash collection and loading areas;

(d) Pedestrian circulation in relation to vehicular movement and common open spaces for pedestrians;

(e) Parking lot orientation adjacent to public streets.

The guidelines are to be met in the design of a planned shopping center containing a single “big-box” establishment larger than 80,000 square feet in size, unless waived by the Planning Commission through its approval of a final development plan for a property in a B-6P zone.

12-9 **PROCEDURE** - The procedure for obtaining a zoning map amendment to the B-6P zone shall be the same as provided in Article 6 herein above, in addition, as follows:

12-9(a) **PRELIMINARY DEVELOPMENT PLAN REQUIRED** - A preliminary development plan shall be submitted with the application for a Zoning Map Amendment with the information as specified in Article 21 and, in addition, approximate total gross floor area of anticipated retail facilities; the approximate total gross floor area of anticipated office and service facilities; the approximate number of anticipated off-street parking spaces; and the stages which will be followed in the construction of the proposed shopping center.

12-9(b) **FINAL DEVELOPMENT PLAN REQUIRED** - Within two (2) years of final approval by the Urban County Council of any B-6P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and action; otherwise, an application to change the B-6P zone to its previous zone or other appropriate zone may be filed by the Commission as provided under Article 6 herein above.

The final development plan shall show the information as specified by Article 21: Development Plans. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits his development plan.

12-9(c) **BUILDING PERMIT REQUIRED** - No building permit shall be issued until a final development plan has been approved by the Commission and certified to the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21: Development Plans.
ARTICLE 13

HISTORIC PRESERVATION

13-1 INTENT

13-1(a) PURPOSE - In order to promote the economic and general welfare of the people of Fayette County and of the general public, and to ensure the complementary, orderly and efficient growth and development of Fayette County, it is deemed essential by the Lexington-Fayette Urban County Council that the qualities relating to the history of the county, and a harmonious outward appearance of structures which preserve property values and attract tourists and residents alike, be preserved. It is the finding of the Lexington-Fayette Urban County Council that the individual nature and character of this county cannot be properly maintained or enhanced unless its distinctive historic districts, landmarks, sites, neighborhoods, areas, places, structures, improvements, geological and archaeological sites are preserved.

13-1(b) POLICIES - The Lexington-Fayette Urban County Council hereby declares, as a matter of public policy, that the preservation, protection, perpetuation and use of historic districts; landmarks; sites; neighborhoods; areas; places; structures; improvements; and geological and archaeological sites having a special, unique, or distinctive character or a special historic; aesthetic; architectural; archaeological; geological or cultural significance or value; and which serve as visible reminders of the history and heritage of this county, state or nation, are public necessities. The protection of these is required in the interest of the economic well being, prosperity, health, safety and general welfare of the people.

13-1(c) GOALS - The goal of this Article is to effect the purpose and policy, as set forth in the above findings, and specifically, but not exclusively, to:

(1) Give such designations and to enact such regulations as are needed to protect against destruction, degradation, or encroachment upon historic districts; landmarks; sites; neighborhoods; areas; places; structures; improvements; and geological and archaeological sites having a special, unique or distinctive character or a special historic, aesthetic, architectural, archaeological, geological or cultural significance or value and which serve as visible reminders of the history and heritage of this county, state or nation;

(2) Encourage the use of existing buildings through adaptive rehabilitation so as to enhance the diversity and interest of the county; however, such encouragement shall not imply a particular zoning designation;

(3) Encourage construction which will lead to continuation, conservation and improvement in a manner appropriate to the preservation of the county's history and heritage as is embodied and reflected in such historic districts, landmarks, sites, neighborhoods, places, structures, improvements, areas, and geological and archaeological sites;

(4) Promote and strengthen the economy of the county by maintaining tourist attractions which serve as stimuli to business and industry;

(5) Prevent the creation of environmental influences adverse to such purposes;

(6) Assure that continued new structures and alterations to existing structures within historic districts, sites, areas, neighborhoods, places, and geological and archaeological sites will be in keeping with the visual and aesthetic character to be preserved so as to stabilize and improve property values;

(7) Foster civic pride in the value of accomplishments of the past;

(8) Promote the educational, cultural, economic and general welfare of the people; and

(9) Meet requirements in order to qualify the Lexington-Fayette Urban County Government to be a Certified Local Government under the National Historic Preservation Act.

13-2 APPLICATION REGULATIONS - The historic classifications and regulations hereunder shall be established in addition to the zone classifications and regulations as shown on the zoning map atlas for the subject areas. These regulations are intended to preserve and protect historic or architecturally worthy historic districts, landmarks, sites, neighborhoods, areas, places, structures, improvements, geological and archaeological sites. The use, dimensions and other requirements for said zones, as provided in the Zoning Ordinance, shall apply. Where there are conflicts between the procedures and regulations within the Zoning Ordinance, the more restrictive shall apply.

13-3 DEFINITIONS - As used in this Article, the following terms shall mean:

13-3(a) BOARD - The Board of Architectural Review of the
Lexington-Fayette Urban County Government.

13-3(b) CERTIFIED LOCAL GOVERNMENT - A government meeting the requirements of the National Historic Preservation Amendments Act of 1980 (P.L. 96-515) and the implementing regulations of the U.S. Department of the Interior and the Kentucky Heritage Council.

13-3(c) CERTIFICATE OF APPROPRIATENESS - A document which certifies the findings of the Board of Architectural Review or the Historic Preservation Officer that the work proposed by the applicant is appropriate in a zone protected by an H-1 overlay. The Certificate shall also delineate any conditions imposed by the Board or Historic Preservation Officer in approving the request. In order to grant a Certificate, the Board or the Historic Preservation Officer shall consider all circumstances related to the proposal, and may grant the Certificate if it finds that the proposed changes are consistent with the guidelines adopted by the Historic Preservation Commission.

13-3(d) COMMISSION - The Historic Preservation Commission of the Lexington-Fayette Urban County Government.

13-3(e) DEMOLITION - Any act in a zone protected by an H-1 overlay that destroys, in whole or in part, a landmark or a building or structure, or which results in the moving of any landmark, building or structure.

13-3(f) EXTERIOR CHANGE - Rehabilitation or replacement which is not ordinary maintenance and repair. New construction of any building element, addition, building or structure is an exterior change. Demolition of any building element, addition, building or structure is an exterior change.

13-3(f)(1) EXTERIOR CHANGE includes, but is not limited to:

(a) MAJOR REHABILITATION, REPLACEMENT AND INSTALLATION OF BUILDING ELEMENTS.

(1) Rehabilitating large amounts of existing building elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Rehabilitating/replacing existing building elements when changes are made in materials, style or configuration;

(3) Installing new building elements;

(4) Replacing missing building elements and/or materials;

(5) Painting a structure or material not previously painted;

(6) Removing paint from a material previously painted.

(b) MAJOR REHABILITATION, REPLACEMENT AND INSTALLATION OF SITE ELEMENTS

(1) Rehabilitating large amounts of existing site elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Rehabilitating or replacing existing site elements when changes are made in materials, style or configuration;

(3) Installing new site elements;

(4) Replacing missing site elements or materials;

(5) Painting a site element not previously painted;

(6) Removing paint from a site element which has been painted;

(7) Removing trees with trunks more than 10" in diameter;

(8) Major landscaping projects, including installation, relocation or re-design of new or existing site elements;

(9) Disturbing fields, archaeological and other land features by demolition or new construction on sites;

(10) Rehabilitating or replacing existing signs when changes are made in materials, style and configuration;

(11) Installing new signs.

13-3(g) HISTORIC DISTRICT AND LANDMARK - An area, neighborhood, place, building, structure, site or improvements meeting one or more of the following criteria and designated by the Urban County Council as a zone protected by an H-1 overlay:

(1) It has value as a part of the cultural or archaeological heritage of the county, state or nation;

(2) Its location is a site of a significant local, state or national event;

(3) It is identified with a person or persons or famous entity who significantly contributed to the develop-
ment of the county, state or nation;

(4) It is identified as the work of a master builder, designer, or architect whose individual work has influenced the development of the county, state or nation;

(5) It has value as a building that is recognized for the quality of its architecture and that retains sufficient element showing its architectural significance;

(6) It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials;

(7) It has character as a geographically definable area possessing a significant concentration of buildings or structures united by past events or by its plan or physical development;

(8) It has character as an established and geographically definable residential neighborhood, agricultural area, or business district, united by culture, architectural style or physical plan and development; or

(9) It is the place or setting of some unique geological or archaeological location.

13-3(h) HISTORIC PRESERVATION OFFICE STAFF
The staff to the Historic Preservation Commission and to the Board of Architectural Review shall be the Historic Preservation Office of the Lexington-Fayette Urban County Government. Assistance shall be given by the staff to the Board of Architectural Review and the Historic Preservation Commission in the administration of this Article.

The Urban County Government shall employ a staff in compliance with Certified Local Government requirements. Historic Preservation Office staff shall have expertise in historic preservation.

13-3(i) ORDINARY MAINTENANCE AND REPAIR
The correction of minor deterioration to site and building elements and structures when changes are made with the same materials with the same size, shape, configuration, style, texture and material color.

13-3(i)(1) ORDINARY MAINTENANCE AND REPAIR includes the following activities:

(a) ROUTINE MAINTENANCE AND REPAIR OF BUILDING ELEMENTS

(1) Repairing small amounts of existing building materials and elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Painting a structure or material that is already painted;

(3) Caulking and weather stripping windows and doors.

(b) ROUTINE MAINTENANCE, REPAIR AND INSTALLATION OF SITE ELEMENTS

(1) Repairing site elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Pruning trees and shrubbery and removal of trees less than 10" in diameter;

(3) Planting vegetable and flower gardens, except as part of a major landscaping plan;

(4) Planting shrubs and trees, except as part of a major landscaping plan;

(5) Installing temporary signs (real estate, political, etc.);

(6) Installing house numbers, mailboxes and porch light fixtures.

13-4 HISTORIC PRESERVATION COMMISSION

13-4(a) ESTABLISHMENT
Pursuant to KRS 67.083, 67A.060(1), 67A.070, 82.026 and 100.203(1)(e), the Historic Preservation Commission of the Lexington-Fayette Urban County Government is hereby created. The existing Lexington-Fayette Urban County Historic Commission, created by Ordinance No. 206-74, has been abolished, along with Sections 2-86 through 2-90 of Chapter II of the Code of Ordinances; and former Article 13 of the Zoning Ordinance has been replaced by this Article. However, the designations of property as within an Historic District (H-1) zone, all decisions made under prior ordinances, and all actions under prior ordinances shall continue in full force and effect until repealed, modified or amended.

13-4(b) MEMBERSHIP
The Historic Preservation Commission shall consist of fifteen (15) voting members, including the chairman. All members must be residents of Fayette County and have demonstrated an interest in historic preservation prior to his/her serving, be willing to accept the chairmanship of a sub-committee if such duty is deemed necessary by the chairman, and attend at least one informational/educational meeting per year, approved by the State Historic Preservation Office. At least two (2) of the fifteen (15) members shall be preservation-related professionals.
These include the professions of architecture, history, archaeology, architectural history, historic preservation, planning, or related disciplines, such as urban planning; American Studies; American Civilization; or Cultural Anthropology. When the Historic Preservation Commission reviews an issue, and that field is not represented on the Historic Preservation Commission, the Historic Preservation Commission shall seek expert advice before rendering its decision.

Twelve (12) of the fifteen (15) members shall be nominated by organizations as follows:

(1) A licensed architect nominated by the membership of the local chapter of the American Institute of Architects;

(2) A licensed real estate person nominated by the membership of the Lexington Board of Realtors;

(3) A person nominated by the Lexington-Fayette Urban County Tourist and Convention Commission;

(4) A person nominated by the Board of the Land and Nature Trust of the Bluegrass;

(5) A person nominated by the Board of the Blue Grass Trust for Historic Preservation;

(6) One person nominated by the staff of the Division of Planning of the Lexington-Fayette Urban County Government; and

(7) Six (6) persons nominated at the annual meeting of the general memberships of Neighborhood Associations containing a designated historic district. Each organization shall nominate three (3) candidates for each vacancy for which they are eligible to make nominations; provided, however, that not more than six (6) members shall be appointed to represent all the locally designated historic districts and that not more than one (1) of these six (6) members shall be from the same locally designated historic district. From the respective nominees, the Mayor shall appoint the members subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council. If any organization fails to make candidate and/or membership nominations within thirty (30) days after written request from the Mayor, the Mayor shall, with approval of a majority of the members of the Urban County Council, appoint any otherwise qualified person to represent such organization, and the person selected shall be appointed for the unexpired portion of the term.

Two (2) of the fifteen (15) members shall be selected as follows: one (1) member shall be appointed from persons in the banking profession and one (1) member shall be appointed from persons in the builder/developer field. The Mayor shall appoint these members subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council.

One (1) of the fifteen (15) members shall be the Chairman of the Board of Architectural Review who shall serve as an ex-officio, voting member of the Historic Preservation Commission.

Notwithstanding the provisions of Section (2)(A)(1)(b), all of the initial appointments to the twelve (12) memberships which represent organizations shall be by Mayoral appointment of any otherwise qualified member of such organization, subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council.

All members must meet the requirements for Certified Local Governments in Kentucky; and the Historic Preservation Commission shall prepare and keep on file, available for public inspection, the members' qualifications. Article 16, the Code of Ethics of the Lexington-Fayette Urban County Government Charter, shall apply to members of the Historic Preservation Commission.

13-4(c) OFFICERS - The Historic Preservation Commission shall have officers. The Chairman, Vice-Chairman and Treasurer shall constitute the Executive Committee, with the Secretary acting as liaison to other government departments. Officers of the Executive Committee may serve consecutive terms. The Executive Committee shall have and exercise all of the authority of the Historic Preservation Commission, subject to the limitations imposed on the powers of the committees and of the directors of non-stock, nonprofit corporations by KRS 273.221, and except as otherwise expressly provided in this Article.

The Historic Preservation Commission shall annually elect one (1) of its members to be Chairman and one (1) of its members to be Vice-Chairman.

The Secretary of the Historic Preservation Commission shall be the Historic Preservation Officer, who shall also serve as a non-voting member of the Historic Preservation Commission.

13-4(d) LENGTH OF TERM - The terms of Historic Preservation Commission members, other than the Chairman of the Board of Architectural Review, shall be as follows:

(1) Members shall serve a term of four (4) years, except that the membership of those representing particular organizations or offices shall be deemed to have terminated upon their leaving their respective
13-4(e) COMPENSATION - The members shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties, subject to sufficient funds being appropriated by the Lexington-Fayette Urban County Council for this purpose.

13-4(f) BYLAWS - The Historic Preservation Commission shall adopt bylaws for the transaction of its business and the transactions of the business of all of its sub-committees. Regular meetings shall be held, and special meetings may be held, as specified in the bylaws. Minutes of all meetings and records of all proceedings, including the number of votes for and against each question and the record of the vote of each member, shall be kept and made available for public inspection. The Historic Preservation Commission shall prepare a written annual report, which shall be kept and made available for public inspection. A simple majority of the total membership of the Historic Preservation Commission shall constitute a quorum for the transaction of business. The Chairman votes only in the case of a tie. Each member shall be required to attend meetings regularly, as defined in the bylaws. Failure to do so may result in removal from the Historic Preservation Commission. The Historic Preservation Commission shall have the power to establish sub-committees, as it deems necessary, from both within and without its membership, and to receive assistance in its work from outside individuals, groups and organizations. The Historic Preservation Commission may give special recognition to outside individuals, groups and organizations.

13-4(g) JURISDICTION - The jurisdiction of the Historic Preservation Commission shall include all necessary and implied powers as shall be described herein with respect to the establishment, protection, regulation and promotion of National Register historic landmarks and historic districts. The Lexington-Fayette Urban County Government, on behalf of the Historic Preservation Commission, shall have the right to receive, hold and spend funds which legally may be received from any and every source, both in and out of the Commonwealth of Kentucky, for the purpose of carrying out the provisions of this Article. The Historic Preservation Commission shall provide guidance to the Lexington-Fayette Urban County Government in all matters concerning, and/or which might relate to, historic preservation; conservation and/or enhancement of structures, premises, areas, and artifacts of historic, cultural, architectural, archaeological or geological significance; as those matters relate to the establishment and maintenance of historic districts, areas, landmarks, sites and regulations to be enforced.

13-4(h) POWERS AND DUTIES - In addition to such other powers, duties and authorities as are set forth in this Article, the Historic Preservation Commission shall, in order to accomplish the purpose of this Article, perform duties that include, but are not limited to, the following:

1. Present to the Lexington-Fayette Urban County Council and the Planning Commission annually a report containing: (i) a statement of goals and objectives for historic preservation for the county for the next ensuing 5-year period; (ii) any financial records pertaining to the Historic Preservation Commission's operation.

2. Conduct a general study and survey of districts, landmarks, sites, neighborhoods, areas, places, structures, improvements, and geological and archaeological sites within Fayette County for the purpose of determining those of a distinctive character or special historic, aesthetic, architectural, archaeological, geological or cultural significance or value; and of compiling appropriate descriptions, facts and lists for historic district and landmark nominations.

3. Prepare and submit to the Planning Commission, for its consideration, a preservation plan for the historic properties in Fayette County which shall, if adopted, be an element of the Comprehensive Plan.

Such plan shall include properties in zones protected by H-1 overlays, properties listed in, or eligible for listing in, the National Register of Historic Places, as well as other properties meeting the criteria set forth in 13-3(g).

4. After a public hearing, adopt design guidelines and criteria by which all Certificate of Appropriateness applications shall be reviewed and decided.

5. Participate in the Certified Local Government program by preparing and reviewing nominations for inclusion in the National Register of Historic
Places proposed National Register districts and landmarks, sites, neighborhoods, areas, places, structures, improvements, and geological and archaeological sites within Fayette County. The Mayor and the Historic Preservation Commission shall obtain comments from the public that shall be included in the recommendations. Within sixty (60) days of receipt of a nomination from a private individual or the initiation of a nomination by the Lexington-Fayette Urban County Government, the Lexington-Fayette Urban County Government shall inform the Kentucky Heritage Council and the owner of the property of the recommendations regarding the eligibility of the property. If both the Historic Preservation Commission and the Mayor recommend that a property not be nominated, the Kentucky Heritage Council will inform the owner, the State Review Board and the State Historic Preservation Officer, and the property will not be nominated unless an appeal is filed with the State Historic Preservation Officer. If either or both the Historic Preservation Commission and the Mayor agree that the property should be nominated, the nomination will be scheduled for review by the Kentucky Historic Preservation Review Board. The opinion or opinions of the Historic Preservation Commission and the Mayor will be presented to them for their consideration. The Kentucky Historic Preservation Review Board, after considering all opinions, shall make its recommendation to the State Historic Preservation Officer, who decides whether to forward the nomination to the United States Secretary of the Interior, who shall make the decision on listing the property on the National Register. The Historic Preservation Commission, the Mayor or the property owner may appeal the final decision by the State Historic Preservation Officer.

(6) Review for the Lexington-Fayette Urban County Government the advisability of the acceptance or rejection of historic sites, buildings, and landmarks proposed for donation to the Urban County Government. In conjunction with other Lexington-Fayette Urban County Government departments, examine on a yearly basis, Lexington-Fayette Urban County Government-owned historic properties; evaluate their maintenance, repairs, needs and uses; and help establish a maintenance schedule and develop policies about their care and use.

(7) Determine the appropriate designation, signage and/or markers for selected historic districts and landmarks and establish a procedure for implementation of the same.

(8) Aid in the coordination of public and private events, festivals, banquets, conventions, celebrations and tours which have to do with historic preservation; including, but not limited to, coordinating events with the Lexington-Fayette Urban County Tourist and Convention Commission.

(9) Encourage, update and undertake, where necessary, the publication of uniform and complementary maps, design guidelines, brochures and descriptive material about historic districts and landmarks.

(10) Advise owners of historic landmarks and properties in historic districts on all matters relating to the preservation, restoration and rehabilitation of their property. Keep the preservation guidelines and handbooks needed for such advice updated as to aid Board of Architectural Review decisions and property owners. Keep updated on local, state and federal tax incentives, loan options and grant programs so as to aid property owners.

(11) Cooperate with and enlist assistance from the National Park Service, the National Trust for Historic Preservation, the Kentucky Heritage Council, and other federal, state and local agencies active in the field of historic and cultural preservation.

(12) Educate the public, owners of historic landmarks and properties in historic districts, and residents in historic districts of the purposes of this Article and the benefits of preservation.

(13) Act as liaison to all local museums and historic house museums and aid in the promotion of those museums and the coordination of their activities.

(14) Cooperate with and advise the Lexington-Fayette Urban County Council and other government agencies, departments, commissions and offices with regard to such matters as may be appropriate with respect to historic districts and landmarks.

(15) Form sub-committees as necessary.

(16) Assist the Lexington-Fayette Urban County Government in fulfilling its historic preservation responsibilities pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

13-5 BOARD OF ARCHITECTURAL REVIEW

13-5(a) PURPOSE - The Board shall review and decide applications for Certificates of Appropriateness in compliance
with design guidelines and criteria adopted by the Historic Preservation Commission.

The Board of Architectural Review shall make recommendations to the Planning Commission and the Urban County Council concerning designation of structures, premises and areas as historic districts and landmarks.

13-5(b) MEMBERSHIP - The Board of Architectural Review shall consist of five members appointed by the Mayor, subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council. The Board of Architectural Review shall:

(1) Include only members who have demonstrated an interest in historic preservation prior to their serving;

(2) Have at least two (2) members with training or experience in a preservation-related profession: architecture, history, archaeology, architectural history, historic preservation, planning or related fields;

(3) Have at least two (2) members who own property within Fayette County, and at least one (1) who owns property in a zone protected by an H-1 overlay; and

(4) Be subject to Article 16, Code of Ethics, of the Lexington-Fayette Urban County Government Charter.

13-5(c) OFFICERS - The Board of Architectural Review shall annually elect one (1) of its members to be Chairman, which position shall be an ex-officio, voting member of the Historic Preservation Commission, and one (1) of its members to be Vice-Chairman.

The duties of the Secretary of the Board of Architectural Review shall be the responsibility of the Historic Preservation Officer.

13-5(d) LENGTH OF TERM - The terms of Board of Architectural Review members shall be as follows:

(1) Members shall serve a term of four (4) years.

(2) Terms shall be staggered in such manner to allow the appointment or re-appointment of at least one-half of the membership every two (2) years.

(3) Term of membership shall extend from July 1 of one year through and until June 30 of the designated year.

(4) Vacancies, when they occur during a term of office, shall be filled for the unexpired term in the manner prescribed for original appointment.

(5) Members may serve consecutive terms but must go through the re-appointment process to do so.

(6) Any member may be removed from office by a majority of the Council of the Lexington-Fayette Urban County Government.

13-5(e) COMPENSATION - The members shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties, subject to sufficient funds being appropriated by the Lexington-Fayette Urban County Council for this purpose.

13-5(f) PROCEEDINGS - The Board of Architectural Review shall adopt bylaws for the transaction of its business. At least one meeting shall be held each month, and special meetings called, as provided in KRS 61.825. The meetings shall be in a public place, shall be held with public notice in accordance with Sections 13-6(b)(3) and 13-7(b)(2)(c) herein, and shall be open to the public with an agenda distributed in advance giving the items to be discussed. The decisions shall be made at a public meeting, with applicants notified of meetings and advised of decisions. Minutes of meetings and records of all proceedings, including the number of votes for and against each question and the record of the vote of each member, shall be kept and made available for public inspection. A simple majority of the total membership of the Board shall constitute a quorum for the transaction of business. Each member shall be required to attend meetings, as defined by the bylaws; and failure to do so may result in termination of membership. To meet Certified Local Government requirements, a written annual report, including activities; cases; decisions and qualifications of members; must be annually prepared and kept on file, available for public inspection.

13-5(g) JURISDICTION - The jurisdiction of the Board of Architectural Review shall include all necessary and implied powers, as shall be described herein with respect to the regulation of all designated historic districts and landmarks so as to accomplish the purpose of this Article.

13-5(h) POWERS AND DUTIES - In addition to any other powers, duties and authorities, the Board of Architectural Review shall have the power and duties as are herein set forth to:

(1) Present an annual report, which includes the activities, cases, decisions and qualifications of members, to the Historic Preservation Commission for review and approval.

(2) Act in an advisory role to other officials and departments of the Lexington-Fayette Urban
County Government regarding the protection of local cultural resources.

(3) Act as a liaison to the Lexington-Fayette Urban County Government, individuals and organizations concerned with historic preservation.

(4) Work toward the continuing education of citizens within the Certified Local Government's jurisdiction regarding historic preservation issues and concerns.

(5) Attend at least one informational/educational meeting per year, approved by the State Historic Preservation Office.

(6) Review design guidelines and make recommendations to the Historic Preservation Commission for changes to design guidelines.

13-6 DESIGNATION OF ZONES PROTECTED BY H-1 OVERLAYS

13-6(a) PURPOSE - To further the goals and purposes of this Article and the preservation, protection, perpetuation and use of historic districts and landmarks, the Urban County Council shall have the authority to designate historic districts or landmarks as zones protected by an H-1 overlay.

The Board of Architectural Review shall have the power and authority to make recommendations for the establishment of zones protected by an H-1 overlay.

13-6(b) PROCEDURE - The procedure for application and designation are as follows herein:

13-6(b)(1) APPLICATION - An application for the establishment of a historic district or landmark may be filed only by the Lexington-Fayette Urban County Council, the Planning Commission, the owner of the subject property or by a person with written authorization of the owner. The Board of Architectural Review, the Historic Preservation Commission, or an individual Lexington-Fayette Urban County citizen may request that the Lexington-Fayette Urban County Council or the Planning Commission initiate a Zone Map Amendment.

Said application shall be filed with the Planning Commission and transmitted to the Board of Architectural Review for its review and recommendation.

13-6(b)(2) STUDY - Upon the filing of an application for the establishment of a historic district for an area or an individual property as a landmark, the Board of Architectural Review shall study and review the application.

The Preservation staff shall prepare studies, reports and/or other information for consideration by the Board of Architectural Review.

13-6(b)(3) NOTICE OF BOARD OF ARCHITECTURAL REVIEW HEARING - The Board of Architectural Review shall give notice of the time, place and reason for holding a public hearing thereon by one publication in the newspaper of highest circulation in Fayette County, Kentucky. This notice shall be published not earlier than twenty-one (21) days and not later than seven (7) days before the public hearing.

Notice of the hearing shall be given at least fourteen (14) days prior to the hearing by first-class mail to all owners of property within the area of a proposed historic district or within the area proposed as a landmark.

13-6(b)(4) BOARD OF ARCHITECTURAL REVIEW PUBLIC HEARING - After notice of the public hearing as provided herein, and within ninety (90) days after the filing date, the Board of Architectural Review shall hold a public hearing on the proposed application and recommend to the Planning Commission that the application be approved or disapproved and shall forward its recommendation in writing, citing appropriate guidelines and criteria upon which the decision is based to the Planning Commission.

13-6(b)(5) PLANNING COMMISSION PUBLIC HEARING - The Planning Commission shall consider the recommendation of the Board of Architectural Review at a public hearing with notice required by Article 6 herein.

Before considering the establishment of a historic district or landmark, the Planning Commission shall review and consider studies, reports and/or other information prepared by the Historic Preservation Office staff. The Division of Planning staff may assist with such studies and information.

After voting on whether the application for the establishment of a historic district or landmark should be approved or disapproved, the Planning Commission shall forward its recommendation, with its reasons in writing, to the Lexington-Fayette Urban County Council and the Kentucky Heritage Council.

13-6(b)(6) ACTION BY LEXINGTON-FAYETTE URBAN COUNTY COUNCIL - The Lexington-Fayette Urban County Council shall, as in the case of any map amendment request, act upon the application for the establishment of a historic district or landmark after it has received the written recommendation thereon from the Planning Commission. It shall take a majority of the entire Lexington-Fayette Urban County Council to override the recommendation of the Planning Commission.

13-7 CERTIFICATES OF APPROPRIATENESS - A Certifi-
cate of Appropriateness shall be required before a person may undertake any exterior changes on a property or structure within a zone protected by an H-1 overlay. Ordinary maintenance may be undertaken without a Certificate of Appropriateness, provided that the work involves repairs to existing features of a building or the replacement of elements of a building with identical pieces, and provided that the work does not change the exterior appearance of the building. The Historic Preservation Commission shall, by administrative regulation, define the meaning of the terminology "exterior changes" and "ordinary maintenance".

13-7(a) WHERE REQUIRED - A Certificate of Appropriateness shall be required prior to the initiation of any new construction on, any exterior change to, or the demolition of all, or any part of, any building, structure or sign on any premises in a zone protected by an H-1 overlay.

In no case shall a Certificate of Appropriateness be required to change the paint color of a previously painted surface.

13-7(b) PROCEDURES FOR ISSUANCE OF A CERTIFICATE OF APPROPRIATENESS FOR EXTERIOR CHANGES AND NEW CONSTRUCTION - Certificates of Appropriateness may be issued by the Board of Architectural Review or by the Historic Preservation Officer in accordance with provisions contained herein.

The Board may delegate actions to the Historic Preservation Officer, who may review applications without public hearing and action of the Board.

13-7(b)(1) CERTIFICATES OF APPROPRIATENESS ISSUED BY THE BOARD OF ARCHITECTURAL REVIEW - All applications for Certificates of Appropriateness shall be reviewed by the Board at a public hearing, except those applications for work which have been specifically delegated to the Historic Preservation Officer under 13-7(b)(2). In addition, the Board shall review all applications for Certificates referred by the Historic Preservation Officer or those requested for public hearing by the applicant.

13-7(b)(1)(a) FILING - The Board of Architectural Review, where it deems necessary in order to review a particular application, may require the submission of any or all of the following items: architectural plans, plot plans, landscaping plans, plans for off-street parking, plans for proposed signs, elevations of all portions of proposed additions to structures, photographs, elevations, or perspective drawings showing the proposed structure and existing structures that are within one hundred (100) feet or are substantially related to it visually or by reason of function, traffic generation or other characteristics.

Should the Board of Architectural Review find that the material submitted is not adequate for the proper review of the proposal, the Board of Architectural Review shall promptly notify the applicant and state the specific information that will be required. In such cases, the applicant shall not be deemed to have made a bona fide application to the Board of Architectural Review until the specific information is submitted.

13-7(b)(1)(b) NOTICE - Notice of the time, place and reason for holding a public hearing shall be given by first-class letter at least fourteen (14) days in advance of the public hearing. Such notice shall be given to the applicant; and where the subject property adjoins land in an Agricultural Rural (A-R) zone, Agricultural Natural Areas (A-N) zone, or Agricultural Buffer (A-B) zone, notice shall be given to the next two (2) properties or one (1) mile, whichever is greater, in the direction of the Agricultural Rural (A-R) zone, Agricultural Natural Areas (A-N) zone, or Agricultural Buffer (A-B) zone. Where the subject property adjoins an Agricultural Urban (A-U) zone, notice shall be given to all properties within two hundred (200) feet and to the owners of the next two properties, but not to exceed any property owner beyond twenty-four hundred (2,400) feet from the property in the direction of the A-U land. For all other properties, notice shall be given to all owners of property within two hundred (200) feet of the subject property. It shall be the obligation of the preservation staff to prepare, certify and mail all notice as required herein.

Further, the Board shall give notice of the time, place and reason for holding a public hearing by publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.

13-7(b)(1)(c) BOARD OF ARCHITECTURAL REVIEW PUBLIC HEARING - After notice, the Board shall consider the request for a Certificate of Appropriateness at a public hearing. At the hearing, the Board shall hear and consider all evidence presented by others, provided the Chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence.

In its review of material submitted, the Board of Architectural Review shall examine the architectural design and the exterior surface treatment of the proposed structure on the site in question and its relationship to other structures within the area, the relationship of the proposed construction to the design of the building, and other pertinent factors affecting the appearance and efficient functioning of the historic district or the landmark.

The Board of Architectural Review shall not consider any interior arrangement. The Board of Architectural
Review shall make no requirements, except for the purpose of preventing development incongruous in scale, design or materials to the historic or architectural aspects of the district or landmark.

In reviewing proposals, the Board of Architectural Review shall refer to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and comply with the design guidelines and criteria adopted by the Historic Preservation Commission.

The Board of Architectural Review shall vote to approve all or part of the application or disapprove all or part of the application within sixty (60) days after the completed application is filed.

13-7(b)(1)(d) CERTIFICATE OF APPROPRIATENESS ISSUANCE - The Historic Preservation Officer shall promptly issue the Certificate of Appropriateness in accordance with the action of the Board of Architectural Review. Copies of the Certificate and the application materials shall be forwarded to the Division of Building Inspection and/or the Division of Housing Maintenance, as appropriate.

13-7(b)(2) CERTIFICATES ISSUED BY THE HISTORIC PRESERVATION OFFICER - A Certificate issued by the Historic Preservation Officer is intended to expedite approval of routine applications for exterior changes without full hearing and action by the Board.

The Board may review and delegate items to the responsibility of the Historic Preservation Officer for review and issuance of Certificates of Appropriateness. The delegation of these items shall be reviewed by the Board at a public hearing and recorded in the minutes of the Board.

13-7(b)(2)(a) PROCEDURES FOR ISSUANCE OF A CERTIFICATE BY THE HISTORIC PRESERVATION OFFICER

(1) FILING - The applicant shall file sufficient information as to accurately depict the location, design and scope of the work to be done. The staff shall review the information and promptly notify the applicant if the material is not adequate for review and advise the applicant what specific information will be required.

(2) REVIEW - The staff shall review the application for compliance with the adopted guidelines and consult with other Divisions, as appropriate, to ensure proper review. Upon determination that all requirements of the guidelines have been met and that the application complies with the requirements of the Board, the Historic Preservation Officer shall approve the application and issue the COA. If any question arises as to compliance, or if the Historic Preservation Officer or applicant feels that the application raises issues deserving review by the full Board, the request shall be referred to the Board for action.

(3) CERTIFICATE OF APPROPRIATENESS ISSUANCE - Upon approval by the Historic Preservation Officer, the staff shall issue the Certificate of Appropriateness and notify the applicant. In addition, the staff shall forward a copy of the Certificate and application materials to the Division of Building Inspection and/or the Division of Housing Maintenance, as appropriate.

13-7(c) CERTIFICATES OF APPROPRIATENESS FOR DEMOLITION - The Division of Building Inspection shall issue no permit which would result in the demolition of all or any part of a structure within a zone protected by an H-1 overlay, unless and until a Certificate of Appropriateness has been approved by the Board of Architectural Review.

13-7(c)(1) PROCEDURES - The procedure for review of a Certificate of Appropriateness for demolition shall be as set forth in Article 13-7(b)(1) above. The Board shall hear evidence concerning the application at its public hearing and may approve a Certificate only if one of the following conditions is determined to exist:

(a) The application is for demolition of an addition, for a portion of a building or for an accessory structure which is not significant to the principal structure, site, landmark or district; and the approval of the application would not adversely affect those parts of a building site, landmark or the historic district which are significant.

(b) The application is for the demolition or moving of a building, or portion of a building, which does not contribute to the character of, and will not adversely affect the character of the property in a zone protected by an H-1 overlay.

(c) No reasonable economic return can be realized from the property, and the denial of the application would result in the taking of the property without just compensation.

If the owner wishes to make a claim that the denial of the permit would amount to a taking of the property without just compensation, the owner shall submit to the Board of Architectural Review, not less than twenty (20) days prior to the public hearing, the following information:

13-7(c)(1)(c) - For all property:
(a) The amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.

(b) The assessed value of the land and improvements thereon according to the two (2) most recent assessments recorded in the office of the Property Valuation Administrator.

(c) The two most recent real estate tax bills.

(d) Annual debt service for the previous two (2) years recorded by the lending agency.

(e) All appraisals obtained within the previous two (2) years by the owner in connection with his purchases, financing or ownership of the property.

(f) Listings of the property for sale or rent, price asked and offers received, if any.

(g) Any consideration by the owner as to profitable adaptive uses for the property.

13-7(c)(1)(c)(2) - For income-producing property:
(a) Annual gross income from the property for the previous two (2) years.
(b) Itemized operating and maintenance expenses for the previous two (2) years.
(c) Annual cash flow for the previous two (2) years.

13-7(c)(1)(c)(3) - The Board of Architectural Review may require that the property owner furnish such additional information as the Board of Architectural Review believes is relevant to its determination of taking without just compensation and may provide, in appropriate instances, that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information that cannot be obtained, and shall describe the reasons why such information cannot be obtained.

Should the Board of Architectural Review find that the material submitted is not adequate for the proper review of the proposal, the Board of Architectural Review shall promptly notify the applicant and state specifically the information that the Board requires.

13-7(c)(2) - Notwithstanding any other provision of this Article, the Board of Architectural Review, after hearing evidence at its public hearing, may vote to postpone action to approve or deny an appeal for a reasonable period of time, not to exceed one (1) year from the filing date of application in order to conduct studies, surveys and/or gather information concerning the following:
(a) Alternatives which may be or may become available, including restoration; rehabilitation; adaptive reuse; or other alternatives to demolition; and
(b) Study the question of economic hardship for the applicant, including whether the landmark or the property can be put to reasonable beneficial use without the approval of the demolition; and whether the applicant can obtain a reasonable return from his/her existing building. If economic hardship or the lack of a reasonable return is not proved, the Board of Architectural Review shall deny the demolition application, giving the facts and reasons for its decision.

13-7(d) EFFECT OF CERTIFICATE OF APPROPRIATENESS - Upon approval of the Certificate of Appropriateness, the Historic Preservation Office shall forward a copy of the Certificate to the applicant and to the Division of Building Inspection which shall issue a permit, when required, in accord with the Certificate of Appropriateness, provided it meets all other requirements of law.

The Division of Building Inspection shall enforce all provisions of the Certificate, including any conditions thereof, and shall inspect the property at regular intervals to insure strict compliance. The Building Inspector who inspects the site shall be governed by the design guidelines adopted by the Historic Preservation Commission and shall receive technical assistance from the preservation staff in this inspection.

The property owner shall obtain permits, when required, and commence work on all work authorized by the Certificate of Appropriateness within one (1) year from the issuance of the Certificate.

13-7(e) FAILURE OF BOARD OF ARCHITECTURAL REVIEW TO ACT - Upon failure of the Board of Architectural Review to take final action upon any application within sixty (60) days after the completed application has been filed, and unless a mutual written agreement between the Board of Architectural Review and the applicant has been made for an extension of time, the application shall be deemed to be approved; and a Certificate of Appropriateness shall be issued to the applicant, and a copy of said Certificate.
transmitted to the Division of Building Inspection or Division of Housing Maintenance, as appropriate.

13-8 APPEALS - Any person or entity claiming to be injured or aggrieved by any decision of the Board of Architectural Review to approve or deny any request for a Certificate of Appropriateness may appeal such decision to the Planning Commission within thirty (30) days of the Board's action. Such appeal shall be in writing and shall fully state the grounds upon which the appeal is sought. Upon receipt of the appeal, the Secretary to the Planning Commission shall notify the Historic Preservation Officer, who shall promptly transmit the entire record of the Board, including tapes and transcripts, if any. In addition, within five (5) days of the filing of the appeal, the Secretary to the Planning Commission shall, by certified mail, notify the applicant of the appeal, if the applicant is not the appellant. The Commission shall then hold a de novo hearing on the appeal and render a decision within ninety (90) days of the date of filing the appeal.

13-8(a) PROCEDURE FOR THE DE NOVO PUBLIC HEARING

13-8(a)(1) NOTICE - All parties to the appeal, including the Board of Architectural Review, shall be notified of the time, place and reason for the public hearing by first-class letter at least fourteen (14) days in advance. In addition, notice of the appeal shall be given by one publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days, nor later than seven (7) days before the public hearing.

13-8(a)(2) ACTION BY THE PLANNING COMMISSION - After notice, as required above, the Commission shall conduct a public hearing and vote to approve or deny the appeal. At the hearing, the Planning Commission shall allow its staff, Historic Preservation Office staff, the Board members, the appellant, protestors, and other interested citizens to testify and rebut the evidence presented, provided that the Chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence. In its deliberations, the Planning Commission shall give due consideration to the decision of the Board and the findings and conclusions reflected in the Board's record and shall apply the design guidelines adopted by the Historic Preservation Commission.

13-8(b) APPEAL TO THE FAYETTE CIRCUIT COURT - Any person or entity claiming to be injured or aggrieved by any order of the Planning Commission to affirm, modify or set aside the Certificate of Appropriateness and/or final decision of the Board of Architectural Review may appeal from the Planning Commission's action to the Fayette Circuit Court within thirty (30) days of that order in the manner as established in KRS 100.347.

All orders of the Planning Commission which have not been appealed within thirty (30) days shall become final; however, there shall be no stay of any action on the subject property until such time as an appeal has been filed with the Fayette Circuit Court.

13-8(c) CONSIDERATION BY THE BOARD OF PREVIOUSLY DENIED APPEALS - In the event the appeal of an applicant is denied by the Planning Commission, the building, or any portion thereof which was the subject of the applicant's application, shall not be included in a subsequent application to the Board for a Certificate of Appropriateness or final decision until the expiration of one (1) year from the date of the order of the Planning Commission.

However, before the expiration of one (1) year, the Board of Architectural Review may allow the filing of an application for a Certificate of Appropriateness and/or final decision if the Board of Architectural Review finds that there are new facts or conditions not considered previously, or that there has been a change in the guidelines adopted by the Historic Preservation Commission, which has substantially altered the character of the request. In such cases, after the evidence is presented by the applicant, the Board of Architectural Review shall vote to approve or deny such a request for a new hearing. The Board's reconsideration of the application shall take into consideration the new evidence presented. The Board's decision need not be restricted to the new evidence. If the new evidence is withdrawn at any time during the reconsideration by the applicant, the Board shall have no authority to reconsider the application.

13-9 COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS - In order to prevent purposeful neglect of structures within zones protected by H-1 overlays, all properties shall comply with the BOCA, adopted Basic Property Maintenance Code, as well as all other applicable codes, statutes, and regulations. To accomplish this, the Division of Housing Maintenance shall quarterly compile and forward to the Board of Architectural Review and the Historic Preservation Commission a list of those properties in zones with H-1 overlays which have been found to be in violation of the BOCA Basic Property Maintenance Code.
ARTICLE 14

EXCLUSIVE USE ZONES

14-1 FINDINGS OF FACT - The following findings of fact are made:

14-1(a) AGRICULTURAL, RESIDENTIAL, PROFESSIONAL OFFICE, BUSINESS OR INDUSTRIAL ZONE CLASSIFICATIONS INADEQUATE - Within the Lexington-Fayette Urban County there are a number of land uses that have characteristics of operation that do not readily permit classification in the usual agricultural, residential, business, professional office or industrial zones. The standards and requirements of a particular zone, which must be applied equally to all uses within a zone, cannot adequately address the specific and unusual characteristics of certain uses. However, such uses are necessary to the livability or economic health of the community or are of such character that their specific control is necessary.

14-1(b) CONDITIONAL USE INADEQUATE - Many of these activities are permitted as conditional uses within particular agricultural, residential, business, professional office or industrial zones. However, the need for specifically enumerated performance standards and site locational standards make inclusion as a conditional use in a particular zone inadequate, since the restrictions in each zone must be applied equally to all uses within the zone, and the conditions which the Board of Adjustment may attach are not enumerated in such a manner as to avoid inconsistent and unequal treatment of similar activities.

14-2 PURPOSES AND OBJECTIVES - The reclassification of certain activities from the category of conditional use in a particular agricultural, residential, business, professional office or industrial zone to an exclusive use zone is intended to:

14-2(a) ESTABLISH SPECIFIC STANDARDS - Classification of these activities within conditional use zones will enable specific site locational standards and performance standards to be enumerated and applied. Such standards will protect the public health, safety and welfare more adequately, and assure more equal treatment of the same or similar uses.

14-2(b) AVOID CONFUSION CONCERNING REQUIREMENTS - By specifically stating the standards to be applied to these activities, confusion and doubt about the standards will be reduced, and enforcement of the standards by the Division of Building Inspection will be facilitated.

14-2(c) INCREASE COMPATIBILITY WITH ADJACENT USES - Exclusive use zones are intended to make such activities more compatible with adjacent uses, allow greater flexibility in site selection for the activity, and require the zoning of the site to be re-examined upon termination of the permitted activity within such an exclusive use zone.

14-3 ESTABLISHMENT OF EXCLUSIVE USE ZONES - Activities placed in an exclusive use zone are those not capable of ready classification as agricultural, residential, business, professional office, or industrial uses or which require specific, unique regulation unnecessary or inappropriate to other uses properly classified in agricultural, residential, business, professional office, or industrial zones. Each such use shall be designated EXCLUSIVE USE ZONE 1 (EX-1), etc. in order of adoption. The regulations for each Exclusive Use zone shall be included as an appendix to Article 14. Thus the Exclusive Use zone for landfills, as an example, shall be referred to as Article 14, Appendix A, Exclusive Use Zone 1, Landfills. The abbreviated designation shall be EX-1, EX-2, etc.

14-4 REGULATIONS IN EXCLUSIVE USE ZONES - The regulations adopted in this Article relating to each exclusive use zone shall include, but not be limited to, the following:

14-4(a) DEFINITION - A detailed definition of the specific use or uses to be permitted.

14-4(b) SITE DESIGN AND LOCATIONAL STANDARDS, such as:

(1) Lot, yard and height requirements,
(2) Landscaping and fencing requirements,
(3) Sign restrictions,
(4) Access design requirements and limitations,
(5) Regulations relating to surface and subsurface drainage, floodplains and soil erosion,
(6) Off-street parking requirements,
(7) Other site and design requirements as determined necessary and reasonable to make such activity compatible with neighboring land uses likely to be affected by such activity.

14-4(c) OPERATIONAL STANDARDS - Performance standards may be established relating to those aspects of the activity which must be controlled to protect the public health, safety, or welfare, such as:

(1) Noise, air and water pollution,
(2) Storm water drainage, floodplain or erosion control problems, and
(3) Other operational requirements which are necessary and reasonable to make such activity compatible with neighboring land uses likely to be affected by such activity.
14-4(d) **BONDING REQUIREMENTS** - Performance bonds or letters of credit may be required, and the amount, duration and supervisory agency should be established.

14-4(e) **REFERENCE TO OTHER APPLICABLE LAWS** - A listing of local, state and federal requirements applicable to such use may be included to facilitate effective coordination between the various agencies having jurisdiction over the particular use. Such a list shall not be considered exhaustive, but is merely to be available to assist persons requesting such zoning.

14-5 **PROCEDURES AND STANDARDS FOR APPROVAL OF EXCLUSIVE USE ZONE**

14-5(a) **CREATION OF AN EXCLUSIVE USE ZONE** - A proposal for creation of an Exclusive Use Zone shall be processed as a Zoning Ordinance text amendment as provided in Article 6 herein.

14-5(b) **ZONE MAP AMENDMENTS TO AN EXCLUSIVE USE ZONE** - Any activity which must be conducted within an Exclusive Use Zone shall be permitted only upon approval of the required Exclusive Use Zone by the Urban County Council. Requests for such map amendments shall be made through the Planning Commission in accordance with Article 6 of the Zoning Ordinance.

The information necessary for proper review of each application shall be specified for each Exclusive Use Zone. Additional information may be required by the Planning Commission.

In considering requests for exclusive use zoning, all relevant factors specified for each zone and those listed below shall be considered.

1. The importance of the services provided by the proposed facility to the community.
2. The availability of alternative locations for the proposed facility.
3. The compatibility of the proposed use with existing uses and uses anticipated in the foreseeable future.
4. The relationship of the proposed use to the adopted Comprehensive Plan and other adopted community plans.
5. Other factors which the Commission deems relevant to the purposes of this Zoning Ordinance.

**ARTICLE 14 APPENDIX A**

**EXCLUSIVE USE ZONE 1 (EX-1) LANDFILLS**

14A-1 **FINDINGS OF FACT** - The following facts establish the need to place landfills into an exclusive use zone.

14A-1(a) **CHARACTERISTICS OF A LANDFILL** - A landfill is a community facility which is a necessary part of the community's waste disposal system. The high volume of heavy truck traffic and the associated noise, odor and other potential nuisance-like characteristics suggest industrial zoning would be appropriate. However, the landfill is a limited duration use, and the filled land may not be suitable for industrial uses which require substantial weight bearing foundations. This limitation makes industrial zoning inappropriate for subsequent uses to be located on this land. Major factors in determining proper site location are the suitability of the soil and underground drainage systems, and they are not usually factors in the location of industrial zones. Therefore the site location criteria for a landfill must be defined separately.

14A-1(b) **NEED FOR SPECIFIC STANDARDS** - If proper landfill standards are not adhered to, the operation may result in an open dump, and create a serious health hazard. A completed landfill will settle and require periodic maintenance. Because of this settlement factor, special design and construction must be utilized for buildings constructed on a completed landfill. As a result of the factors listed above, sanitary landfills must be placed in an exclusive use zone, which includes specific design standards and appropriate protection for subsequent use.

14A-2 **PURPOSE AND OBJECTIVES** - The major purposes and objectives of this zone are to place sanitary landfills in an exclusive use zone in order to establish site location and design standards, which will:

1. **PROTECT PUBLIC HEALTH** by preventing water pollution, rodent infestation, air pollution, or other health hazards as would occur as a result of improper location, design, or operation of a landfill.
2. **PROTECT PUBLIC SAFETY** by requiring proper design of access streets to accommodate the heavy equipment necessary for collection, transportation and disposal of solid wastes.
3. **IMPROVE COMPATIBILITY** with adjacent uses by requiring adequate screening and setback, regular policing of access road and heavily traveled routes to the site, and careful review of subsequent uses allowed on the landfill site.
4. **PROMOTE PUBLIC WELFARE** by providing a suitable location for the disposal of the solid wastes generated by the community.

14A-3 **ESTABLISHMENT OF EXCLUSIVE USE ZONE**
1 (EX-1) FOR LANDFILLS - Exclusive Use Zone 1 (EX-1) shall have as its only permitted use a landfill and those accessory uses (including transfer stations) as are necessary to the operation of a landfill. All other uses, including open dumping, are prohibited.

The Exclusive Use Zone 1 (EX-1) designation replaces the previous zoning classification and, upon completion of the landfill operation, no other use shall be permitted without a zone map amendment placing the property in the appropriate zoning classification. The zoning of the site does not revert to its original zone but must be rezoned as provided in Article 6 herein.

14A-4 PLANNING FOR THE LANDFILL - Due to the potentially adverse environmental impact of a landfill, Geologic and Soils Reports, a Topographic Map, and a preliminary operational plan shall be required with the application for appropriate zoning. The Planning Commission may recommend approval of, and the Urban County Council may grant the petition for, EX-1 zoning, based on the information in the Geologic and Soils Reports and a preliminary operational plan showing how any site problems could be resolved; and provided that the site size requirements and the site design standards can be met.

The applicant also must obtain the necessary permits from Federal, State and local agencies having jurisdiction over any phase of operation. Adequate performance bonds or letters of credit must be provided. No landfill operation or phase thereof shall be permitted in the EX-1 zone until the final site development plan and operational plan has been approved by the Planning Commission, and the bond or letter of credit filed when necessary. The Commission shall withhold approval of the final operation and development plans until all appropriate local, State and Federal review agencies have acted on the plan, and the applicant has demonstrated compliance with the site location, design and operational standards. The permit, plans, specifications, maps and reports approved by the Kentucky Natural Resources and Environmental Protection Cabinet shall be submitted with the final Operational and Site Development plans for review by the Planning Commission.

14A-4(a) CONTENT OF REPORTS AND SITE DEVELOPMENT AND OPERATIONAL PLANS - Detailed plans, specifications, maps and reports shall be submitted in triplicate to the Planning Commission for review. The data in the following reports should be prepared in a form which facilitates its use in proper engineering design of the landfill. Problem areas must be delineated and recommendations for proper solution included in the report. The plans, specifications and maps for the operational plan may be submitted in the manner required by the permitting regulations of the Division of Waste Management of the Natural Resources and Environmental Protection Cabinet for solid waste landfills.

NOTE: Topographic maps and geologic maps are available from the Kentucky Geologic Survey at the University of Kentucky. Soil maps are available from the Soil Conservation Service and from the LFUCG Division of Planning.

14A-4(a)(1) TOPOGRAPHIC MAPS - showing the property boundaries and the proposed waste boundaries (at a scale of two hundred (200) feet to the inch), or four hundred (400) feet to the inch only if located in the Rural Services Area of Lexington-Fayette County. The map shall show the following items that are located within the property boundary:

(a) all surface water intake and discharge structures;
(b) all proposed waste management, processing or disposal facilities;
(c) all wells where fluids are injected underground; and
(d) all wells, springs, ephemeral, intermittent, and perennial streams, other surface water bodies, and drinking water wells.

14A-4(a)(2) SOILS REPORT - must be prepared and certified by a qualified geologist, a soil scientist, or a registered civil engineer. The data included in this report may be based upon pertinent existing and published information, and must include:

(a) name of soil type;
(b) soil drainage class, including information on seasonal water table;
(c) flood hazard potential;
(d) permeability of soils;
(e) dominant soil texture;
(f) suitability of soil as cover material;
(g) any other information pertinent to proper operation of the landfill.

14A-4(a)(3) GEOLOGIC REPORT - must be prepared by a qualified geologist. The data included in this report may be based upon pertinent existing and published information, and must include:

(a) the nature of the terrain, including slope, topography, and surface drainage;
(b) the nature of bedrock materials, including type, thickness and physical characteristics (such as ease of excavation, fractures, sinkholes and karst features, direction of dip, and solution holding capacity);
(c) maps or data showing residuum thickness, composition of materials, and hydrologic properties;
(d) porosity and permeability of bedrock;
(e) thickness of strata or zone in which waste materials are to be deposited;
(f) depth to water table;
(g) distance to nearby permanent streams, springs or lakes;
(h) proximity to aquifer recharge areas, wells and other water sources, and wetlands;
(i) any other pertinent information to proper operation of the landfill.

14A-4(a)(4) OPERATION PLAN AND MAPS indicating:

(a) the proposed fill area;
(b) any borrow area;
(c) access roads;
(d) on-site drives;
(e) grades for proper drainage of each lift required, and a typical cross-section of a lift;
(f) special drainage devices, if necessary;
(g) location and type of fencing;
(h) structures existing or to be located on the site;
(i) existing wooded areas, trees, ponds or other natural features to be preserved;
(j) existing and proposed utilities;
(k) phasing of landfill operations on the site;
(l) a plan and schedule for site restoration and completion;
(m) a plan for the ultimate land use of the site, if possible;
(n) method of operation, including weighing of wastes, cross-sectioning the site at definite time intervals, thickness of cover material, depth of cells and lifts, compaction, wet weather procedures, amount, type and size of equipment and personnel;
(o) and all other pertinent information to indicate clearly the orderly development operation and completion of the landfill.

14A-4(a)(5) ENGINEER’S CERTIFICATION - Landfill facilities shall be designed in accordance with this ordinance by a registered civil engineer, whose certification shall appear on all plans and specifications in the same manner as required by the Land Subdivision Regulations for Lexington-Fayette Urban County.

14A-4(b) OTHER PERMITS REQUIRED FOR OPERATION OF THE LANDFILL - Prior to operation of the landfill, permits must be obtained from the following agencies (this list is not intended to be comprehensive, but an aid for applicants attempting to secure approval):

14A-4(b)(1) KENTUCKY NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET - The Division of Waste Management in the Natural Resources and Environmental Protection Cabinet must issue a permit for disposal of all solid waste, except where a person is disposing of solid waste from his own household on his own property.

14A-4(b)(2) LEXINGTON-FAYETTE COUNTY HEALTH DEPARTMENT - Regulation #23 of the Lexington-Fayette County Health Department sets forth storage, collection and operating standards in order to operate a solid waste disposal site or to operate trucks for collection of solid waste, and a separate permit must be obtained for each operation.

14A-4(c) PERFORMANCE BOND OR IRREVOCABLE LETTER OF CREDIT - Prior to approval of the development and operational plan for the landfill, a corporate surety bond or letter of credit for the faithful performance of site design standards shall be filed with the Urban County Government.

NOTE: Approval may be given and bonding filed for the total operation or for one or more phases thereof, as shown on the final Site Development and Operational Plans. The bond or irrevocable letter of credit may be filed separately for initial site design and improvements, such as access and screening requirements. Bonds for the site design standards shall be in an amount sufficient to assure completion of necessary improvements. This amount is to be determined by the Urban County Government. Said bond or letter of credit shall specify the time for completion of all applicable requirements of this ordinance and shall specify the total operational area, or phase thereof, covered by the bond or letter of credit.

14A-5 SITE LOCATION STANDARDS - The following site location standards must be met, if at all possible, for they are designed to protect the public health, safety, and welfare; and these standards must be balanced against the community’s need to dispose of its solid waste and the total environmental and economic costs of such disposal.

14A-5(a) SOIL AND GEOLOGIC CRITERIA - Any landfill should be located on a site which has suitable soil, hydrologic and geologic characteristics. Areas with karst topographic features may pose significant problems for proposed landfill sites. Any problems inherent in such a site must be demonstrated as capable of a satisfactory engineering solution. Therefore, there is a need for a Soil Report and a Geologic Report to determine if the soil, hydrologic and geologic characteristics meet required standards.

14A-5(a)(1) SOIL CHARACTERISTICS - A field survey must be made to determine that the site has:

(a) sufficient permeable material to form a seal between the base of the landfill and bedrock; and if the site is located above the kind of subsurface stratification which could lead leachate from the landfill to water sources, then impervious
material must separate the landfill from unacceptable bedrock in accordance with the requirements and regulations of the Commonwealth of Kentucky,

(b) sufficient soil suitable for cover material with good workability and compaction characteristics,

(c) slopes of less than twelve (12) percent,

(d) no flooding problems and is not within a floodplain area.

14A-5(a)(2) GEOLOGIC CHARACTERISTICS - To prevent potential ground and surface water pollution, the site must be located in an area where no pollutants can enter the water supply. The ground water table must be located and the site designed to prevent its pollution. The site must be free of potential flooding problems and karst topographic features which would erode the cover material or interfere with operation of the landfill. To eliminate the possibility of either surface or ground water pollution, the site should:

(a) be located a safe distance from sinkholes, streams, lakes, wells and other water sources,

(b) avoid being located above the kind of sub-surface stratification that will lead the leachate from the landfill to water sources, i.e., fractured limestone,

(c) use an earth cover that is nearly impervious,

(d) provide suitable drainage to carry surface water away from the site. Grading, diking, terracing, diversion details or tiling may be approved by the Department of Health, where appropriate.

14A-5(b) SITE SIZE REQUIREMENTS - The volume of space required is primarily dependent upon the character and quantity of the solid wastes, the efficiency of compaction of the wastes, the depth of the fill and the desired life of the fill. These factors must be weighed in determining if the site is large enough.

14A-5(b)(1) MINIMUM LOT AREA - There shall be no minimum lot area requirement, except that a site must be sufficient to accommodate the amount of waste estimated for deposit during the planned life of the landfill.

14A-5(b)(2) YARD REQUIREMENTS - Minimum required depth of front, rear and side yards surrounding the landfill operation shall be two hundred fifty (250) feet. No landfill operation, or portion thereof, shall be permitted within 250 feet of any lot line.

14A-5(c) ACCESSIBILITY - The site should be easily reached by highways or arterial roads. All roads to the site should be of sufficient width and constructed to safely handle all sizes of trucks when fully loaded during all weather conditions. Problems such as narrow bridges, low underpasses, and steep grades on access routes must be avoided.

14A-5(d) HAUL DISTANCE - If the other site location requirements can be met, then haul distance becomes an important factor due to the increased cost of transporting waste greater distances. The increase in cost will vary with the size of vehicles, location of major waste producing centers, availability of expressways or other high speed roads to the site, etc. Increased costs of hauling, and any reduced impact of a remote location on existing development, should be balanced against engineering costs to make a site closer to the urbanized area suitable.

14A-6 SITE DESIGN STANDARDS - The following design features shall be incorporated into the site plans for a landfill.

14A-6(a) ACCESS DESIGN AND ON-SITE ROADS - Particular attention must be given to proper, safe design of entrances and exits, with provision for right turn deceleration lanes, protected left turn lanes, acceleration lanes and if needed, signalization of the intersection.

Since the site should be accessible at all times, it is desirable to have several access routes so that if one route is temporarily unusable, the site can still be used.

Distance of driveway entrance or exit from any adjacent lot line should be at least one hundred twenty-five (125) feet, except for lots across the arterial road, off of which the access drive is located. Any portion of such access drive within one hundred fifty (150) feet of the public street shall be paved or treated so as to be free of dust.

The on-site roads to the unloading area should be of all weather construction and wide enough to permit two-way truck travel. Road grades should be designed for the largest fully loaded trucks to travel at a reasonable rate. It is particularly important at large sites that traffic in and out of the area flow smoothly.

14A-6(b) FENCING AND LANDSCAPING - The landfill area of the EX-1 zone shall be enclosed with a substantial wall, fence or other adequate barrier at least five (5) feet in height, designed to keep children and animals off the landfill site. The entrance gate must be capable of being locked and posted. A landscape strip, at least thirty (30) feet in width, shall be provided and maintained between the lot line and the above required fencing or other enclosure. The Planning Commission may expand the size of the landscape strip to include a natural buffer such as an existing tree line. Such landscape strip shall have a ground cover of grass or other suitable material as required in Article 18.

14A-6(c) SIGNS AND DIRECTIONS - Only necessary identification and directional signs shall be permitted. If the site is open to the public, a sign shall be posted at the
entrances to inform the public of the hours of operation, cost of disposal, and rules and regulations regarding disposal. At large landfill operations, signs should be used on the site to direct users to the appropriate unloading area.

14A-7 SITE OPERATIONAL STANDARDS - Operating standards to prevent adverse health hazards and other nuisance-like problems are provided under Regulation Number 23 of the Lexington-Fayette County Health Department, and by requirements and regulations of the Commonwealth of Kentucky.

14A-8 COMPLETED LANDFILL

14A-8(a) INSPECTION - An inspection of the entire site shall be made by the Kentucky Natural Resources and Environmental Protection Cabinet, Division of Waste Management or Lexington-Fayette County Health Department or the Lexington-Fayette Urban County Government to determine compliance with the approved plans and specifications before earthmoving equipment is removed from the site. Any necessary correcting work shall be performed before the landfill project is accepted as completed.

14A-8(b) SUBSEQUENT MAINTENANCE - Arrangements shall be made and appropriate bond or irrevocable letter of credit posted to assure the repair of all cracks, and eroded or uneven areas in the final cover following completion of the fill, the closure of the landfill, and the maintenance of the landfill after closure in accordance with the requirements and regulations of the Commonwealth of Kentucky. Care must be taken to maintain good drainage, and the surface contours as designed in the approved plans. Additional fill and cover material shall be used as necessary. The land shall be graded, backfilled, and finished to a surface which will:

(1) result in a level, sloping, or gently rolling topography in substantial conformity or desirable relationship to the original site, and land area immediately surrounding,
(2) minimize erosion due to storm water runoff. Such graded or backfilled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of vegetation producing land areas immediately surrounding, and to a depth of at least six (6) inches, and
(3) trees, shrubs, legumes, or grasses shall be planted as approved on the approved Site Development and Operational plans.

14A-8(c) DECOMPOSITION, SETTLEMENT AND UNDERGROUND FIRES are problems which can occur after completion of the landfill operation. Precautions must be taken to prevent gases produced during decomposition from concentrating in sewers or other structures. The designer of structures to be placed on the site must provide the means to allow the gas to dissipate to the atmosphere and not into the structure.

Concentrated foundation loadings must be avoided to prevent foundation cracking in structures placed on the completed fill area. However, special engineering design, such as use of pilings, may be included in the plans for subsequent structures.

Provisions for extinguishing underground fire must be made, and the possibility of such an occurrence considered in the design of structures placed on the site.

14A-8(d) SUBSEQUENT LAND USE - The subsequent land use of the completed landfill site may be determined at the time of initial approval of the landfill. However, in cases where the location of the site, duration of its operation or transitory nature of surrounding uses make a decision concerning subsequent use premature, this decision may be made at the time of completion of the landfill operation.

In all cases, the future uses determination shall be based on consideration of the following factors:

(1) The relationship of the proposed use to the adopted Comprehensive Plan and other adopted community plans;
(2) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
(3) The susceptibility of the proposed use to damage resulting from settlement and other hazards inherent in the area filled;
(4) The community need for the proposed use;
(5) The availability of alternative locations for uses proposed.

14A-9 AN ADDITIONAL REQUIREMENT FOR SANITARY LANDFILLS: A CONTRACT WITH THE URBAN COUNTY GOVERNMENT - The operation of a sanitary landfill shall be conducted under contract with the Urban County Government. If the sanitary landfill is not under contract to operate with the Urban County Government within one (1) year after the Exclusive Use zoning is approved, an application to change the EX-1 zone to its previous zone or other appropriate zone shall be initiated by the Urban County Council, as provided by Article 6 herein.

14A-10 DEFINITIONS

14A-10(a) SOLID WASTES - All putrescible and non-putrescible refuse in solid form. Solid waste includes, but is not limited to, garbage, rubbish, ashes, incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid commercial and industrial wastes
and special wastes, including explosives, pathological wastes and radioactive materials.

14A-10(b) LANDFILL - A method of disposing of refuse on land without creating nuisances or hazards to public health or safety by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of suitable cover material at the conclusion of each day's operation or at more or less frequent intervals, as necessary; and in compliance with all requirements and regulations of this ordinance, and with all requirements and regulations of the Commonwealth of Kentucky. This includes sanitary ("contained") landfills, "construction/demolition debris" landfills, and "residual" landfills, as defined by regulations of the Commonwealth of Kentucky.

14A-10(c) OPEN DUMP - A site where refuse is dumped which, due to lack of control, may create a breeding place for flies and rats, may cause air or water pollution or may catch fire.

14A-10(d) QUALIFIED GEOLOGIST - A qualified geologist shall have a masters degree in geology from an accredited university or college and have experience in hydrogeology.

14A-10(e) SANITARY (CONTAINED) LANDFILL - A type of landfill which may accept for disposal all non-hazardous solid wastes, and limited quantities of household hazardous waste, industrial waste and generator hazardous waste. Sanitary landfills shall operate in compliance with all requirements and regulations of this ordinance and with all requirements and regulations of the Commonwealth of Kentucky.
ARTICLE 15

GENERAL REGULATIONS FOR HEIGHTS, YARDS, WALLS, FENCES, PROJECTIONS, ACCESSORY STRUCTURES and INFILL/REDEVELOPMENT CONSTRUCTION

15-1 HEIGHTS

15-1(a) MAXIMUM - Except as provided below, no building or structure (or part thereof) shall hereafter be erected or altered to a height greater than the maximum specified for the respective zone.

15-1(b) HOW MEASURED - For the purpose of this Zoning Ordinance, the "height" of a wall of a structure (or any part of a building) is the mean vertical distance from the established grade in front of the lot or the average grade at the base of the front façade of the building, whichever is higher, to the average height of the top of the cornice of a flat roof or roof line; to the deck line of a mansard roof; or to the middle of the highest gable or dormer in a pitched or hipped roof. If there are no gables or dormers, the "height" of a wall shall be to the middle of such pitched or hipped roof.

On a through lot, where the established grade differs on each street or alley, and it abuts on two or more streets or alleys of different established grades at the front of the lot, the higher grade shall control only for a depth of one hundred twenty (120) feet, measured perpendicularly back from the line of the higher street or alley.

On a corner lot, the height is the mean vertical distance from the average grade at the base of the building on the street of greatest width. If two or more such streets are of the same width, and one is at a higher elevation, it shall be from the highest of such grades. The height limitations, as controlled by the wider street, shall govern for a distance of one hundred twenty (120) feet, measured at right angles back from such wider street, unless parts of the one hundred twenty (120) feet are within a more restricted height zone.

15-1(c) EXCEPTIONS TO HEIGHT LIMITS - Notwithstanding other regulations in this Article, or the maximum specified for the respective zone, the height limits of this Zoning Ordinance shall not apply to the following:

(1) Barns, silos, or other farm structures on farms; church spires, belfries, cupolas, and domes, not for human occupancy; monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts and aerials.

(2) Bulkheads, elevator penthouses, water tanks, monitors and scenery lofts; provided that such structures shall not have an aggregate area greater than twenty-five percent (25%) of the lot area; and provided that no linear dimension of any such structure shall exceed fifty percent (50%) of the corresponding street lot line frontage if the structure is within twenty-five (25) feet of such street lot line.

(3) Monuments or towers, including fire towers; hose towers; cooling towers; grain elevators; sugar refineries; gas holders; and other structures shall have no height limits where the manufacturing process requires a greater height; provided, however, that all such structures above the limiting heights specified in this Zoning Ordinance shall not occupy more than twenty-five percent (25%) of the area of the lot, shall be distant at least twenty-five (25) feet from every adjoining property line, and shall be set back one (1) foot from the otherwise required setback at the limiting height for each foot of vertical height that the structure exceeds the limiting height.

(4) Solar heating and solar collection devices, provided such devices are no more than five (5) feet higher than the otherwise permitted maximum height for the zone in which they are located.

15-2 YARDS - Except as otherwise specified herein, every lot shall have a front yard, a rear yard, and a side yard on each side, the least depths of which shall not be less than those specified for the respective zone, or as contained in the small lot provisions for each residential zone.

15-2(a) FRONT YARDS

15-2(a)(1) REQUIRED FRONT YARD FOR REDEVELOPMENT OF A LOT - In any residential zone, whenever a principal structure is destroyed or demolished by any means, any subsequent principal structure on that lot shall be located within ten (10) feet of the same setback as the previous structure, except as provided in the small lot provisions established for each residential zone. Where the setback of the original structure cannot be determined, or if the lot is vacant, the setback of the new structure, including any projections, shall be within ten (10) feet of the average front yard of the principal structures on the two lots immediately adjoining on either side of the subject property, provided those structures are located in the same block front and within one hundred (100) feet of each side.
of the lot. The front yard shall not be required to exceed the average depth of the front yards of existing buildings on the two lots immediately adjoining, but shall be at least ten (10) feet. In no event shall a building be constructed any closer than the least setback established by the averaging above, or as established on a plat of record.

15-2(a)(2) REQUIRED FRONT YARD FOR BUILDING ADDITIONS - In any residential zone, whenever an addition is made to the primary wall plane of an existing principal residential structure, any addition to that structure shall be located within ten (10) feet of the average front yard of the principal structures on either side of the subject property, provided they are located in the same block front and within one hundred (100) feet of each side of the lot. The front yard shall not be required to exceed the average depth of the front yards of existing buildings on the two lots immediately adjoining, but shall be at least ten (10) feet. If the lots on either side of the property in question are vacant, then the setback required for the specific zone shall be used to determine the front yard required for any building addition; but in no event shall a building be constructed any closer than the least setback established by the averaging above, or as established on a plat of record.

15-2(a)(3) YARD ON STREET SIDE ON LOT ADJOINING OR FACING A RESIDENTIAL ZONE - On a lot in any non-residential zone sharing the same block front with a lot in any residential zone, the depth of the minimum required front yard shall equal the required front yard depth for that residential zone, or as contained in the small lot provisions for the residential zone.

15-2(a)(4) FRONT YARDS ON THROUGH LOTS - On any lot which runs through a block from street to street, a front yard as otherwise required in the zone shall be provided along each street lot line. In residential zones, the small lot provisions will apply. In the event that one of the streets is an alley, the required front yard along the alley shall be the equivalent of fifty percent (50%) of the otherwise required front yard for the zone in which it is located. Alignment of existing structures shall not be used to determine a building line along a rear alley.

15-2(a)(5) FRONT YARDS NOT PARALLEL TO THE BUILDING - Where the front wall of a building is not parallel with the front lot line or is broken or otherwise irregular, the average depth of the front yard shall not be less than the front yard required for that zone, or as contained in the small lot provisions for residential zones. No wall of a building shall encroach more than five (5) feet into the otherwise required front yard depth.

15-2(a)(6) REQUIRED FRONT YARD FOR INFILL AND REDEVELOPMENT OF LOTS IN BUSINESS ZONES - On a lot in a business zone and inside the Infill & Redevelopment Area, the required front setback (minimum and maximum) of the building shall be within five (5) feet of the average front yard of the principal structures on the two lots immediately adjoining on either side of the subject property, provided those structures are located in the same block front and within one hundred (100) feet of each side of the lot. This setback shall be considered more restrictive than the underlying zone setback when applicable.

15-2(b) SIDE YARDS

15-2(b)(1) SIDE YARDS DECREASED FOR NARROW LOT - For each foot by which an existing lot of record at the time of enactment of this Zoning Ordinance is narrower than fifty (50) feet, and where the owner of record does not own any adjoining property, one and one-half (1½) inches may be deducted from the required least width of any side yard for buildings not exceeding two and one-half (2½) stories in height. In no case may a side yard be narrower than three (3) feet at any point. For any lot within the designated Infill and Redevelopment Area, the special provisions for the Infill and Redevelopment Area contained in Article 8 shall take precedence.

15-2(b)(2) SIDE YARDS INCREASED FOR DEEP BUILDINGS - In any zone where a side yard is required, the least width of each side yard shall be increased by one (1) inch for each foot by which the side wall of a building adjacent to a side yard exceeds fifty (50) feet.

15-2(b)(3) ADDITIONAL YARD REQUIREMENTS FOR CERTAIN MULTI-FAMILY STRUCTURES - In addition to other yard requirements, whenever the principal entrance to a multi-family structure, or the entrance to the individual dwelling units therein, faces on and opens directly onto the side yard portion of the building, that side yard width shall not be less than the front yard requirement, or thirty (30) feet, whichever is greater. No parking shall be permitted within the side yard space required under this provision.

15-2(b)(4) SIDE STREET SIDE YARD - On a corner lot in any zone, the required least width of the side street side yard shall equal either the minimum front yard required for that zone or the existing alignment on the lot immediately adjoining, whichever is less. Notwithstanding the above, no such yard shall be required to exceed thirty (30) feet in a residential, business, or industrial zone.

15-2(b)(5) SIDE YARD EXCEPTIONS FOR ATTACHED DWELLINGS - In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.

15-2(b)(6) SIDE YARDS NOT PARALLEL TO THE BUILDING - Where the side wall of a building is not
parallel with the side lot line or is broken or otherwise irregular, the average width of the side yard shall not be less than the otherwise required least width. At no point shall the side yard be narrower than one-half (½) the otherwise required side yard; nor shall it be narrower than three (3) feet, in any case.

15-2(b)(7) SIDE YARD FOR AN ADDITION TO AN EXISTING BUILDING - On any lot in a residential zone, where the principal structure does not meet the minimum required side yard for that zone, if the side yard is legally non-conforming, additions to the principal structure may be made which have the same side yard as the original structure. In no case shall the addition be closer than three (3) feet to the adjoining lot line. All provisions of Section 15-2(b)(2) regarding increased side yards for deep buildings shall apply.

15-2(c) REAR YARDS - Where the rear wall of a building is not parallel with the rear lot line or is broken or otherwise irregular, the average depth of the rear yard shall not be less than the otherwise required rear yard; provided, however, that such rear wall shall not at any point encroach any more than one (1) foot into the otherwise required rear yard.

15-3 YARD REQUIREMENTS ADJOINING A MORE RESTRICTIVE ZONE - Where a property adjoins the side or rear yard of a lot in another zone, the side or rear yard in the zone with the less restrictive yard requirements shall equal the adjoining side or rear yard (as appropriate) of the zone with the more restrictive yard requirements.

15-4 WALLS AND FENCES

15-4(a) BARBED WIRE / ELECTRIC FENCING - No barbed wire or electric fences shall be permitted within either a residential zone or a mobile home park zone. No barbed wire shall be permitted along any boundary adjoining a residential zone or a mobile home park zone unless such wire is located at least six (6) feet above ground level. Protective devices utilizing barbed wire may be installed upon walls or fences constructed or used in conjunction with a non-conforming commercial or industrial use in a residential zone. Unless otherwise prohibited by this section, barbed wire shall be permitted in all professional office, business, and industrial zones.

15-4(b) HEIGHT - In any residential, business (except B-4), or professional office zone, a wall or fence no more than six (6) feet in height may be erected or maintained within a front yard or side street side yard, unless the front or side street side yard is created by abutment to an alley. In that case, a fence or wall may be erected up to eight (8) feet in height. In any side or rear yard, a fence or wall no more than eight (8) feet in height may be erected. No height restriction shall be placed on a wall or fence erected or maintained in any industrial zone or in the Wholesale and Warehouse Business (B-4) zone.

For the purpose of this section, the height of a wall or fence shall be the vertical distance from the established grade at the fence or wall to the top of the fence or wall.

15-5 PROJECTIONS

15-5(a) COVERED PORCHES, STAIRWAYS, TERRACES - Covered porches, stairways, terraces or other similar features, the floor level of which is not over three (3) feet above the established grade and does not extend above the level of the first floor of the building, when open and unenclosed, may project into a required front, side or rear yard no more than eight (8) feet; provided that such covered porches, stairways, terraces, or other similar features conform to the provisions of Section 15-5(d).

15-5(b) OUTSIDE STAIRWAYS - Outside stairways may extend up to (3) feet into any required side yard, provided the projection is at least three (3) feet from all lot lines; however, they may not extend more than five (5) feet into any required rear yard.

15-5(c) CHIMNEYS AND ORNAMENTAL FEATURES - Flues, belt courses, leaders, sills, lintels, ornamental features, cornices, eaves, gutters and the like, may not extend more than twenty-four (24) inches into any required yard. Chimneys and pilasters may extend up to twenty-four (24) inches into any required yard, provided they are at least three (3) feet from all lot lines.

15-5(d) MAXIMUM PROJECTION - Notwithstanding any other provision of this section, no projection, as listed above, shall extend into any required side yard more than one-half (½) the width of such yard, nor within ten (10) feet of the front lot line, within five (5) feet of the rear lot line, nor within three (3) feet of any accessory building. Such limitations shall not apply to terraces and steps inside yards, or to a loading dock or tailboard in connection with an industrial siding.

15-6 LOCATION, HEIGHT AND SIZE OF ACCESSORY BUILDINGS

15-6(a) LOCATION AND HEIGHT - The following provisions shall regulate the location and height of accessory buildings with respect to required yards:

(1) Accessory buildings shall be prohibited in any required front yard or side street side yard.

(2) Accessory buildings shall be distant at least six (6) feet from alley lines.

(3) In any zone requiring a side yard or rear yard, the accessory building shall be distant at least one and
one-half (1½) feet from any adjoining lot line. Where any portion of an accessory building projects between a principal structure and the side lot line, the accessory building shall comply with the side yard restriction for a principal structure in the zone in which it is located. Where a principal structure is later expanded to project past the front wall of an accessory structure, the accessory structure may remain at least one and one-half (1½) feet from any adjoining lot line.

(4) The maximum height of accessory buildings shall be measured from the grade surrounding the structure to the apex of the gable and shall not exceed the elevation of the principal structure. In no case shall an accessory building exceed twenty (20) feet in height, measured at mid-gable.

(5) Where a corner lot adjoins the rear a lot in any residential zone, no part of an accessory building shall extend closer to the street than the actual or required (whichever is less) depth of the front yard for the principal structure on an adjoining lot.

15-6(b) MAXIMUM HEIGHT RESTRICTION IN NON-RESIDENTIAL AREAS

Accessory buildings in non-residential zones shall not exceed the maximum height restriction for the zone in which they are located.

15-6(c) MAXIMUM HEIGHT AND SIZE IN RESIDENTIAL ZONES

Accessory buildings in residential zones shall not exceed the lot coverage (building footprint) of the building(s) to which they are accessory, nor shall the maximum height of accessory buildings in residential zones exceed the requirements of Section 15-6(a)(4). The total size of all buildings accessory to dwelling units shall not exceed fifty percent (50%) of the total square footage of the building(s) to which they are accessory, or six hundred twenty-five (625) square feet, whichever is greater.

15-7 GENERAL REGULATIONS FOR INFILL AND REDEVELOPMENT CONSTRUCTION

15-7(a) NEW RESIDENTIAL CONSTRUCTION

All new residential structures and additions to the primary wall plane within defined Infill and Redevelopment Areas shall be subject to the following requirements:

(1) A primary entrance for pedestrian access into each building shall be provided along the primary wall plane or its offsets.

(2) A one-story projection on the primary wall plane of a building shall be provided and shall include at least one of the following:
   a. A porch, a minimum of twelve (12) inches high, four (4) feet in depth and width; or
   b. A canopy over the primary entrance, a minimum of three (3) feet in depth and width; or
   c. A bay window, projecting a minimum of one (1) foot and being three (3) feet in height; or
   d. A recessed entry, a minimum of three (3) feet in depth and four (4) feet in width that includes exterior steps, or an arched doorway.

(3) A minimum of ten percent (10%) of the primary wall planes and side wall planes facing a public street shall be transparent glass, or any window or person door opening, but shall not exceed the maximum openings permitted under the Kentucky Building Code. Garage doors shall not be calculated in the wall plane area.

(4) Garage doors located anywhere from four (4) feet behind the primary wall plane to the lot frontage shall be subject to at least one of the following criteria:
   a. A garage door facing the lot frontage shall not exceed thirty percent (30%) of the surface of the building façade; or
   b. The garage door shall be located a minimum of four (4) feet behind the primary wall plane; or
   c. The garage door shall be perpendicular to the lot frontage.

15-7(b) GROUP RESIDENTIAL PROJECTS

In addition to the requirements in Article 15-7(a), all Infill and Redevelopment Group Residential Projects shall be subject to the following requirements:

(1) The choice of garage door location under Article 15-7(a)(4)(b) shall not be permitted.

(2) At least seventy-five percent (75%) of the roof surface of the principal structure shall be covered by a minimum 4:12 pitched roof.

(3) The maximum length of a primary wall plane for a structure shall be 160 feet.

(4) A change of at least four (4) feet in depth and at least eight (8) feet in length shall occur for every forty (40) feet in a primary wall plane or side wall plane facing a public street.

(5) All exterior lighting shall require a lighting cutoff, concealing the source of lighting visible from all property lines of the site.

(6) The maximum height of freestanding exterior lighting fixtures shall be twenty-five (25) feet.

15-7(c) CONFLICT OF INFILL STANDARDS WITH DESIGN GUIDELINES IN A LOCAL HISTORIC (H-1) DISTRICT

In the event the provisions of Sections 15-7(a) and (b) above would conflict with the adopted Design Guidelines applied by the Board of Architectural Review as a part of the Certificate of Appropriateness review and approval process, the H-1 guidelines shall be deemed to be the stricter requirement and shall control.
15-7(d) SPECIAL CONSIDERATIONS FOR SET-BACKS IN INFILL AND REDEVELOPMENT AREAS -
The intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. Unique circumstances may require appropriate Board of Adjustment action to allow some relief of yard requirements where strict application of the regulations would cause unusual hardship or a development incompatible with the existing pattern of the neighborhood.

15-8 GENERAL REGULATIONS FOR LOCATION, HEIGHT AND SIZE OF SATELLITE DISH ANTENNAS -
Satellite dish antennas shall be permitted in all zones and shall be subject to the following provisions regulating location, height and size:

a. All roof and pole-mounted satellite dish antennas greater than six (6) feet in diameter shall be of the mesh type only, with not more than eighty-five percent (85%) of the surface being solid, and shall be painted a solid dark color.

b. When located in an agricultural zone, satellite dish antennas shall be limited to:

(1) One (1) per lot, for lots of ten (10) acres or less; for over ten (10) acres, no limit as to the number;
(2) A maximum diameter of twelve (12) feet;
(3) A maximum height of four (4) feet above the highest point of the principal building on the lot;
(4) Shall be for private non-commercial use only and shall be accessory to a principal use on the property;
(5) Shall not be visible from the road or from adjoining property, and shall be screened with landscaping material.

c. When located in any residential zone, satellite dish antennas shall be limited and regulated as follows:

(1) Satellite dish antennas shall be prohibited in any required front yard;
(2) For single family, duplex and townhouse dwellings, one (1) per dwelling unit;
(3) For multi-family dwellings, one (1) per multi-family building;
(4) For all other uses permitted in the residential zones not specifically provided for otherwise (e.g., schools, churches, nursing homes, etc.), one (1) per building;
(5) The maximum diameter of any satellite dish antenna shall be twelve (12) feet;
(6) The maximum height of any portion of the satellite dish antenna shall be four (4) feet above the highest point of the principal building on the lot, regardless of the height of the structure or the maximum height restriction in the zone;

(7) All satellite dish antennas shall be for private non-commercial use only and shall be accessory to a principal use on the property.

d. When located in a business, office, or industrial zone, satellite dish antennas shall have no restriction as to location, height, size or number per lot.
ARTICLE 16

GENERAL REGULATIONS FOR PARKING, LOADING AREAS,
GARAGES, AUTOMOBILE SERVICE STATIONS,
VEHICLE SALES LOTS AND STACKING AREAS

16-1 GENERAL REGULATIONS FOR PARKING AND LOADING AREAS

16-1(a) PARKING OR LOADING SPACES ESTABLISHED PRIOR TO ADOPTION OR AMENDMENT OF THIS ZONING ORDINANCE - Any parking or loading spaces established prior to the adoption or amendment of this Zoning Ordinance that are either used or are intended to be used in connection with any principal building, structure, or use; or any spaces designed and intended to comply with the requirements of this Zoning Ordinance for any such principal building or structure erected after that adoption or amendment date, shall hereafter be maintained, as long as said building, structure, or use remains (unless the owner provides and maintains, in another location, an equivalent number of spaces as required in conformance with the provisions of this Zoning Ordinance).

16-1(b) PARKING REQUIREMENTS FOR A CHANGE IN THE PRINCIPAL USE - Where the principal use is changed to a use for which additional parking space is required under the provisions of this Zoning Ordinance, it shall be unlawful to begin or maintain such altered use until the required off-street parking is provided.

16-1(c) UNITS OF MEASUREMENT FOR DETERMINING THE REQUIRED PARKING - For the purpose of this Zoning Ordinance, "floor area" as used in computing the required off-street parking or loading areas, shall mean "Parking Floor Area" as defined in this Zoning Ordinance. In stadiums, sports arenas, churches, or other places of assembly where patrons or spectators occupy benches, pews, or other such seating facilities, each twenty-four (24) inches of such seating facilities shall be counted as one seat for the purpose of determining the requirements for off-street parking spaces under this Zoning Ordinance. When units of measurement used in determining the number of required parking spaces would result in the requirement of a fractional space, any fraction less than one-half ($\frac{1}{2}$) shall be disregarded, and fractions of one-half ($\frac{1}{2}$) or more shall require one (1) parking space.

16-1(d) LOCATION OF PARKING SPACES - The location of parking spaces shall be as hereinafter set forth; and where distances are specified, they shall be the walking distances measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve. For one and two-family dwellings, parking shall be provided on the same lot with the building it is required to serve; for multiple family dwellings, not more than two hundred (200) feet from the building the parking spaces are required to serve; for uses located in or permitted in a Professional Office or any business zone (except B-2B); and for hospitals, nursing, convalescent and rest homes, orphanages, private clubs, fraternity or sorority houses, and churches, not more than three hundred (300) feet from the building they are required to serve; for uses located in or permitted in any industrial zone and uses not specified above, not more than seven hundred (700) feet from the building, or other place of assembly, they are required to serve; and for all uses located in the B-2B zone, on any lot located within the B-2, B-2A, or B-2B zones, parking location shall be subject to the qualifications listed under the requirements of the B-2B zone.

16-1(e) LOADING AND UNLOADING SPACES REQUIRED - In any zone, every building or part thereof hereafter erected, with a floor area of 10,000 square feet or more, which is to be occupied by manufacturing; compounding; processing; storage; warehousing; goods display; retail store; wholesale store; hotel; hospital; funeral parlor; laundry; dry cleaning; or other uses similarly requiring the receipt or distribution by vehicles of material, objects, or merchandise, there shall be provided and maintained on the same premises with such building at least one (1) off-street loading space plus one (1) additional off-street loading space for each 20,000 square feet or fraction thereof of floor area so used in excess of 20,000 square feet.

16-1(f) PERMIT REQUIREMENT - No permit for parking, loading, or unloading areas shall be issued until the applicant has met the design standards jointly promulgated by the Division of Traffic Engineering and the Division of Building Inspection, the storm drainage requirements of the Division of Engineering, and all other requirements of this Zoning Ordinance.

16-2 MINIMUM DESIGN AND MAINTENANCE REQUIREMENTS FOR PARKING AREAS - Every parcel of land hereafter used as a parking area shall be designed and maintained in accordance with the following requirements:

(a) Off-street parking areas shall equal or exceed the number of spaces required, shall be of useable shape and surface, and shall have convenient ingress and egress. Not less than seventy-five percent (75%) of the total required parking spaces shall be designed for use by full-size vehicles. Up to twenty-five percent (25%) of the
required parking may be designed and designated for compact vehicles. Aisles and access drives shall be designed so as to provide adequate vehicular maneuvering wholly upon the property being served; and in no case shall off-street parking areas be permitted that encourage or require the backing onto, or maneuvering within, the right-of-way of any public or private street.

(b) Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way.

(c) Any off-street parking area having more than 1,800 square feet of area and/or used by five (5) or more vehicles shall be landscaped and screened as required by Article 18: Landscape and Land Use Buffers.

(d) A "sight triangle" shall be observed at all street intersections or intersections of driveways with streets as required in Article 18: Landscape and Land Use Buffers and Section 3-3 of this Zoning Ordinance.

(e) All parking areas shall be paved and drained so as to dispose of all surface water within the parking area without carrying said water accumulation over a public sidewalk. Piping the water to a suitable outfall may be required.

(f) Where parking areas are provided for five (5) or more vehicles or contain more than 1,800 square feet of area in a residential zone; or are enlarged or expanded to provide for five (5) or more vehicles or to contain more than 1,800 square feet of area, they shall be paved with an asphalt, concrete, brick or other properly bound surface, so as to be durable and dustless. Each parking space shall be physically delineated on the surface of the parking area.

(g) Permanent storm water management, in compliance with the storm water manuals and accepted by the Division of Engineering, shall be provided for all off-street parking areas containing five (5) or more parking spaces and/or more than 1,800 square feet. For off-street parking areas of 1,800 square feet or less, or less than five (5) parking spaces, permanent storm water retention may be required by the Division of Engineering upon the determination that the lack of such retention would cause or aggravate flooding or other drainage problems on surrounding property.

16-3 REQUIRED PROFESSIONAL OFFICE OR BUSINESS (EXCEPT B-2B) ZONE AUTOMOBILE PARKING AREA AS A CONDITIONAL USE IN R-3, R-4 or R-5 ZONE - The establishment and operation of a restricted accessory parking area may be authorized by the Board of Adjustment as a conditional use in such parts of any Planned Neighborhood Residential (R-3) zone, High Density Apartment (R-4) zone or High Rise Apartment (R-5) zone as abut, either directly or across an alley, a Professional Office or business (except B-2B) zone or any conforming or non-conforming institutional use in a particular residential zone, subject to the following conditions and requirements:

(a) The parking area shall be accessory to and for use in conjunction with one or more permitted uses located on an adjoining Professional Office or business (except B-2B) zone, or in connection with one or more existing conforming or non-conforming institutional uses on adjoining premises.

(b) Such parking shall be situated on premises not less than 5,000 square feet in area which shall abut at least fifty (50) feet, either directly or across an alley, on a Professional Office or business (except B-2B) zone, or on the premises of the existing conforming or non-conforming institutional use to which the parking area is accessory.

(c) Such parking area shall be used solely for the parking of passenger automobiles. No commercial repair work or service of any kind shall be conducted, and no charge shall be made for parking. No sign of any kind, other than designating ownership, entrances, exits, and conditions of use, shall be maintained on such parking area. Such signs shall conform to the zone in which the parking area is established.

(d) Each entrance and exit to and from such parking area shall be at least twenty (20) feet distant from any adjacent lot line located in any residential zone.

(e) The parking area shall be subject to all requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping, screening, and minimum yards and setbacks.

(f) Any permit issued by the Division of Building Inspection for such parking area may be revoked any time that the aforementioned requirements are not complied with; and any permittee who uses the premises in violation of any of the conditions specified above, or attached as conditions to such permit by the Board of Adjustment, shall be deemed in violation of this Zoning Ordinance.

16-4 PARKING, LOADING AND UNLOADING AREAS IN RESIDENTIAL ZONES

16-4(a) MINIMUM REQUIRED PARKING - In every R-1A, R-1B, R-1C, R-1D, R-1E, R-1T and R-2 zone, there shall be provided at least one (1) off-street parking space for each dwelling unit; no such space shall be located within any required front yard or side street side yard area. Properties within the R-1E or R-1T zone may park within the required...
front or side street side yards, provided the final record plat was approved by the Planning Commission prior to December 5, 2002. The parking area and driveway shall be paved with concrete, asphalt, brick or other suitable hard surface materials, as approved by the Division of Building Inspection. Loose aggregate or other type of gravel is prohibited, except as approved by the Board of Architectural Review for the purpose of historic preservation, or when approved by the Urban County Forester for the purpose of tree protection. In either case, the applicant must show that there is not another reasonable alternative to the loose aggregate.

Within the defined Infill & Redevelopment Area, the maximum width in the front yard of any driveway serving the required space(s) per dwelling unit shall be limited to ten (10) feet.

16-4(b) ADDITIONAL PARKING - Provided the above parking has been met, additional parking shall be permitted in the required front yard or side street side yard in any R-1A, R-1B, R-1C, R-1D, R-1E, R-1T or R-2 zone, provided the following requirements are met:

1. The parking area and driveway shall be paved with concrete, asphalt, brick, grass pavers, or other suitable hard surface materials as approved by the Division of Building Inspection. Loose aggregate or other type of gravel is prohibited, except as approved by the Board of Architectural Review for the purpose of historic preservation, or when approved by the Urban County Forester for the purpose of tree protection. In either case, the applicant must show that there is not another reasonable alternative to the loose aggregate.

2. The paved areas (parking areas and driveways) shall be set back from the property lines as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Setback from Front Lot Line and/or Side Street Lot Line</th>
<th>Setback from Side Lot Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1A</td>
<td>15'</td>
<td>8'</td>
</tr>
<tr>
<td>R-1B</td>
<td>10'</td>
<td>4'</td>
</tr>
<tr>
<td>R-1C</td>
<td>6'</td>
<td>2'</td>
</tr>
<tr>
<td>R-1D</td>
<td>6'</td>
<td>2'</td>
</tr>
<tr>
<td>R-1E</td>
<td>6'</td>
<td>2'</td>
</tr>
<tr>
<td>R-1T</td>
<td>6'</td>
<td>2'</td>
</tr>
<tr>
<td>R-2</td>
<td>6’</td>
<td>2’</td>
</tr>
</tbody>
</table>

3. The percentage of coverage of parking areas and driveways shall not exceed fifty percent (50%) of the total required front yard or side street side yard. Within the defined Infill & Redevelopment Area, parking in the required front yard is prohibited, and driveway width shall be limited to ten (10) feet.

4. The design of the parking areas and driveways shall be developed so as to discourage the backing of vehicles onto a public right-of-way.

5. The parking area shall be landscaped and screened as required by Article 18 of this Zoning Ordinance.

6. A permit shall be required for the construction of all parking areas and driveways that fall under the above regulations. The owner must provide the Division of Building Inspection with a plot plan showing the entire lot, the location of the residence, the layout of the parking areas and driveways (both the required spaces and proposed extra spaces) and all proposed landscaping and screening required, as well as any other information necessary to clearly define the proposed construction as required by the Division of Building Inspection.

7. Within the defined Infill and Redevelopment Area, the maximum number of parking spaces on the lot will be no more than fifty percent (50%) additional spaces over the required parking. The following table gives examples of the required and maximum number of parking spaces:

<table>
<thead>
<tr>
<th>Required Parking</th>
<th>Maximum Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>4</td>
<td>6</td>
</tr>
</tbody>
</table>

8. Properties that have one or more street frontages with restricted parking shall be allowed one (1) additional parking space per restricted street frontage over the maximum allowed parking.

16-4(c) PARKING, LOADING, AND UNLOADING PROHIBITED IN RESIDENTIAL ZONES R-3, R-4 and R-5 - In the R-3, R-4 and R-5 residential zones, parking, driveways, loading and unloading areas must meet the following requirements:

1. No off-street parking area, loading or unloading area, maneuvering area or aisles shall be permitted within the required front yard or side street side yard of any lot with a principal building. Where parking is the principal use of a lot, such off-street parking, loading or unloading area shall not be closer to any lot line than the distance required for a principal building of one (1) story in height.

2. No portion of the front yard or side street side yard, exclusive of driveways, shall be paved or surfaced;
and all such front and side street side yards shall be enclosed by a barrier, or landscaped in such a manner, suitable to preclude any such activity as prohibited in this section.

(3) The parking area and driveway shall be paved with concrete, asphalt, brick or other suitable hard surface materials, as approved by the Division of Building Inspection. Loose aggregate or other type of gravel is prohibited, except as approved by the Board of Architectural Review for the purpose of historic preservation, or when approved by the Urban County Forester for the purpose of tree protection. In either case, the applicant must show that there is not another reasonable alternative to the loose aggregate.

(4) Within the defined Infill & Redevelopment Area, the maximum number of surface parking spaces on the lot will be no more than fifty percent (50%) additional spaces over the required parking. [See the table in Section 16-4(b)(7) for examples].

(5) Properties that have one or more street frontage with restricted parking shall be allowed one (1) additional parking space, over the maximum allowed parking, per restricted street frontage.

(6) For a single family detached dwelling unit, or a two-family duplex unit in the R-3 or R-4 zone, the parking requirements shall be as per Articles 16-4(a) and 16-4(b).

16-4(d) NON-CONFORMING PARKING EXCEPTION

(1) No off-street parking space shall be required for a single family detached residence on any lot redeveloped as defined in Article 15-2(a)(1) when the lot already has no off-street parking space (a non-conforming situation).

(2) No off-street parking space shall be required within the defined Infill and Redevelopment Area where the Urban County Council has established a designated on-street parking area on a block-by-block basis.

16-5 PARKING, LOADING AND UNLOADING AREAS PERMITTED IN REQUIRED FRONT OR SIDE STREET SIDE YARD IN ZONES OTHER THAN RESIDENTIAL ZONES - In any zone other than a residential zone, or an industrial zone adjoining an Agricultural Rural (A-R), Agricultural Buffer (A-B) or Agricultural Natural (A-N) zone across a public or private street right-of-way, off-street parking, loading or unloading areas may be permitted within the required front or side street side yard if there is sufficient depth between the street right-of-way line and the building line or other barrier to accommodate all parking and maneuvering without the necessity of backing over the street right-of-way line. All portions of front yards and side street side yards, including driveways, shall be enclosed by a barrier or landscaped in accordance with the landscaping requirements for vehicular use areas set forth in Article 18 of this Zoning Ordinance.

16-6 SINGLE PARKING AREAS FOR MULTIPLE USES - The required off-street parking for any number of separate uses may be combined in one lot; but the off-street parking required by any use for the purposes of complying with this Zoning Ordinance shall not be counted, nor shall it be included in the off-street parking required for any other use unless specifically permitted herein.

16-7 JOINT USE OF PARKING AREAS - The Division of Building Inspection may, upon application by all parties involved, authorize the joint use of off-street parking facilities. Joint use of off-street parking shall be subject to the following limitations and conditions:

(a) Off-street parking areas required for detached single family and two family residential use shall not be included in any joint parking arrangement. For the purpose of this Article, residential uses shall be considered between the hours of 7 p.m. and 7 a.m..

(b) Up to one hundred percent (100%) of the off-street parking required for a church, or an auditorium incidental to a public or private school; and up to seventy-five percent (75%) of the off-street parking required for any other use may be provided by a joint parking arrangement.

(c) The joint parking area shall be within three hundred (300) feet of all of the uses being served by such facility, measured by the walking distance from the nearest point of the parking facility property to the nearest point of the property where the use is located and which the parking is intended to serve.

(d) The applicant shall submit sufficient data to the Division of Building Inspection to demonstrate that the normal and regular operating hours of the uses proposing a joint parking arrangement do not coincide or overlap by more than one (1) hour.

(e) All parties shall execute a properly drawn legal instrument for the joint use of off-street parking areas. This instrument, having been approved as to form and manner of execution by the legal counsel of the Lexington-Fayette Urban County Government, shall be filed with the application.

16-8 SPECIAL ACCESS, SURFACE, AND LOCATION REQUIREMENTS FOR GARAGES, PARKING LOTS, AUTOMOBILE SERVICE STATIONS, AND VEHICLE SALES LOTS
16-8(a) REQUIRED DISTANCE BETWEEN SERVICE STATIONS/GARAGES/AUTOMOBILE REPAIR SHOPS AND RESIDENTIAL ZONES AND/OR INSTITUTIONAL USES - No building, structure or premises intended or designed to be used as a community garage; an automobile repair shop; a service station; or a parking lot or structure, as the principal use on a property, shall be used, erected or altered, which has an entrance or exit for vehicles in the same block front and within two hundred (200) feet of the property boundary of any school; public playground; church; hospital; public library; convalescent, nursing or rest home or orphanage. No such entrance or exit, except for a community garage, shall be located within twenty (20) feet of any residential zone; nor shall any structure used for an automobile repair shop or service station, or any part of a parking lot or structure, be located within one hundred (100) feet of any property boundary line of any of the aforesaid public or institutional uses. "Parking lot," as used herein, does not include off-street parking areas as otherwise required for the public or institutional uses listed above.

16-8(b) REQUIRED DISTANCE BETWEEN GASOLINE / OIL DISPENSING FACILITIES AND RESIDENTIAL ZONES/USES - No gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within fifteen (15) feet of any right-of-way line, or within fifty (50) feet of a residential zone, except where such a pump, pit or appliance is within a completely enclosed building and distant at least fifteen (15) feet from any vehicular entrance or exit of such building. Notwithstanding the above provision, no gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within sixty-five (65) feet of a single family residential zone or within sixty-five (65) feet of a single family detached residential unit located in any residential zone. However, such 65-foot dimension shall not be applicable to the renovation, reconstruction, redevelopment, or construction of such a service station upon a tract used by such a facility within twelve (12) months prior to the application for a building permit. Except for gasoline service stations, no gasoline pump shall be permitted as an accessory use for another activity unless a site plan showing the following is submitted to, and approved by, the Division of Building Inspection:

1. A safe traffic flow pattern shall exist at all times for vehicles to be serviced with gas, including a safe entrance and exit to the service area, and a traffic flow lane not impeded by parked vehicles or other objects.

2. A safe traffic pattern shall exist for pedestrians to insure that pedestrian flow for other purposes is not routed by the gasoline pumps, thereby exposing such pedestrians to unnecessary hazards.

3. The gasoline pumps shall be operated only by employees of the activity; or if others are permitted to operate them, the facility must comply with Chapter 28 of the Kentucky Fire Prevention Code, specifically Section F-2803.8.2 and Section F-2803.8.3.

16-8(c) REQUIREMENTS FOR VEHICLE SALES LOTS - Every parcel of land hereafter used as an automobile, truck, mobile home, boat, trailer, or camper sales lot, or as an automobile service station shall be subject to the requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping and screening, and minimum yards and setbacks; and shall be considered, in the application thereof, as the equivalent of a parking area for more than five (5) vehicles, regardless of its size.

16-8(d) COMMUNITY GARAGES AS CONDITIONAL USES - Community garages permitted as a conditional use in a R-3 and R-4 zone shall not be within eighty (80) feet of any right-of-way line or in a R-3 zone be within twenty-five (25) feet of any other lot line; or in a R-4 zone be within twenty (20) feet of any lot line, except the rear lot line of an adjoining Professional Office, Business or Industrial zone.

16-9 STACKING AREA - For any use which utilizes a drive-in or drive-through window or service area, a vehicular stacking area shall be provided for a minimum of five (5) vehicles. Such vehicular stacking area shall not include any spaces located at the windows or service areas, shall be provided wholly on the property and shall not include any right-of-way. Where menu boards or other stopping points are utilized before moving to the window or service area, the vehicular stacking area shall not include the space at the stopping point nor the spaces between that stopping point and the window or service area. The vehicular stacking area shall be subject to all yard, paving, landscaping and other requirements of a vehicular use area, as contained in Article 18.

16-10 REDUCTIONS OF MINIMUM REQUIRED PARKING - All parking reductions shall apply only under the following circumstances:

1. Uses shall be limited to attached single family dwellings, multi-family dwellings or mixed use. Additionally, properties in the P-1 and B-1 zones, when located within the Infill & Redevelopment Area, will apply.

2. The Planning Commission must approve the specific proposed use of the property on a development plan.

3. The total maximum amount of parking reductions, including the on-street parking provision of the Mixed Use zones, shall not exceed a fifteen percent (15%) reduction of the otherwise required parking, unless the Board of Adjustment grants a parking variance allowable under Article 7.

16-10(a) ALLOWABLE BICYCLE REDUCTIONS - Sites having fifty (50) or more parking spaces may reduce the total minimum automobile parking space requirement by one (1) parking space for every one (1) bicycle space provided on a permanently constructed bicycle rack. The maximum
reduction of required parking spaces shall not be reduced less than five percent (5%) of the otherwise required amount. Only the provision of additional bicycle spaces shall count toward this reduction when a minimum bicycle space is required. Provision of bicycle spaces shall not count against the otherwise required minimum for the calculation of the maximum parking allowed.

16-10(b) ALLOWABLE TRANSIT STOP REDUCTIONS
- Sites located within 300 feet of a transit stop with a shelter may be allowed a ten percent (10%) reduction of the minimum required parking. Sites located within 300 feet of a transit stop without a shelter may be allowed a five percent (5%) reduction of the minimum required parking. If the site is located within 300 feet of more than one transit stop, the maximum reduction allowed will be ten percent (10%) for this specific parking reduction. Provision of a transit stop shall not count against the otherwise required minimum for the calculation of the maximum parking allowed.
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ARTICLE 17

SIGN REGULATIONS

17-1 INTENT - The intent of this Article is to provide sign standards and restrictions which allow for the legitimate needs for identification of agricultural, residential, professional office, business, and industrial activities while at the same time promoting signage which does not unduly detract from the overall aesthetics of the community; which reduces intrusions and protects property values; which provides for improved public safety by minimizing the undue distraction of the motoring public; which provides for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; which is equitably provided in terms of the nature and scale of the activities to be identified and of non-conforming signs; and which generally enhances and strengthens the economic stability of Lexington-Fayette Urban County.

17-2 SCOPE - The provisions of this Article shall apply to the display, construction, erection, alteration, use, location, and maintenance of all signs within Lexington-Fayette Urban County, and it shall be unlawful hereafter to display, construct, erect, alter, use or maintain any sign except in conformance with provisions of this Article.

Furthermore, it shall be unlawful to alter, maintain, enlarge, use, or display any sign erected or constructed prior to the enactment of this Article except in conformance with this Article. Except as specifically provided, the following shall be exempt from the provisions of this Article:

(a) Signs which are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way.

(b) Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic or for other regulatory purposes, or to identify streets, or to warn of danger. Identification or bulletin board signs accessory to governmental buildings or other facilities shall not be exempt from the provisions of this Article.

(c) The flag, pennant, or insignia of any nation, organization of nations, state, county or city, any religious, civic or fraternal organization, or any educational institution; except when such are used in connection with a commercial promotion or as an advertising device.

(d) Works of fine art not containing a commercial message and which in no way depict a trademark, logo or phrase meant to represent, identify or advertise a specific product or business.

(e) Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday or celebration.

(f) Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines, and similar devices.

(g) Merchandise, pictures, or models of products or services which are incorporated as an integral part of a window display.

(h) Signs displayed on trucks, buses, trailers or other vehicles which are being operated in the normal course of a business, such as signs indicating the name of the owner or business which are affixed or painted onto moving vans, delivery trucks, contractors' vehicles and equipment, rental trucks and trailers, and the like; provided that such signs are clearly incidental to the use of the vehicle in conjunction with a bona fide business and are not for the purpose of display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles, and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent feasible.

17-3 DEFINITIONS - The following definitions unique to this Article are listed below. The terms to be defined have been grouped according to the specific aspects of sign control to which they pertain in order to provide a clearer understanding of the regulations contained later in this Article.

17-3(a) SIGN - Any writing, pictorial representation, form, emblem, trademark, flag, banner, decoration (including material used to differentiate the sign copy from the background) or any figure which is written, printed, projected, painted, constructed, or otherwise displayed upon or designed into a building, board, plate, canopy, awning, window, vehicle, or upon any object or device which by reason of its form, color, wording, symbol, design, illumination, motion or other characteristic is designed to
attract attention to the subject thereof or is used as a means of identification, advertisement, announcement, or of illustrating products.

17-3(b) BASIC SIGN TYPES BY FUNCTION - The following categories of signs are hereby defined based upon the nature of the information they are intended to provide:

(1) ADVERTISING SIGN - A sign which directs attention to a business, product, service or activity generally conducted, sold or offered elsewhere than on the premises where such sign is located.

(2) ATTRACTION BOARD - A sign which contains no permanent copy, either letters or emblems, on which copy is changed manually with changeable letters and which announces special activities on the property.

(3) BULLETIN BOARD - A sign which allows the manual changing of the copy material and is used to notify the public of non-commercial events or occurrences such as church services, political rallies, civic meetings or similar events.

(4) BUSINESS SIGN - A sign which directs attention to a business, profession, product, activity, or entertainment, sold or offered upon the premises where such sign is located, and may include information as for an identification sign.

(5) CONSTRUCTION SIGN - A temporary sign identifying the project name, the architect, engineer, contractor, financing company, material supplier, or others engaged in work on the construction site on which the sign is located. Leasing information, renderings and similar copy shall also be permitted.

(6) DIRECTIONAL SIGN - A non-commercial sign of an instructional nature, such as "parking," "exit" or "entrance," displayed solely for the convenience of the public, no more than twenty-five percent (25%) of such sign being devoted to the name or logo of the property, business or profession on the site and containing no business advertising, or product trade name identification or listing of any product sold or offered on the premises.

(7) DISTRICT IDENTIFICATION SIGN - Any type of sign or other graphic, located on public or private property, which establishes the identity of a unique and distinct community district by way of its size, configuration, height, location or message; and which has no direct advertising value for any specific business, product or service.

(8) GOVERNMENT SIGN - A temporary or permanent sign erected by any government body for traffic direction, or for designation or direction to any school, hospital, park, historic site or other service, property or facility; provided that such signs not contain business advertising of any kind.

(9) HISTORIC MARKER - A sign or emblem which commemorates or identifies an event, past ownership of property, or age of a building.

(10) INCIDENTAL SIGN - A small sign, not exceeding two (2) square feet each, limited to information and directions related to the permitted use on the lot or building on which the sign is located, and containing no direct illumination as defined in this Article. Examples of incidental signs would include "no smoking," "restroom," "no solicitors," "no trespassing," "self service," "vacancy," credit card acceptance signs, signs indicating hours of business, and similar information.

(11) IDENTIFICATION SIGN - A sign which establishes the identity of a building or building complex by name or symbol or combines name, street address, and/or management and has no direct advertising value.

(12) INFORMATIONAL SIGN - A sign whose copy gives only the time, temperature and/or date through an electronic message display system or by mechanical means (including clocks and thermometers), and provides no advertising of any product or business activity.

(13) LANDMARK SIGN - Any type of sign or other graphic that helps to create a unique location by way of its size, configuration, height, location or message and exhibits distinctive stylistic features.

(14) MENU BOARD - A free-standing or wall-mounted sign primarily designed for the display of menu items and prices for the purpose of placing orders for such items in conjunction with a restaurant utilizing drive-through service.

(15) MENU BOX - A wall-mounted sign, primarily designed for the display of menu items and prices in conjunction with a restaurant.

(16) NAMEPLATE - A wall sign which gives only the name, address, and/or occupation of the occupant(s) of the building on which it is located.

(17) POLITICAL SIGN - A temporary sign supporting the candidacy for office or urging action on any other matter on the ballot of a state, local or national election or referendum.

(18) REAL ESTATE SIGN - A temporary sign indicating only sale, lease or rental of property or buildings on which
the sign is erected.

(19) TEMPORARY SIGN - Any sign or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood, or other light materials, with or without frames, and/or intended to be displayed for a limited period of time only.

(20) TRACT SIGN - A temporary sign advertising the original sale of property in a subdivision.

(21) A-FRAME or SANDWICH BOARD - A free-standing, movable sign, not secured or attached to the ground or any building or structure, composed of a sign panel and supporting structure or one or more panels which form both the structure and sign face, and which is intended to be placed in a sidewalk or pedestrian way. A-frame signs shall not include trailer signs with or without wheels affixed.

17-3(c) SIGN TYPES BY MEANS OF MOUNTING OR ERECTING - The following categories of signs are hereby defined primarily by the means of mounting or erecting and locational placement upon a building or premises:

(1) AWNING SIGN - A sign painted on or printed on, or attached flat against, the surface of an awning. As used in this Article, awning shall be defined as a shelter supported entirely from an exterior wall of a building consisting of cloth or other similar non-rigid material supported by a frame.

(2) UNDER-AWNING OR UNDER-CANOPY SIGN - A small sign, limited to four (4) square feet, attached to and suspended from the underside of a canopy or awning and having a clearance of not less than eight (8) feet.

(3) CANOPY SIGN - A sign painted, printed or attached flat against a surface of a canopy. As used in this Article, canopy shall be defined as a permanently roofed shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

(4) ABOVE-CANOPY SIGN - A sign mounted to the top edge of the roof of a canopy, constructed of metal or similar rigid and solid materials, that projects vertically from the canopy to form the free-standing letters or graphics of the sign.

(5) FREE-STANDING SIGN - A sign, not attached to any building, and attached to the ground by poles, braces, or other means.

(6) MARQUEE - A sign used in conjunction with a theater which is attached to, and supported by, the building and generally projects from the building; and, which in addition to permanent copy, may allow for changeable letters.

(7) MOBILE SIGN - A mobile sign is a sign that is affixed to a frame having wheels or is capable of being carried, or otherwise portable; does not have a permanent foundation; cannot withstand the stress and wind loads of the Building Code; and is designed to stand free from a building or other structure. Signs designed to be affixed to the surface of real estate shall be deemed free standing signs and not mobile signs, but the mere removal of wheels or temporary securing of a sign to the surface of real estate shall not prevent its being a mobile sign within this definition.

(8) MONUMENT SIGN - A free standing sign where the length of the base of the sign is a minimum of 75 percent (75%) of the length of the longest part of the sign.

(9) PROJECTING SIGN - A sign which is attached directly to a canopy, marquee, or wall of a building and which extends horizontally outward from such canopy, marquee or wall more than twenty-four (24) inches.

(10) ROOF SIGN - A sign which projects above the cornice of a flat roof, or above the top edge of any roof, including the ridge line of a gabled or hipped roof. Such top edge shall not include any cupolas, pylons, chimneys or other minor projections above the roof line.

(11) WALL-MOUNTED SIGN - A sign attached parallel to and extending not more than twenty-four (24) inches from the wall of the building; and includes painted, individual letter and cabinet signs, signs on a mansard, or on a parapet not exceeding six (6) feet in height; and provided the parapet extends on at least three sides of a building and signs erected on or against the side of a roof but not projecting above the roof line. No copy shall be permitted to be displayed on the sides of the sign which are perpendicular to the wall face.

(12) PAINTED SIGN - Any sign which is applied with paint or similar substance directly to a wall or other surface. Any painted sign shall be subject to the regulations of the zone in which it is located.

(13) WINDOW SIGN - A sign which is painted on, or applied or attached to, the interior of a window or located within three (3) feet of the interior of a window, and which can be seen through the window from the exterior of the structure. Merchandise which is included in a window display shall not be included as a part of a window sign.
17-3(d) SIGN TYPES BY DESIGN FEATURES - The following categories of signs are hereby defined primarily by certain design features of the sign itself:

(1) NON-ILLUMINATED SIGN - A sign which does not emit or reflect artificial light from any source, either directly or indirectly.

(2) ILLUMINATED SIGN - A sign which emits or reflects, either directly or indirectly, artificial light from any source:
   (a) DIRECTLY ILLUMINATED SIGN - A sign which is lighted by means of an unshielded light source (including neon tubing) which is visible as a part of the sign and where light travels directly from the source to the viewer's eye.
   (b) INDIRECTLY ILLUMINATED SIGN - A sign whose light source is so situated as to project light onto the exterior or front of the sign surface, or to project light onto the building facade where the sign is located.
   (c) INTERNALLY ILLUMINATED SIGN - A sign whose light source is within the sign, with the sign having a transparent or translucent background or cover which silhouettes opaque or translucent letters or designs.

(3) ROTATING OR MOVING SIGN - A sign, any portion of which moves by mechanical means, motion of the wind or other means. Such motion does not refer to methods of changing copy used on an electronic message display system.

(4) FLASHING OR BLINKING SIGN - A sign, the illumination of which is not kept constant and which contains an intermittent or sequential flashing light source for the purpose of either attracting attention to the sign or as a method of changing copy.

(5) ELECTRONIC MESSAGE DISPLAY SYSTEM - A sign with copy or images which includes, but is not limited to reflective disc, direct illumination, rotating veins, light emitting diodes (L.E.D.'s), or liquid crystal diodes (L.C.D.'s), and is controlled by means of a central computer or video control system and which has no audible sound.

17-3(e) OTHER SIGN TYPES AND DEFINITIONS - The following phrases are hereby defined for the purposes of this Article:

(1) ABANDONED SIGN - A sign and/or supporting structure which no longer identifies a business conducted or product sold on the premises; any advertising sign which no longer directs attention to a bona fide business conducted, product sold, or activity or campaign being conducted or for which no legal owner can be found. A sign shall be deemed as abandoned when the conditions described above have been in evidence for a period exceeding one hundred eighty (180) days. For the purposes of this definition, an advertising sign shall not be deemed abandoned solely because the sign has contained no copy for a period exceeding one hundred eighty (180) days.

(2) AREA OF A SIGN - Shall be defined and computed as follows:
   (a) FREE-STANDING OR PROJECTING SIGNS:
      (1) Any double-faced sign shall have only one face, the largest, counted in calculating the area.
      (2) Any sign with three or more sign faces shall have the area calculated by summing the area of the sign faces and dividing by two.
      (3) Any sign that is considered 3-dimensional in shape shall have the area calculated by projecting the sign onto a vertical plane and summing the area of the sign face for all sides of the sign designed to attract attention or to communicate information that can be seen at any one time by a person from one vantage point.
      (4) If the sign is composed of one or two individual cabinets, the area around and enclosing the perimeter of each cabinet or module shall be summed and totaled to determine the area. The perimeter of the measurable area shall not include embellishments such as pole covers; framing; decorative roofing; etc., provided there is no written copy on such embellishments and such embellishments are clearly incidental to the sign itself.
      (5) If the sign is composed of more than two sign cabinets, or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single contiguous geometric figure shall be the area of the sign. The measurable area shall not include embellishments such as pole covers; framing; decorative roofing; etc., provided there is no written copy on such embellishments and such embellishments are...
clearly incidental to the sign itself.

(b) **WALL SIGNS** - The area shall be within a single continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the copy, including vertical and horizontal spacing between individual letters, logos, etc.

(3) **BANNER SIGN, PENNANT OR STREAMER** - An identification sign, a temporary sign or a business sign made of durable fabric only, and not made of wood, metal or soft or hard plastic, having no enclosing framework. Such banner sign, pennant or streamer may be non-illuminated or indirectly illuminated only.

(4) **CLEARANCE OF A SIGN** - The least vertical distance between the lowest point of any sign, including the framework, and the established grade at the sign.

(5) **HEIGHT OF A SIGN** - The vertical distance measured from the highest point of the sign, including the frame and any embellishments and the established grade at the adjacent street.

(6) **FACE OF A SIGN** - The vertical area of the sign on which the copy is placed.

(7) **COPY** - Any word, letter, number, or emblem affixed to the sign surface, either permanently or in removable form.

(8) **DOUBLE-FACED SIGN** - A sign with two faces either set parallel or up to a forty-five degree (45°) angle. Any two sign faces set at an angle greater than forty-five degrees (45°) shall be considered two separate signs.

(9) **ILLEGAL SIGN** - A sign which does not meet the requirements of this Zoning Ordinance and which is not non-conforming.

(10) **NON-CONFORMING SIGN** - A sign which was legally erected, but which does not comply with the adopted sign regulations of this Zoning Ordinance for the zone in which it is located.

(11) **SETBACK OF A SIGN** - The horizontal distance between any street right-of-way and a free-standing sign and/or its supporting structure. The measurement shall be taken at the closest point proximity between the right-of-way and any part of the sign or structure.

(12) **BUILDING FRONTAGE** - The horizontal, linear dimension of that side of a building which abuts a street, parking area, or other unenclosed circulation area open to the general public. Where more than one use occupies a building, the building frontage shall be the front width of the portion of the building occupied by that use.

(13) **STREET FRONTAGE** - The linear distance between the lot lines measured along the abutting public or private street.

### 17-4 GENERAL PROVISIONS

**17-4(a) PERMIT REQUIREMENTS** - No sign, except as specifically exempted herein, shall be displayed, erected, relocated or altered unless and until a permit has been issued by the Division of Building Inspection. Application materials shall be as required by the Division of Building Inspection, and shall include, but shall not be limited to the following:

(1) A completed application form.

(2) A site plan and/or building elevation drawing, showing the location of the proposed sign(s) on the lot and/or building, including setbacks.

(3) Detailed sign information, including type of construction, method of illumination, dimensions, copy, method of mounting and/or erecting and other similar information.

(4) The written consent of the owner of the underlying real property or authorized agent.

(5) A permit fee in an amount determined by the Urban County Council.

The Division of Building Inspection shall maintain written records of all permits issued or formally denied and any conditions attached to approval of such permit requests. Signs may be erected or constructed only in compliance with the approved permit.

**17-4(b) ENFORCEMENT** – Except as provided herein, the Division of Building Inspection shall enforce the provisions of this Article and shall utilize its powers to ensure compliance with its provisions and the provisions of any approved permit. The Division shall maintain written records of any enforcement actions taken. The Division of Code Enforcement shall also have enforcement authority as to the provisions of Sections 17-4(g) and (j) below, and shall maintain written records of any enforcement actions taken.

**17-4(c) SIGNS EXEMPT FROM PERMIT REQUIREMENTS** - The following signs shall not require a permit. However, such signs are subject to applicable restrictions contained within this Article, and the Division of Building Inspection shall take enforcement action against any such
sign which does not conform to the specified requirements.

(1) Political Signs;
(2) Nameplates;
(3) Government Signs;
(4) Real Estate Signs;
(5) Incidental Signs;
(6) Window Signs; and
(7) The changing of copy on a billboard, attraction board, marquee, informational sign, or electronic message display system.

17-4(d) REMOVAL OF REAL ESTATE SIGNS  - All real estate and tract signs shall be removed within ten (10) days after completion of the sales, rental or lease activities in connection with the property or tract to which they pertain.

17-4(e) ILLUMINATED SIGNS NEAR RESIDENTIAL ZONES  - Illuminated signs shall be located in a fashion which minimizes, to the greatest feasible extent, the direct rays of such illumination penetrating into any residential zone or property used for residential purposes.

17-4(f) IMITATION OF OFFICIAL SIGNAGE  - No light, sign or other advertising device shall be designed or erected in such a manner or location as to imitate or resemble any official traffic sign, signal or device or use any words, phrases, symbols or characters implying the existence of danger, or the need to stop or maneuver the vehicle.

17-4(g) SIGNS ON TREES, UTILITY POLES OR OTHER STRUCTURES  - No sign shall be attached to or painted on the surface of any tree, utility pole, street light standard, or dilapidated structure.

17-4(h) LIGHTING ON INDIRECTLY ILLUMINATED SIGNS  - Gooseneck and thin line reflectors and lighting shall be permitted on indirectly illuminated signs, provided such do not extend six (6) feet beyond the sign structure to which they are attached and such illumination is directed upon the sign in such a fashion as to reduce the possibility of direct light rays shining onto any adjacent property or public way.

17-4(i) NEON SIGNS  - Neon lighting and tubing and other exposed light sources not exceeding one hundred (100) watts per bulb may be used on signs where signs are permitted to be directly illuminated as defined in this Article.

17-4(j) SIGNS WITHIN SIGHT TRIANGLES  - No sign (except for government signs), may be located within the required sight triangle of any intersection, nor within or projecting into the public or private street right-of-way, except as specifically permitted herein.

17-4(k) SIGNS FOR NON-CONFORMING USES  - Signs accessory to legal non-conforming uses shall be permitted and shall be subject to the regulations of the zone in which the use is located.

17-4(l) LOCATION OF ALLOWABLE SIGNAGE BASED ON STREET FRONTAGE  - Where signs are permitted on a lot on a per frontage basis under this Article, such signs shall be located and oriented to the distinct street frontage by which the sign is permitted. In addition, for free standing signs permitted on a lot on a per frontage basis, the signs on that lot may not be closer than seventy-five (75) feet from each other as measured in a straight line.

17-4(m) SIGNS AS A PERCENTAGE OF WALL AREA  - Where wall signs are permitted as a percentage of the wall area to which they are attached, such wall area shall include all windows, doors, and wall area of the building in one plane of elevation. Where the building or wall face is broken or irregular in relation to a single vertical plane perpendicular to the ground (by such architectural features as dormers, pitched roofs, awnings, etc.), the requirements may be applied in one of two ways:

(1) The total building face may be considered as one two-dimensional wall, and number of signs permitted and maximum area requirements applied on that basis.

(2) Where each individual plane created by the architectural feature projects or is recessed by twelve (12) inches or more, each plane may be considered as a separate wall, and number of signs permitted and maximum area requirements applied on that basis. However, the total square footage of the permitted signs shall not exceed the square footage permitted under 17-4(m)(1) above, and no sign shall be oriented in a direction other than that of the building face under consideration.

17-4(n) INCIDENTAL SIGNS  - No incidental sign shall be attached to a free standing advertising sign, business sign, identification sign or directional sign.

17-4(o) CANOPY SIGNS AS PART OF ALLOWABLE WALL SIGNAGE  - Canopy signs shall be counted as a part of and limited to the percentage allowable for wall signs. The height of canopy signs shall not exceed twenty (20) feet. For any case where the vertical dimension of the canopy face exceeds three (3) feet, only three (3) feet of the vertical dimension shall be used for computing the area of such facing, and any sign or sign cabinet permitted shall have a maximum vertical dimension of three (3) feet.

17-4(p) SIGNAGE FOR MULTIPLE USES  - Where more than one use occupies a building, the permitted sign area
shall be based on the building frontage or wall area, as applicable, of that use.

17-4(q) PERMITTED SIGN AREA BASED ON FRONTAGE - Street or building frontage used as a basis of determining permitted sign area for a building or use shall not be used as the basis for determining the permitted sign area for another building or use.

17-5 PROHIBITED SIGNS IN ALL ZONES - The following signs and/or sign features shall be prohibited in all zones.

(a) Mobile Signs.

(b) Roof Signs.

(c) Flashing or Blinking Signs, except for permitted informational signs.

(d) Rotating or Moving Signs.

(e) Abandoned Signs.

(f) Streamers, pennants and tag signs or similar signs or devices made of wood, plastic, metal, or similar material, other than cloth, except when attached to a permitted temporary sign.

(g) Any sign which emits any noise, odor or visible matter for the purpose of attracting attention to the sign.

(h) Any free-standing sign, any portion of which overhangs any part of a building.

17-6 PERMITTED SIGNS IN ALL ZONES - The following signs shall be permitted within all zones, subject to the restrictions specified:

(a) Government signs with no restrictions on size, number or location.

(b) Political signs, not exceeding four (4) square feet in area, limited to one sign per street frontage; and erected no earlier than thirty (30) days prior to the election they pertain to; and removed within five (5) days after such election.

(c) Real estate signs, limited to one (1) sign per street frontage, and further regulated as follows:

(1) When associated with agricultural or residential (other than a Group Residential Project) use of the property, such sign area shall not exceed six (6) square feet in area and six (6) feet in height. Such sign shall be non-illuminated.

(2) When associated with business, commercial or industrial use of the property, a mixed-use development, or a Group Residential Project, such sign area shall not exceed thirty-two (32) square feet in area and ten (10) feet in height; except such a sign may be permitted up to, but shall not exceed, sixty-four (64) square feet in area when:

(a) the building to which such a sign pertains contains 100,000 or more square feet, or

(b) the site to which such a sign pertains contains two (2) or more acres.

Such sign shall be non-illuminated or indirectly illuminated.

(3) When associated with vacant property where no structure exists other than for an agricultural use or in an agricultural zone, such sign area shall not exceed sixteen (16) square feet in area and six (6) feet in height. Such sign shall be non-illuminated.

(d) Construction signs, not exceeding sixty-four (64) square feet, limited to one per street frontage in multi-family residential, office, business, and industrial zones; or where one sign is to be utilized, the permitted sign area may be totaled by summing the square footage permitted on each street frontage. In agricultural, single family and two-family zones, construction signs shall not exceed thirty-two (32) square feet and shall be limited to one per street frontage. All construction signs shall be non-illuminated or indirectly illuminated and shall be removed prior to issuance of an occupancy permit for the structure to which they pertain.

(e) Tract signs, set back from any street as required for a principal structure within the zone; non-illuminated, and further regulated as follows:

(1) Where the subdivision contains twenty-five (25) lots or less, the sign area shall not exceed sixty-four (64) square feet.

(2) Where the subdivision contains more than twenty-five (25) lots, the sign area shall not exceed one hundred (100) square feet.

(3) Each subdivision shall be permitted one (1) tract sign per arterial or collector street frontage, provided the total number of signs shall not exceed four (4) signs.

(f) Incidental Signs.
(g) Temporary signs, not specifically otherwise regulated, in accordance with the following conditions:

(1) Such signs shall be limited to window or wall signs only; shall not exceed one hundred (100) square feet in surface area per use where non-rigid materials are used; and shall not exceed thirty-two (32) square feet per use where rigid materials such as wallboard or plywood are utilized; and shall comply with the applicable regulations for the zone in which they are located.

(2) Such signs shall not remain in place for a period of more than thirty (30) days; except that the Division of Building Inspection may, for good cause, extend the time period for an additional 30 days upon application therefore. In addition, no use shall be permitted to display a temporary sign for more than a total of one hundred fifty (150) days during any calendar year.

(h) Historic markers not exceeding six (6) square feet in area, limited to one sign per street frontage.

(i) Landmark and district identification signs may be permitted with the approval of the Commissioner of Public Works and Development (or designee) and a four-member sign review committee established by the Mayor. In addition to the Commissioner of Public Works and Development, the committee shall consist of at least one (1) architect, licensed in the Commonwealth of Kentucky, and at least one (1) building inspector from the Division of Building Inspection. Any such signs shall meet all applicable Kentucky Building Code and Kentucky Fire Safety Code requirements.

A landmark or district identification sign shall be evaluated by the sign review committee, based on the following criteria:

(1) The sign exhibits distinctive stylistic features and an unusual use of material in the design.

(2) The sign is an example of artistic design and skilled craftsmanship.

(3) The sign is a significant part of the architectural or cultural history of the community.

(j) Temporary signs related to events that are sponsored by neighborhood associations or owners’ associations that are located within the public or private street right-of-way of that neighborhood, and that do not otherwise interfere with sight in violation of Section 17-4(j). There shall not be more than ten (10) signs for any such event, and each such sign shall not exceed six (6) square feet in area and six (6) feet in height; shall not be displayed more than seven (7) calendar days prior to the event; and must be removed within two (2) calendar days after the event.

17-7 PERMITTED SIGNS BY ZONE - The following sign regulations shall be applicable within the zoning categories indicated. Any sign not specifically permitted shall be deemed as prohibited.

17-7(a) AGRICULTURAL ZONES (A-R, A-U, A-B and A-N) - Permitted signs within these zones may be either free standing or wall mounted unless otherwise specified; no free standing sign may exceed ten (10) feet in height; signs shall be either non-illuminated or indirectly illuminated unless otherwise specified.

(1) One nameplate per residence or other permitted use, not exceeding one (1) square foot in area.

(2) One identification sign for a permitted home occupation, or a bed and breakfast facility permitted as a conditional use, not exceeding two (2) square feet in area.

(3) One identification sign for a farm or estate, not exceeding ten (10) square feet.

(4) One identification sign for any permitted use not otherwise specifically provided for, not exceeding thirty-two (32) square feet in area.

(5) One identification sign for a permitted church or school for academic instruction, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing; in addition, one bulletin board not exceeding twelve (12) square feet in area and eight (8) feet in height.

(6) One non-illuminated business sign advertising agricultural products grown or raised on the premises, not exceeding thirty-two (32) square feet in area.

(7) For farms utilizing more than one point of access, one non-illuminated or indirectly illuminated sign per entrance, indicating the name of the farm and directional information, as necessary to provide information as to the particular farm activity which must be served by only that point of access; not to exceed ten (10) square feet in area; maximum height of ten (10) feet.

(8) Subdivision entrance identification signs of permanent construction, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; no more than two per entrance; not more than two
entrances to be identified. Such signs may be located in the right-of-way (in the median or at each side of the street) subject to written authorization of the Commissioner of Public Works, who shall determine that the signs would not be located in the sight triangle and would not cause a hazard to traffic. Proof of permanent maintenance and an encroachment permit shall be provided by the applicant prior to the issuance of a permit for a subdivision entrance identification sign located in the right-of-way.

17-7(b) LOW DENSITY RESIDENTIAL ZONES (R-1 [A THROUGH E], R-1T, R-2) - Permitted signs within these zones shall be wall signs unless otherwise specified; signs shall be either non-illuminated or indirectly illuminated. Minimum setback for any free standing sign permitted under this section shall be one-half (½) the minimum front yard requirement for the zone in which the sign is to be located; and no less than ten (10) feet in any case.

   (1) One nameplate per residence or other permitted use, not exceeding one (1) square foot in area.

   (2) One identification sign for a permitted home occupation, not exceeding two (2) square feet in area.

   (3) One identification sign, for a farm or estate exceeding five (5) acres in size, free standing or wall mounted; not exceeding ten (10) square feet in area; not exceeding ten (10) feet in height if free-standing.

   (4) One identification sign for a permitted kindergarten, nursery school, day nursery, or child care center, wall mounted not more than seven (7) feet above ground level; not exceeding two (2) square feet in area.

   (5) One identification sign for a permitted church or school for academic instruction, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing; in addition, one bulletin board, free standing or wall mounted, not exceeding twelve (12) square feet in area and eight (8) feet in height.

   (6) One identification sign for any permitted use not otherwise specifically provided for, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing.

   (7) Subdivision entrance identification signs of permanent construction, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding six (6) feet in height if free standing; no more than two per entrance; not more than two entrances to be identified, or not more than four entrances to be identified when all such signs are oriented to an intersection with an arterial, collector, boulevard or parkway. Such signs may be located in the right-of-way (in the median or at each side of the street) subject to written authorization of the Commissioner of Public Works, who shall determine that the signs would not be located in the sight triangle and would not cause a hazard to traffic. Proof of permanent maintenance and an encroachment permit shall be provided by the applicant prior to the issuance of a permit for a subdivision entrance identification sign located in the right-of-way.

   (8) For a Group Residential Project within the R-1T zone only, one non-illuminated directional sign per entrance, not exceeding three (3) square feet in area; and not exceeding three (3) feet in height if free standing; not to exceed four (4) signs per Group Residential Project.

   (9) One identification sign for a bed and breakfast facility permitted as a conditional use, free standing or wall mounted; not exceeding two (2) square feet in area; not exceeding six (6) feet in height if free standing.

17-7(c) HIGH DENSITY RESIDENTIAL ZONES (R-3 & R-4) - Permitted signs within these zones shall be free standing or wall mounted as specifically noted; signs shall be either non-illuminated or indirectly illuminated.

   (1) Signs as permitted and regulated under Section 17-7(b) above.

   (2) One identification sign for a multi-family residential building containing four (4) or more dwelling units and not located within a Group Residential Project, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing; minimum setback of at least twenty (20) feet.

   (3) Identification sign(s) for a Group Residential Project, one sign per street frontage, with a maximum of two (2) signs; free standing or wall mounted; not exceeding thirty-two (32) square feet in area per sign; not exceeding eight (8) feet in height if free standing; minimum setback of at least twenty (20) feet.
(4) Pole-banner signs shall be permitted only if displayed in a parking area approved as a conditional use to be accessory to a mixed-use project, and subject to the following restrictions:

(a) Banner signs shall be a maximum size of two (2) feet by four (4) feet, and there shall be no more than two (2) per pole.

(b) Banner signs may not advertise a specific business or products, goods or services.

(c) Pole-mounted banners shall be permitted on light fixtures in parking areas located outside the public right-of-way.

(d) Banner poles shall be spaced to be no closer than forty-five (45) feet from each other.

(e) The total number of pole-mounted banner signs shall be limited to one (1) for every 3,000 square feet of parking area.

(f) All pole-mounted banner signs shall provide a minimum of eight (8) feet of vertical clearance, and may not encroach into the right-of-way.

17-7(d) HIGH-RISE APARTMENT ZONE (R-5)
- Permitted signs within this zone shall be free standing or wall mounted, as specifically noted; signs shall be non-illuminated, indirectly illuminated, or internally illuminated unless otherwise specified. No free-standing sign shall exceed ten (10) feet in height.

(1) Identification or Business signs, limited to one free-standing sign per building and one wall-mounted sign per street frontage, with a maximum of two such wall-mounted signs per building; free-standing sign not to exceed forty (40) square feet in area; wall-mounted sign not to exceed five percent (5%) of the wall area to which it is attached; minimum setback of ten (10) feet for a free-standing identification sign.

(Note: Where a free-standing sign is not utilized on a lot with only one street frontage, a second wall-mounted sign on a different building face shall be permitted as regulated above in place of the permitted free-standing sign.)

(2) One nameplate per tenant or lessee, not exceeding two (2) square feet in area; non-illuminated or indirectly illuminated only.

(3) Informational signs, not exceeding twenty (20) square feet. Such signs shall be included in the computation for maximum square footage specified under 17-7(e)(1) above, and shall be free standing only when included as a part of a permitted free-standing identification sign.

(4) Directional signs not exceeding three (3) square feet in area; not exceeding three (3) feet in height if free standing; not to exceed two (2) signs per entrance.

(5) One attraction board, wall mounted or attached to the permitted free-standing identification sign, the area of the attraction board to be included in the maximum permitted sign area.

(6) In addition, and within a designated Professional Office Project only:
(a) One project identification sign, free standing or wall mounted; not exceeding one hundred (100) square feet in area.

(b) One identification sign, wall mounted; not exceeding fifteen (15) square feet in area for a restaurant, cocktail lounge or night club.

c) Project entrance identification signs of permanent construction, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height; and no more than two per entrance. Such signs may be located in the right-of-way (in the median or at each side of the street), subject to written authorization of the Commissioner of Public Works, who shall determine that the signs would not be located in the sight triangle and would not cause a hazard to traffic. Proof of permanent maintenance and an encroachment permit shall be provided by the applicant prior to the issuance of a permit for a subdivision entrance identification sign located in the right-of-way.

17-7(f) NEIGHBORHOOD BUSINESS ZONE (B-1) - Permitted signs may be free standing or wall mounted as specified; signs shall be non-illuminated, indirectly illuminated, or internally illuminated unless specified otherwise. No free-standing sign shall exceed twenty (20) feet in height.

   (1) Business signs shall be permitted as follows:

   (a) The total surface area of business signs shall not exceed one and one-half (1½) square feet per linear foot of street or building frontage, whichever is greater; or thirty-two (32) square feet, whichever is greater.

   (b) One free-standing business sign shall be permitted per street frontage, with a maximum of two (2) free-standing signs; not exceeding fifty (50) square feet per sign; minimum setback one-half the setback required for a principal building, but not less than ten (10) feet in any case.

   (c) One projecting business sign not exceeding fifty (50) square feet in area, not exceeding twelve (12) feet in height, and only directly or indirectly illuminated, shall be permitted in lieu of all free-standing business signage, as permitted herein, under the following circumstances:

   (1) the parcel on which the sign is placed is located within the defined Infill and Redevelopment Area; and

   (2) the existing principal structure on the parcel is located ten (10) feet or less from the front property line.

   (d) The surface area of a wall-mounted business sign shall not exceed fifteen percent (15%) of the wall area to which it is attached or thirty-two (32) square feet, whichever is greater, each wall to be considered separately. Only one business sign shall be permitted per wall. In the case of a building containing two or more separate business uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual business tenant.

   (e) Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area, and direct illumination shall be permitted.

   (f) Canopy or awning signs (including above-canopy signs) shall be permitted and included in the computation of the maximum permitted sign area and limited to the percentage allowable for wall signs. Under-canopy or under-awning signs shall be permitted and limited to identification signs.

   (2) In conjunction with an indoor theater, one marquee, not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one attraction board attached to one free-standing business sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area.

   (Note: Where an attraction board attached to a free-standing business sign is not utilized, a second marquee, mounted on a different building face, shall be permitted as regulated above.)

   (3) One attraction board, wall mounted or attached to a permitted free-standing business sign; the area of the attraction board to be included in the maximum
(4) Directional signs not exceeding three (3) square feet in area, not exceeding three (3) feet in height; if free standing not to exceed two (2) signs per entrance.

(5) One nameplate per tenant or lessee, not exceeding two (2) square feet in area; non-illuminated or indirectly illuminated.

(6) Informational signs, not exceeding twenty (20) square feet. Such signs shall be included in the computation for maximum square footage specified under 17-7(f)(1) above, and shall be free standing only when included as a part of a permitted free-standing identification sign.

(7) One menu board per restaurant use or one menu board per drive-through lane. All copy (including any logos, restaurant name, etc.) shall have a maximum letter height and width of six (6) inches, containing no direct illumination; not exceeding forty-five (45) square feet in area; maximum height of eight (8) feet if free standing; and not located so as to have the copy visible to vehicular traffic on any adjacent street.

(8) One menu box per restaurant use, not exceeding four (4) square feet.

17-7(g) HIGHWAY SERVICE BUSINESS, WAREHOUSE / WHOLESALE, AND INDUSTRIAL ZONES (B-3, B-4, I-1, I-2) - Permitted signs may be free standing or wall mounted as specified; signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise; no free-standing business sign shall exceed twenty-five (25) feet in height; no free-standing advertising sign shall exceed forty (40) feet in height.

(1) Business signs shall be permitted as follows:

(a) The total surface area of business signs shall not exceed two (2) square feet per linear foot of street or building frontage, whichever is greater, or thirty-two (32) square feet, whichever is greater.

(b) One free-standing business sign per lot shall be permitted per street frontage, with a maximum of two (2) free-standing signs; not exceeding seventy-five (75) square feet per sign; minimum setback shall be one-half (½) the setback required for a principal building, but not less than ten (10) feet in any case.

(c) The surface area of wall-mounted business sign(s) shall not exceed fifteen percent (15%) of the wall area to which it is attached or thirty-two (32) square feet, whichever is greater, each wall to be considered separately. Only one business sign shall be permitted per wall. In the case of a building containing two or more separate business uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual business tenant.

(d) Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area.

(2) Nameplates, directional signs, informational signs and signs on or under a canopy or awning shall be permitted as regulated in the B-1 zone.

(3) In conjunction with an indoor theater: one marquee, not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one attraction board attached to one free-standing business sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area.

(Note: Where an attraction board attached to a free-standing business sign is not utilized, a second marquee, mounted on a different building face, shall be permitted as regulated above.)

(4) One attraction board, wall mounted or attached to a permitted free-standing business sign, the area of the attraction board to be included in the maximum permitted sign area.

(5) Menu boards as permitted and regulated in the B-1 zone.

(6) In addition, advertising sign structures shall be permitted as follows:

(a) The lot must abut a federal or state highway.

(b) No advertising sign structure shall exceed four hundred (400) square feet in area.

(c) No advertising sign shall be permitted within
one hundred fifty (150) feet of any residential zone.

(d) No advertising sign structures shall be located within five hundred (500) feet of another advertising sign structure, unless one of the two signs located within five hundred (500) feet of another sign meets the requirements of, and has been allowed under, sub-paragraph (f) below.

(e) Advertising signs shall be required to be set back from any street right-of-way twenty (20) feet, or at the same setback as any principal building on the lot, whichever is less.

(f) An advertising sign structure located not less than two hundred (200) feet from another advertising sign structure shall be permitted as follows:

(1) The requirements of sub-paragraphs (a), (c) and (e) above shall be met.

(2) The advertising sign shall be limited to the identification of, and directional information for, a motel or hotel that is not located on a federal or state highway.

(3) Any business signs located on the motel or hotel lot shall not be visible from the federal or state highway abutting the lot on which the advertising sign is located.

(4) The advertising sign structure shall not exceed fifty (50) square feet in area, and its height shall not exceed forty (40) feet.

(5) The advertising sign shall be attached to an existing free-standing business sign structure, and no other advertising signs shall be permitted on the same lot.

(6) No advertising signs shall be permitted on the motel or hotel lot.

(7) The motel or hotel lot shall be located not more than 1,000 feet from the federal or state highway abutting the lot on which the advertising sign is located.

(7) As part of a permitted free-standing or wall-mounted advertising or business sign for an indoor or outdoor stadium or arena located in a B-3 zone having a permanent seating capacity in excess of 5,000 persons for athletic and cultural events, an electronic message display system shall be permitted, not exceeding 50% of the total sign area of the permitted sign, to be used exclusively to notify the public of events to be held in the stadium or arena. No moving or scrolling messages shall be permitted. Messages displayed may be changed not more frequently than every 15 seconds.

(8) Pole-banner signs shall be permitted only if displayed in a parking area accessory to a mixed use project, and subject to the following restrictions:

(a) Banner signs shall be a maximum size of two (2) feet by four (4) feet, and there shall be no more than two (2) per pole.

(b) Banner signs may not advertise a specific business or products, goods or services.

(c) Pole-mounted banners shall be permitted on light fixtures in parking areas located outside the public right-of-way.

(d) Banner poles shall be spaced to be no closer than forty-five (45) feet from each other.

(e) The total number of pole-mounted banner signs shall be limited to one (1) for every 3,000 square feet of parking area.

(f) All pole-mounted banner signs shall provide a minimum of eight (8) feet of vertical clearance, and may not encroach into the right-of-way.

17-7(h) DOWNTOWN BUSINESS ZONES (B-2, B-2A) -
Permitted signs may be free standing or wall mounted, as specified; such signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated, unless specified otherwise.

(1) Business signs shall be permitted as follows:

(a) Signs with general product advertising or lists of specific goods or services shall be prohibited.

(b) One free-standing sign shall be permitted for each street frontage, not to exceed two free-standing signs. The free-standing signs shall have a maximum area of forty (40) square feet, a maximum height of twenty (20) feet, and a maximum projection into the right-of-way of twelve (12) inches.

(c) One wall-mounted sign per building face shall
be permitted, placed at a height of fifty (50) feet or higher. Such sign shall have a maximum area of three percent (3%) of the wall area to which it is attached, with a maximum projection into the right-of-way of twelve (12) inches.

(d) In addition to the wall sign permitted under (c) above, one additional wall-mounted sign shall be permitted per building face. Such sign shall have a maximum lettering height or vertical cabinet dimension of two and one-half (2½) feet, and shall be located at a height of less than fifty (50) feet on the building, with a maximum projection into the right-of-way of twelve (12) inches.

(e) In addition to the wall mounted signs permitted under (c) and (d) above, each establishment within the building, having a separate and direct entrance to the outside, shall be permitted one wall sign per street building face. Such sign shall be located no lower than ten (10) feet nor higher than thirty (30) feet on the building, and mounted on the building where the establishment is located. Such sign shall have a maximum area of one and one-half (1½) square feet per linear foot of frontage, not to exceed eighty (80) square feet, with a maximum projection into the right-of-way of twelve (12) inches.

(f) One projecting business sign, not exceeding fifty (50) square feet in area, shall be permitted for each establishment within the building having a separate and direct entrance to the outside. Such sign shall have a minimum vertical clearance of ten (10) feet and a height limit of thirty (30) feet as attached to the building. Such sign shall be mounted on the building so that it does not conflict with wall-mounted signs permitted under (e) above or with any windows, doors or other architectural features of the building; and with a maximum projection from the face of the building and into the adjacent right-of-way of eight (8) feet. In no case shall a projecting sign be closer than two (2) feet to the back of curb of any adjacent roadway.

(g) Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area.

(2) Wall-mounted identification signs, not exceeding five (5) square feet, with a maximum letter height of six (6) inches; located no higher than ten (10) feet on the face of the building; one sign per establishment having a separate and direct entrance to the outside; maximum projection into the right-of-way of twelve (12) inches.

(3) Nameplates, directional signs, menu boards, menu boxes and informational signs shall be permitted as regulated in the B-1 zone.

(4) Canopy or awning signs shall be permitted in lieu of allowable wall signs, not exceeding twenty percent (20%) of the face of the canopy or awning. Under-canopy or under-awning signs shall be permitted and limited to identification signs. Above-canopy signs shall be permitted and limited to the percentage allowable for wall signs.

(5) Banner signs, pennants and streamers, with no general product advertising, or list of specific goods or services, shall be permitted; limited to one such banner, pennant or streamer per ten (10) feet of linear frontage, a total maximum area of fifteen percent (15%) of the wall area to which it is attached, a minimum of eight (8) feet of vertical clearance and a maximum projection into the right-of-way of three (3) feet.

(6) A-frame or sandwich board type signs shall be permitted as follows:

(a) Maximum size of eight (8) square feet per panel, maximum height 48", maximum width 24";

(b) One sign per street front, maximum two signs;

(c) Placement of sign shall allow for four (4) clear feet of sidewalk width;

(d) Sign shall be in place only when business is open;

(e) Placement of sign not to restrict egress from parked cars, and not over curb line;

(f) Shall be maintained in good condition;

(g) Shall not be attached to any public utility pole, street light standard or tree;

(h) Non-illuminated;

(i) There shall be an annual renewal permit fee, as
established under the Code of Ordinances.

(7) In addition to the otherwise permitted signs, wall-mounted electronic message display center boards shall be permitted for civic centers which contain exhibition halls and an arena for athletic and cultural events; for hotels and motels containing conference centers and restaurants; for television and radio system signal distribution centers and studios; and for banks, securities and commodities brokers, credit institutions, savings and loans, and investment companies. The total surface area shall not exceed eighty (80) square feet per sign. One electronic message display center shall be permitted per street front, with a maximum of two signs.

17-7(i) LEXINGTON CENTER BUSINESS ZONE (B-2B) - Permitted signs may be free standing or wall mounted, as specified; such signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated; painted wall signs shall be prohibited. No free-standing sign permitted under this section shall exceed twenty (20) feet in height, nor project into the right-of-way more than twelve (12) inches.

(1) Business signs, wall-mounted identification signs, canopy or awning signs, under-canopy or under-awning signs, above-canopy signs and banner signs shall be permitted as regulated in the B-2 and B-2A zones.

(2) In addition to the other signs permitted in this zone, four (4) wall-mounted electronic message display system signs shall be permitted for civic centers which contain exhibition halls and an arena for athletic and cultural events. Two (2) such signs, not exceeding two hundred (200) square feet, shall be permitted and shall be used primarily only to notify the public of special events in the civic center or to provide public service information. Two (2) additional signs may also be erected, not exceeding fifty (50) square feet each, and shall be used exclusively for directional and/or informational purposes. Electronic message display system signs may be mounted on the wall of the civic center or any structure having a common wall with the civic center.

(3) Nameplates, directional signs, menu boards, and informational signs shall be permitted as regulated in the B-1 zone.

(4) A-frame or sandwich board type signs shall be permitted and regulated as in the B-2 and B-2A zones.

17-7(j) INTERCHANGE SERVICE BUSINESS ZONE (B-5P) - Permitted signs shall be either free standing or wall mounted; signs may be non-illuminated, indirectly illuminated, internally illuminated, or directly illuminated.

(1) Wall-mounted business signs and window signs shall be regulated as under Section 17-7(f)(1). Free-standing signs shall be regulated as follows:

(a) One free-standing business sign per lot shall be permitted, with a maximum area of three hundred fifty-six (356) square feet, with a maximum height of ninety (90) feet, but not below a minimum height of seventy-five (75) feet; a minimum setback of ten (10) feet from any right-of-way shall be required.

(b) In addition, one free-standing business sign per street frontage shall be permitted to a maximum of two (2) signs; sign area shall not exceed fifty (50) square feet; sign height shall not exceed twenty (20) feet; a minimum setback of ten (10) feet from any street shall be required.

(2) One attraction board, wall mounted or attached to the free-standing business sign permitted under 17-7(j)(1)(b) above; the area of the attraction board to be included in the maximum permitted sign area.

(3) Nameplates, menu boards, and directional signs shall be permitted and regulated as in the B-1 zone.

17-7(k) PLANNED SHOPPING CENTER ZONE (B-6P) - Signs within the B-6P zone shall be permitted and regulated as for B-1 [Section 17-7(f)], except as follows:

(1) In place of the free-standing signs permitted under Section 17-7(f)(1)(b), the only permitted free-standing signs shall be shopping center identification signs. One sign shall be permitted per street frontage, with a maximum of two (2) signs. The maximum square footage of each sign shall be one hundred fifty (150) square feet, with a maximum height of twenty-five (25) feet for a regional shopping center; and seventy-five (75) square feet, with a maximum height of twenty (20) feet in a community or neighborhood shopping center. An attraction board may be attached to the free standing sign, provided it does not exceed the area of the identification sign and provided that no permanent copy identifying any specific business or product sold within the center is included on the attraction board. The area of the attraction board shall be

17 - 15
included in the computation of the area of the free-standing sign. The copy on such an attraction board shall be limited to sales or other events on the premises and civic meetings, rallies or other non-commercial events on or off the premises.

(2) The wall-mounted signs shall show only the name and/or logo of the business or profession, and shall contain no product trade name identifications. A listing of any products sold or offered on the premises may be an integral part of, and incorporated into, each permitted wall sign, provided the listing occupies no more than fifty percent (50%) of the area of the sign.

(3) Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area.

(4) Non-illuminated or indirectly illuminated projecting signs may be permitted only as a conditional use as described under Section 17-12, where the purpose of such projecting signs is to create a unified and distinct shopping area design and where such signs will be utilized in place of wall signs.

17-7(i) MOBILE HOME PARK ZONE (M-1P) - Permitted signs shall be either non-illuminated or indirectly illuminated.

(1) One free-standing mobile home park identification sign shall be permitted; sign not to exceed thirty-two (32) square feet in area, not exceeding eight (8) feet in height, minimum setback of twenty (20) feet from any street.

(2) One nameplate per mobile home; not exceeding one square foot in area.

17-7(m) PLANNED UNIT DEVELOPMENT ZONES (PUD) - Signs shall require a sign permit from the Division of Building Inspection. The height, size, location, design features, etc., of any sign accessory to a use first permitted in a residential zone shall be determined by the sign requirements for the zone in which the use is first permitted. All signs accessory to business or office uses shall be as permitted and regulated for a neighborhood shopping center in the Planned Shopping Center (B-6P) zone.

17-7(n) OFFICE, INDUSTRY AND RESEARCH PARK ZONE (P-2) - Signs within the P-2 zone shall be permitted and regulated as for P-1 [Section 17-7(e)], except as follows:

(1) Wall-mounted identification signs shall be limited to one per wall, with a maximum of four (4); wall-mounted signs not to exceed five percent (5%) of the wall area to which it is attached.

(2) Signs within the designated retail area shall be permitted and regulated as in the B-6P [Section 17-7(k)] zone.

(3) Project entrance identification signs shall be permitted and regulated under Section 17-7(e)(6)(c) above.

17-7(o) MIXED USE 2: “NEIGHBORHOOD CORRIDOR ZONE” (MU-2) - Signage shall be as permitted and restricted as follows:

(1) Signs shall be non-illuminated, indirectly illuminated or internally illuminated, unless otherwise specified.

(2) No free-standing sign shall exceed ten (10) feet in height.

(3) Identification or business signs shall be permitted as follows:

(a) One free-standing identification sign shall be permitted per street frontage, per development, with a maximum of two (2) free-standing signs; not exceeding seventy-five (75) square feet per sign.

(b) The surface area of wall-mounted business signs shall not exceed fifteen percent (15%) of the wall area to which they are attached, or thirty-two (32) square feet, whichever is greater; each wall to be considered separately. Only one business sign shall be permitted per wall. In the case of a building containing two or more separate business uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual business tenant.

(c) Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area; and direct illumination shall be permitted.

(d) Canopy or awning signs shall be permitted and limited to the percentage allowable for wall signs. Under-canopy or under-awning signs shall be permitted and limited to identification signs.

(4) Projecting business signs shall be permitted in addition to wall-mounted business signs, where the
purpose of such projecting signs is to create a unified and distinct mixed use area. No more than one (1) sign for each establishment within the building, having a separate and direct entrance to the outside, per street building face. Such sign shall extend no lower than eight (8) feet over the public right-of-way and must be mounted on the building where the establishment is located. Such sign shall have a maximum area of twelve (12) square feet, with a maximum projection from the wall of the building of no more than four (4) feet.

(5) An attraction board may be attached to a free-standing sign, provided it does not exceed the area of the identification sign and provided that no permanent copy identifying any specific business or product sold within the center is included on the attraction board. The area of the attraction board shall be included in the computation of the area of the free-standing sign. The copy on such an attraction board shall be limited to sales or other events on the premises and civic meetings, rallies or other non-commercial events on or off the premises.

(6) Directional signs not exceeding three (3) square feet in area, not exceeding three (3) feet in height; if free standing, not to exceed two (2) signs per entrance.

(7) One nameplate per tenant or lessee, not exceeding two (2) square feet in area; non-illuminated or indirectly illuminated.

(8) One menu board per restaurant use. All copy (including any logos, restaurant name, etc.) shall have a maximum letter height and width of six (6) inches, containing no direct illumination; not exceeding thirty (30) square feet in area; maximum height of eight (8) feet if free standing; and not located so as to have the copy visible to vehicular traffic on any adjacent street.

(9) Wall-mounted banner signs, pennants and streamers shall be permitted, with no general product advertising or list of specific goods or services; limited to one (1) such banner, pennant or streamer per ten (10) feet of linear frontage; a total maximum area of ten percent (10%) of the wall area to which it is attached; a minimum of eight (8) feet of vertical clearance; and a maximum projection into the right-of-way of three (3) feet.

17-7(p) MIXED USE 3: “MIXED-USE COMMUNITY ZONE” (MU-3) - Signage shall be permitted and restricted as in the MU-2 zone, except as follows:

(1) Wall-mounted banner signs, pennants and streamers shall be permitted for a total maximum area of fifteen percent (15%) of the wall area to which they are attached, with all other restrictions from the MU-2 zone.

(2) Pole-mounted banner signs shall be permitted, subject to the following:

(a) Banner signs shall be a maximum size of two (2) feet by four (4) feet, and there shall be no more than two (2) per pole.
(b) Banner signs may not advertise specific businesses or products, goods or services.
(c) Pole-mounted banners shall be permitted on light fixtures in parking lots and pedestrian plazas located outside the public right-of-way.
(d) Banner poles shall be spaced to be no closer than forty-five (45) feet from each other.
(e) The total number of pole-mounted banner signs shall be limited to one (1) for every 3,000 square feet of parking lot or pedestrian plaza.
(f) All pole-mounted banner signs shall provide a minimum of eight (8) feet of vertical clearance, and may not encroach into the right-of-way.
(g) Pole banners in parking lots located in another zone that are incorporated in an approved final development plan for an MU-3 project are permitted, subject to the same restrictions and requirements applicable to the pole-banner signs for the MU-3 project.

(3) A-frame or sandwich board type shall be permitted as follows:

(a) Maximum size of eight (8) square feet per panel, maximum height 48”, maximum width 24”;
(b) One sign per street frontage, maximum two signs;
(c) Placement of sign shall allow for four (4) clear feet of sidewalk width;
(d) Sign shall be in place only when business is open;
(e) Placement of sign not to restrict egress from parked cars and not over curb line;
(f) Shall be maintained in good condition;

(g) Shall not be attached to any public utility pole, street light standard or tree;

(h) Shall be non-illuminated; and

(i) There shall be an annual renewal permit fee, as established under the Code of Ordinances.

(4) One (1) free-standing business or identification sign per street frontage, per development, shall be permitted. A maximum of two (2) free-standing signs per development shall be deemed as primary, not exceeding seventy-five (75) square feet per sign. All other free-standing signs shall be considered secondary, and shall not exceed forty (40) square feet per sign. Such signs may be located in or adjacent to the right-of-way (in the median or at each side of the street), subject to written authorization of the Commissioner of Public Works & Development, who shall determine that the signs would not be located in the sight triangle and would not cause a hazard to traffic. Proof of permanent maintenance and an encroachment permit shall be provided by the applicant prior to the issuance of a permit for such a sign located in the right-of-way.

(5) One (1) project identification sign per building, per street frontage, shall be permitted, not to exceed five percent (5%) of the wall area to which it is attached. Such projecting sign shall extend no lower than eight (8) feet, with a maximum projection from the wall of the building of no more than four (4) feet.

(6) In addition, and within a designated Entertainment Mixed-Use Project only:

(a) In conjunction with an indoor theater: one marquee, not to exceed twenty-four (24) square feet, shall be permitted per theater. Such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one attraction board per theater may be attached either to one free-standing business sign or to the marquee, not to exceed twenty-four (24) square feet.

17-7(q) EXPANSION AREA ZONES

(1) CONSERVATION DISTRICT (CD), EXPANSION AREA RESIDENTIAL (EAR-1, EAR-2 and EAR-3) and COMMUNITY CENTER (CC)

(2) ECONOMIC DEVELOPMENT (ED) ZONE - Signage shall be permitted and restricted as in the P-1 zone, except as follows:

(a) Project entrance identification signs shall be as for Professional Office Parks, as specifically regulated under Section 17-7(e)(6). All free-standing identification or business signs shall be monument type.

(b) Signage for extended-stay hotels may be directly, indirectly or internally illuminated. There shall be no more than one (1) wall-mounted business sign per each extended-stay hotel, not to exceed thirty-two (32) square feet in area; and no more than one (1) free-standing monument type business sign, eight (8) feet in height, with a maximum size of thirty-two (32) square feet.

17-8 VARIANCES

17-8(a) AUTHORITY OF THE BOARD OF ADJUSTMENT - The Board of Adjustment shall have the authority to hear and decide on applications for variances to the dimensional requirements contained therein in accordance with Article 7 of this Zoning Ordinance. The Board shall not be authorized to increase the number of permitted signs; and may not permit any sign to be erected or mounted, to incorporate any design feature, information, or copy, nor to permit a design type that is not specifically permitted in the zone in which the sign is to be located; nor to grant any variance which would increase the maximum total permitted sign area on a single lot or building.

17-8(b) FINDINGS REQUIRED FOR VARIANCES - Before granting a variance to the dimensional requirements for a sign, the Board shall find all of the following, which shall be recorded along with any imposed conditions or restrictions in the minutes and records and issued in written form to the applicant to constitute proof of the variance:

(1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

(2) The strict application of the provisions of the sign regulations of this Zoning Ordinance would deprive the applicant of a reasonable use of the land or would create unnecessary hardship on the applicant.

(3) Such special circumstances are not the result of actions of the applicant taken subsequent to the
adoption or amendment of the sign regulation of this Zoning Ordinance.

(4) Reasons that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.

17-9 NON-CONFORMING SIGNS - A legal non-conforming sign may continue in existence and shall be properly maintained in good condition. These sign regulations shall not be construed to prevent the strengthening, repair, or restoring to a safe condition of any sign; but a non-conforming sign shall not be:

(a) changed to another non-conforming sign; except where only the faces or the messages are changed, or where the sign is reduced in height, size or area;

(b) structurally altered (except to meet safety requirements) so as to prolong the life of the sign;

(c) altered so as to increase the degree of non-conformity of the sign;

(d) expanded or enlarged;

(e) re-established after its discontinuance for ninety (90) days;

(f) moved to a new location on the building or lot.

17-10 DISCONTINUANCE OF ILLEGAL SIGNS - Mobile signs prohibited under 17-5(a) are illegal signs and are subject to immediate enforcement action.

17-11 DISCONTINUANCE OF TEMPORARY SIGNS - Any temporary sign erected or displayed more than 90 days prior to the date of passage of this Article shall be removed forthwith.

17-12 SIGNS AS CONDITIONAL USES - The Board of Adjustment shall have the authority to approve conditional uses for signs which are specifically listed in the zone in question. Such signs shall be subject to all provisions and procedures as set forth in Article 7 for a conditional use permit.

17-13 MAINTENANCE STANDARDS - Every sign, including those signs for which a permit is not required, shall be maintained in good condition at all times.

(a) Any painted wall sign shall be repainted at least once every three (3) years.

(b) All signs which contain painted parts shall be kept neatly painted, including metal parts which are not galvanized or of rust resistant materials.

(c) The Division of Building Inspection shall have the authority to order the repair, repainting, alteration or removal of any sign which constitutes a hazard to the health, safety or public welfare or which is an eyesore to the community by reason of inadequate maintenance, dilapidation or obsolescence.

17-14 PENALTIES FOR VIOLATION - Violation of the provisions of these sign regulations shall constitute a misdemeanor, which shall be subject to the fines and penalties as set forth in Article 5 for violation of this Zoning Ordinance.
LANDSCAPE AND LAND USE BUFFERS

18-1 INTENT - The intent of this Article is to improve the appearance of vehicular use areas (VUAs) and property abutting public rights-of-way; to require buffering between incompatible land uses; and to protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare.

18-2 SITES AFFECTED

18-2(a) NEW SITES - No new site development, building, or structure shall hereafter be constructed or vehicular use area created or used unless landscaping is provided as required by the provisions of this Article.

18-2(b) EXISTING SITES - No building, structure, or vehicular use area (VUA) shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provision of this article is provided for the property to the extent of its alteration or expansion, but not for the entire property.

18-2(c) CHANGE OF USE - No use shall be changed to another use for which the Zoning Ordinance requires additional parking over and above that required for the previous use, unless vehicular use area perimeter landscaping as required by this Article is provided for such additional parking. The provisions of this section shall be effective regardless of whether or not new construction is necessary to meet the parking requirements for the new uses. Where new construction will not be necessary to meet the parking requirements, such additional required parking shall be deemed to be on the perimeter for as much as possible of the existing vehicular use area. Where the previous use had no required parking, perimeter landscaping shall be provided for the entire vehicular use area serving the new use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.

18-2(d) CHANGE OF ZONE - No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

18-3 WHERE LANDSCAPE MATERIALS REQUIRED - This section describes the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicular use areas, perimeter landscaping for incompatible land use areas, and landscaping for service areas.

18-3(a) PERIMETER LANDSCAPING REQUIREMENTS - Unless otherwise provided, landscape materials shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one (1) foot above finished grade level to the top of the required planting, hedge, fence, wall, or earth mound within four (4) years after installation. The required landscaping shall be provided along the property perimeter in designated landscape buffer areas (LBAs) as shown in the chart Section 18-3(a)(1) or adjacent to the vehicular use area as shown in the chart Section 18-3(a)(2). A "Planting Manual" and a "Plant Materials List" shall be maintained by the Division of Planning and available in the offices of the Division of Building Inspection, to provide more detailed information on the acceptable plant material.
### 18-3(a)(1) PROPERTY PERIMETER REQUIREMENTS

<table>
<thead>
<tr>
<th>A. When the following . . . . .</th>
<th>B. Adjoins the following . . . .</th>
<th>C. a minimum buffer area *1 of this average width (with 3' as the least dimension) is required *3  *4</th>
<th>D. which will contain this material, to achieve opacity required. *5  *8</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Any M-1P zone.</td>
<td>Any property in any zone other than M-1P.</td>
<td>10' adjacent to all common boundaries, including street frontage.</td>
<td>1 tree/40' of linear boundary, OFT *2, from Group A, B, or C of Plant List plus continuous 6' high planting, hedge, fence, wall or earth mound.</td>
</tr>
<tr>
<td>2. Any office or business zone (except P-2).</td>
<td>Any residential zone.</td>
<td>15' adjacent to all common boundaries (located behind the building line) except street frontage.</td>
<td>1 tree/40' of linear boundary OFT, from Group A or B only, plus 1) a double row of 6' high hedge, or 2) a 6' high fence, wall or earth mound.</td>
</tr>
<tr>
<td>3. Any industrial or P-2 zone.</td>
<td>Any residential, office, or business zone.</td>
<td>15' adjacent to all common boundaries except street frontage.</td>
<td>Same as 2D.</td>
</tr>
<tr>
<td>4. Any double frontage lot (as defined by the Subdivision Regulations) in any zone except A-U, A-R, A-N and A-B, unless the lot is used for a vehicular sales facility or a service station.</td>
<td>Any state maintained freeway or arterial street not providing direct access to the property.</td>
<td>20' for residential zones and 10' for all other zones adjacent to freeway or arterial.</td>
<td>1 tree/30', OFT, Group A or B, plus continuous 6' high planting, hedge, wall, fence (not to exceed 8' in height at street grade) or earth mound. Such plantings are to be shown on a unified plan for the development.</td>
</tr>
<tr>
<td>5. Any zone except agricultural and industrial zones.</td>
<td>Railroads (except spur tracks and along sight triangles)</td>
<td>Same as 6C, adjacent to railroad boundaries.</td>
<td>Same as 2D.</td>
</tr>
<tr>
<td>6. Utility substation, junk yards, landfills, sewage plants, sewage pump stations, transfer stations or similar uses.</td>
<td>Any property boundary, including street rights-of-way.</td>
<td>15' adjacent to all boundaries, except only 5' for utility substations and sewage pump stations measured adjacent to the enclosure.</td>
<td>Same as 2D.</td>
</tr>
<tr>
<td>7. Any R-1T, R-3, R-4 or R-5 zone, except when developed as buildings for single family or two family occupancy.</td>
<td>Any R-1A, R-1B, R-1C, R-1D, or R-2 zone.</td>
<td>6' adjacent to all common boundaries except street frontage.</td>
<td>1 tree/40' of linear boundary, OFT *2, from Group A, B, or C of Plant List plus a continuous 6' high planting, hedge, fence, wall, or earth mound.</td>
</tr>
</tbody>
</table>

(Continued next page)
8. Any business, office, or industrial zone. Any A-R zone. 15' adjacent to all common boundaries except street frontage.

One tree/40' of linear boundary, OFT *2, from Group A of Plant List, plus continuous 6' high planting or hedge; or 1) one evergreen tree/15' of linear boundary, OFT, planted 15' o.c.; or 2) one tree/20' of linear boundary, OFT, that is a combination of 50% deciduous trees from Group A and 50% evergreen trees or small flowering trees.

*1 Grass or ground cover shall be planted on all portions of the landscape buffer area not occupied by other landscape material.

*2 O.F.T. means "or fraction thereof". Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.

*3 To determine required area of landscape buffer area, multiply required average width by length of common boundary. Using item 1C as an example, the 10' average required width times an assumed 100' of common boundary equals 1,000 sq. ft. of required landscape area. Thus, if some sections of the landscape buffer area are only 3' in width, other sections will have to be greater than 10' in width in order to attain the required 1,000 sq. ft. of landscape area.

*4 Five (5) feet shall be the least dimension for any P-1, B-1, B-2, B-2A, B-2B, B-3, B-4, I-1, or I-2 zone with 3' as the least dimension for any other zone.

*5 A continuous planting of evergreen trees 15' on center (o.c.) shall be deemed to meet the requirements for trees and a continuous planting provided the trees meet the requirements of Section 18-4(3)(c) and an opacity of seventy percent (70%) is achieved.

*6 No map amendment request, major subdivision plan, or development plan shall be approved by the Planning Commission except in compliance with this section. However, the Planning Commission shall not require such landscaping adjoining the Urban Service Area boundary where any of the following conditions exist: major railroad lines, major water bodies (not including streams or farm ponds), publicly owned parks or open space, public property with a low intensity of use, or existing urban development along the Urban Service Area boundary.

*7 The 15' Landscape Buffer Area (LBA) may be reduced to 5' when used in conjunction with a 6' high wall or fence.

*8 In situations where a slope occurs along a boundary, the required landscaping shall be placed (in relation to the slope) where it will most effectively screen the more intensive use from the adjoining property.

*9 In conjunction with the required development plan in a P-2 zone, the Planning Commission may permit portions of required perimeter planting to be reallocated to areas interior to the site. This shall be permitted for areas where the Commission finds that such solid screening is not necessary or desirable to screen the P-2 uses from adjoining properties or right-of-way. For example, where such uses as open space areas, outdoor recreation areas, large open yards, and the like adjoin the abutting...
rights-of-way or adjoining properties, the Commission should consider utilizing the reallocation provision of this section.
### 18-3(a)(2) VEHICULAR USE AREA PERIMETER REQUIREMENTS

<table>
<thead>
<tr>
<th>A. When the following……</th>
<th>B. Adjoins the following….</th>
<th>C. a minimum landscape buffer area of this width is required *1</th>
<th>D. which will contain this material, *3 to achieve opacity required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Any vehicular use area *2 (VUA) on any property.</td>
<td>Any property in any zone except industrial (I-1, I-2) downtown business core (B-2), Downtown business frame (B-2A), Lexington Center Business (B-2B), or agricultural (A-U, A-R, A-N or A-B).</td>
<td>5' to edge of paving where vehicles overhang, 4’ minimum from edge of paving and 3’ (that prohibits any vehicular overhang) for other areas, adjacent to portion of vehicular use area that faces adjacent property.</td>
<td>1 tree/40’ of boundary of vehicular use area OFT *4, from group A, B, or C, plus a 3’ average height continuous planting, hedge, fence, wall or earth mound or a 3’ decrease in elevation from the adjoining property to the vehicular use area.</td>
</tr>
<tr>
<td>2. Any vehicular use area in any zone outside the B-2, B-2A, or B-2B zones, except vehicle sales facilities or service stations.</td>
<td>Any public or private street right-of-way, access road or services road (except expressways).</td>
<td>Same as 1C above except applies to VUA portion facing public or private street right-of-way, access road, or service road.</td>
<td>Same as 1D, except use only Group A or B.</td>
</tr>
<tr>
<td>3. Any vehicle sales facility or service station.</td>
<td>Any public or private street right-of-way, access road, service road, expressway or arterial street.</td>
<td>Same as 2C above.</td>
<td>1 tree/50’ OFT from Group A or B, plus an 18” average height continuous planting, hedge, fence or wall.</td>
</tr>
<tr>
<td>4. Any vehicular use area (except loading and unloading in areas) B-2, B-2A or B-2B zones.</td>
<td>Same as 2B.</td>
<td>6’ adjacent to portion of vehicular use area that faces a public or private street right-of-way, access road or service road.</td>
<td>3’ average height continuous planting, hedge or wall.</td>
</tr>
<tr>
<td>5. Financial institutions with drive-in facilities or night deposits.</td>
<td>Same as 2B.</td>
<td>Same as 1C.</td>
<td>1 tree/40’ of boundary OFT from Group A or B (deciduous only) with 5’ of clear trunk, plus an 18” average height continuous planting, hedge, fence or wall adjoining a public or private right-of-way and a 3’ average height planting, hedge, fence or wall adjacent to all other property.</td>
</tr>
</tbody>
</table>

(continued next page)
1. These provisions may be included within the property perimeter landscaping required by Section 18-3(a)(1) where landscape buffer areas are also applicable.

2. A vehicular use area (V.U.A.) is any open or unenclosed area containing more than 1,800 sq. ft. of area and/or used by five or more, of any type of vehicle; whether moving or at rest, including, but not limited to, parking lots; loading and unloading areas; mobile home parks; and sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph (and intervening curbs, sidewalks landscape strips, etc., do not eliminate adjacency).

3. Grass or ground cover shall be planted on all portions of the landscape buffer areas not occupied by other landscape material.

4. OFT means "or fraction thereof".

5. In the B-2, B-2A, and B-2B zones, when a wall is used, it is to be constructed of natural stone, brick or pre-cast concrete.

18-3(a)(3) WHO PROVIDES LANDSCAPE BUFFER AREA - The landscape buffer area and material required adjacent to any vehicular use area under Section 18-3(a)(2) shall be provided by the person in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise (hereinafter referred to as "owner"), unless the authority building the street has fully met all requirements on the street right-of-way. When adjacent to other common boundaries, the landscape buffer area and materials (a) may be placed on either adjoining parcel, or astride the boundary, if both are owned and being processed by the same owner; or (b) generally shall be placed on the activity listed under Column A of 18-3(a)(1) and 18-3(a)(2) when adjoining parcels have different owners; or (c) may be placed astride the boundary of adjoining parcels having different owners if a written agreement, signed by both owners, is filed with the Division of Building Inspection as a public record; or (d) shall be placed on the activity or parcel being processed when adjoining property is already developed with the exception of 18-3(a)(1) lines 4 and 5; or (e) shall not be required along the common boundary if the requirements of this Article have been fully complied with on the adjoining property, in fulfillment of the requirements of this ordinance.

18-3(a)(4) REQUIREMENT CONFLICTS - Whenever a parcel or activity falls under two or more of the landscape requirements listed in the table of Section 18-3(a)(1) or 18-3(a)(2) the most stringent requirements will be enforced.

18-3(a)(5) LANDSCAPING IN EASEMENTS - The required landscape buffer area may be combined with a utility or other easements as long as all of the landscape requirements can be fully met, otherwise, the landscape buffer area shall be provided in addition to, and separate from, any easement. Trees to be planted in utility easements containing overhead lines shall be only those specified in the Plant List. Cars or other objects shall not overhang or otherwise intrude upon the required landscape buffer area more than two and one-half (2½) feet, and wheel stops or curbs will be required.

18-3(a)(6) STREET TREES IN THE RIGHT-OF-WAY - Trees required as a part of the vehicular use area perimeter landscaping may be placed on the right-of-way adjoining such vehicular use area when approved by the Division of Building Inspection and the Street Tree Coordination Committee. Where street trees required by the Subdivision Regulations have already been planted in the right-of-way, such trees may be substituted for an equal number of VUA perimeter trees. Written permission from the authority having jurisdiction over the right-of-way shall be submitted by the developer prior to the approval of a landscape plan which utilizes the right-of-way for VUA perimeter landscaping. The Division of Building Inspection shall permit the required VUA perimeter trees to be located in the right-of-way only if there is sufficient area for such trees to grow to maturity.

18-3(a)(7) EXISTING LANDSCAPE MATERIAL - Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the Division of Building Inspection such material meets the requirements and achieves the objectives of this Article. Existing healthy trees from Group "A" or "B" of the Plant List may be substituted for trees required for property or vehicular use area perimeter landscaping, or for interior landscaping by using the following criteria: a 6" to 12" caliper tree surrounded by a minimum of one hundred fifty (150) square feet of landscape area may be substituted for two (2) new trees of the required minimum size; a 12" to 24" caliper tree surrounded by a minimum of two hundred fifty (250) square feet of landscape area may be substituted for three (3) new trees of the required minimum size; a 24" or greater caliper tree surrounded by a minimum of three hundred (300) square feet of landscape area may be substituted for four (4) new trees of the required minimum size.

18-3(a)(8) LANDSCAPING AT DRIVEWAY AND STREET INTERSECTIONS - To assure that landscape
materials do not constitute a driving hazard, a "sight triangle" will be observed at all street intersections or intersections of driveways with streets as required by Section 3-2 herein.

18-3(a)(9) JOINT DRIVEWAYS AND COMMON VEHICULAR USE AREAS - Vehicular use area screening shall not be required between a vehicular use area and the adjoining property where a property line divides a driveway used for common access to two (2) or more properties nor when both of the following conditions exist: a) the vehicular use areas are for the common use of the properties (as substantiated by a reciprocal parking and access agreement), b) a final development plan for the properties has been approved by the Planning Commission.

18-3(b) INTERIOR LANDSCAPING FOR VEHICULAR USE AREAS - Any open vehicular use area (excluding loading, unloading, and storage areas in an industrial zone [I-1 or I-2] or warehouse business zone [B-4]) containing 6,000 or more sq. ft. of area, or twenty (20) or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or landscaped for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion.

18-3(b)(1) LANDSCAPE AREA - For each one hundred (100) square feet, or fraction thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided in all zones except the P-2 zone. In the P-2 zone, ten (10) square feet of landscaped area shall be required for each one hundred (100) square feet of vehicular use area.

18-3(b)(1)(a) MINIMUM AREA - The minimum landscape area permitted shall be sixty-four (64) square feet, with a four (4) foot minimum dimension to all trees from edge of pavement where vehicles overhang.

18-3(b)(1)(b) MAXIMUM CONTIGUOUS AREA - In order to encourage the required landscape areas to be properly dispersed, no required landscape area shall be larger than three hundred fifty (350) square feet in vehicular use areas under 30,000 square feet in size, and no required area shall be larger than 1,500 square feet in vehicular use areas over 30,000 square feet. In both cases, the least dimension of any required area shall be four (4) feet minimum dimension to all trees from edge of pavement where vehicles overhang. The maximum distance between landscape areas shall be one hundred twenty (120) feet measured from the closest perimeter landscape area curb edge or the closest curb edge of each required interior area. Landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum.

18-3(b)(1)(c) MINIMUM TREES - A minimum of one (1) tree shall be required for each two hundred fifty (250) square feet or fraction thereof of required landscape area. Trees shall have a clear trunk of at least five (5) feet above the ground. The remaining area shall be landscaped with shrubs, or ground cover, not to exceed two (2) feet in height.

18-3(b)(1)(d) VEHICLE OVERHANG - Parked vehicles may hang over the interior landscaped area no more than two and a half (2½) feet, as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscaped area.

18-3(c) LANDSCAPING FOR SERVICE STRUCTURES - All service structures shall be fully screened except when located in a R-1, R-2, B-4, I-1, or I-2 zone or when located more than thirty-five (35) feet above the established grade. Service structures in the B-4, I-1 or I-2 zone shall be fully screened when located within one hundred (100) feet of any zone except B-4, I-1 or I-2. For the purpose of this Article, service structures shall include propane tanks, air conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.

18-3(c)(1) LOCATION OF SCREENING - A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one (1) side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.

18-3(c)(2) PROTECTION OF SCREENING MATERIAL - Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a fixed barrier to contain the placement
of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least eighteen (18) inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be twelve (12) feet to allow service vehicles access to the container.

18-3(d) SCREENING OF OUTDOOR STORAGE AREAS - All outdoor storage areas in the I-1 and I-2 zones shall be screened by a solid wall or fence not less than six (6) feet in height.

18-4 LANDSCAPE MATERIALS - The landscaping materials shall consist of the following, and are described in more detail in the Planting Manual and Plant Materials List available at the Division of Planning and the Division of Building Inspection.

18-4(a) WALLS AND FENCES - Walls shall be constructed of natural stone, brick or other weatherproof materials arranged in a linear, serpentine, or other alignment; while fences shall be constructed of wood or other weatherproof, durable materials generally used in the exterior construction of buildings. Fence posts shall be structurally stable based on the material used, and shall have a maximum spacing of 8’ on center (o.c.). If wood is used, the posts shall be 4” x 4” minimum. Posts shall be set in or anchored to crowned concrete footers at least six (6) inches larger in each direction than the post it supports. The base of the footer shall be at least twenty-four (24) inches below finished grade. If wood is used for any member, it shall be softwood treated with water-borne preservative to the American Wood Preservers Institute standard LP-2 for above ground use or LP-22 for ground contact use, or all heart redwood, or all heart cedar. All cut surfaces of the American Wood Preservers Institute standard LP-2 for above ground use or LP-22 for ground contact use, or all heart redwood, or all heart cedar. All cut surfaces of wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet in Fayette County and having trunk(s) which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen (15) crown spread. A minimum of ten (10) feet overall height or a minimum caliper (trunk diameter, measured 6 inches above ground for trees up to 4 inches caliper) of at least one and three-fourths (1¾) inches immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four (4) inches thick, reinforced concrete.

18-4(c)(3) EVERGREEN TREES - Evergreen trees shall be a minimum of five (5) feet high with a minimum caliper of one and one-half (1½) inches immediately after planting.

18-4(c)(4) SHRUBS AND HEDGES - Shall be at least twelve (12) inches with three (3) canes for Section 18-3(a)(2) lines 3 and 5, at least two (2) feet with three (3) canes for all other lines of Section 18-3(a)(2), and three (3) feet with four (4) canes for Section 18-3(a)(1) in average height when installed. After approval by the Division of Building Inspection and with the exception of the 12" plants, shrubs and hedges may be pruned to one-half the height in accordance with accepted horticultural practices. All plants shall conform to opacity, mature height, and other requirements within four (4)
years after the date of the final approval of each planting or replanting. Privet (Ligustrum species) cannot meet the opacity requirements and may not be used to satisfy the requirements of this Article. The height of the planting shall be measured from the level of the surface of the vehicular use area at the edge closest to the screening.

18-4(c)(5) VINES - Shall be at least twelve (12) or fifteen (15) inches high at planting, and are generally used in conjunction with walls or fences.

18-4(c)(6) GRASS OR GROUND COVER - Grass of the fescue (Gramineak) or Bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in Fayette County, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted not more than fifteen (15) inches on center and in such a manner as to present a finished appearance and have seventy-five percent (75%) of complete coverage after two complete growing seasons. In certain cases, ground cover also may consist of rocks, pebbles, sand, and similar approved materials.

18-4(d) MAINTENANCE AND INSTALLATION - All landscaping required by this Article shall be installed and maintained by the owner in compliance with the standards specified in Section 4 of the Planting Manual and the American National Standards (ANSI A300) and, as applicable, the requirements specified in Lexington-Fayette Urban County Government Ordinances Nos. 1-91 and No. 34-92 (Man o’ War Boulevard), No. 134-89 (Old Frankfort Pike), No. 133-89 (Georgetown Road), No. 213-83 and No. 266-87 (Richmond Road), No. 42-98 (Downtown Street Trees), and No. 85-2008 (Newtown Pike), all available in the offices of the Division of Building Inspection; or any other future amendments to these ordinances. Any landscape material that fails to meet the minimum requirements of this Article at the time of installation shall be removed and replaced with acceptable materials. The person in charge of, or in control of, the property, whether as owner, lessee, tenant, occupant, or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance, free from refuse and debris, at all times. All unhealthy or dead plant materials shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Sizes for the above-mentioned replacements shall be as provided in Section 18-4(c)(2). Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper or permitted for the maintenance of trees as required by this Article. Except as provided above, the removal of landscape materials requires the approval of the Division of Building Inspection. When trees are removed, other than as permitted above, such trees shall either be replaced with the necessary number of 2½-inch caliper trees to equal the total caliper of trees removed, or with trees of the same caliper as those that were removed. All replacement trees shall be planted in the original location unless an alternate location is approved by the Division of Building Inspection. Violation of these installation and maintenance provisions shall be grounds for the Division of Building Inspection to refuse a building occupancy permit, require replacement of landscape material or institute legal proceedings to enforce the provisions of this Article.

18-5 PLAN SUBMISSION AND APPROVAL - Whenever any property is affected by these landscape requirements, the property owner or developer shall submit a landscape plan to the Division of Building Inspection. For any property where a vehicular use area for twenty (20) or more vehicles or 6,000 or more square feet is provided, the landscape plan shall be prepared and sealed by an architect, landscape architect or engineer licensed to practice in the State of Kentucky. For any property, where a vehicular use area for fifty (50) or more vehicles is provided, the landscape plan shall be prepared and sealed by a landscape architect licensed to practice in the State of Kentucky. The requirements of this Article shall be followed in approving or disapproving any landscape plan required by this Article. Landscape plans also may be submitted as part of any development plan required by the Planning Commission. Such "combination plans", however, shall be first submitted to the Division of Building Inspection for its approval or disapproval of the landscape portion of the plan.

18-5(a) PLAN CONTENT - The contents of the plan shall include the following: (a) plot plan, drawn to an easily readable scale, showing and labeling by name and dimensions, all existing and proposed property lines; easements; buildings and other structures; vehicular use areas (including parking stalls, driveways, service areas, square footage, etc.); water outlets and landscape material (including botanical name and common name, installation size, on center planting dimensions where applicable, and quantities for all plants used); (b) existing and proposed contours at 2-foot intervals; (c) typical elevations and/or cross-sections as may be required; (d) title block with the pertinent names and addresses (property owner, person drawing plan, and person installing landscape material), scale, date, north arrow (generally orient plan so that north is to top of plan), and zone; (e) requirements or an approved tree protection plan applicable to the site, per Article 26, Tree Protection Standards.

18-5(b) BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY - Where landscaping is required, no
building permit shall be issued until the required landscaping plan has been submitted and approved; and no Certificate of Occupancy shall be issued until the landscaping is completed as certified by an on-site inspection by the Division of Building Inspection. If the required landscaping has not been completed and a Temporary Certificate of Occupancy is issued under Section 5-4(a) of this Ordinance, a full cash bond or irrevocable letter of credit from a banking institution with offices in Fayette County shall be posted at that time. The amount of the bond or letter of credit shall be based upon the cost of the proper installation of the uninstalled landscape material shown in the submitted plan, with the cost certified by a landscape contractor. The amount of the bond or letter of credit shall also include an inflation factor and/or administrative contingency cost of no more than twenty-five percent (25%) of the base cost, as determined by the Division of Building Inspection, to complete the work in the event of the foreclosure of the bond or letter of credit.

18-5(c) POSTING OF A FULL CASH BOND OR IRREVOCABLE LETTER OF CREDIT - After a full cash bond or irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within three (3) months after the date of posting the full cash bond or irrevocable letter of credit. A one-month extension of the planting period may be granted by the Division of Building Inspection upon a demonstration by the property owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant materials. No more than three (3) such one-month extensions may be granted. The full cash performance bond or irrevocable letter of credit shall be called if the required landscaping has not been installed by the end of the approved planting period, and the Division of Building Inspection shall apply the proceeds of the bond or letter of credit to have the work completed.

18-6 PLANTING MANUAL AND PLANT MATERIALS LIST - Developers shall refer to the Planting Manual and Plant Materials List, which are available at the offices of the Division of Planning and the Division of Building Inspection for minimal requirements to use in meeting the provisions of this Article. Any materials that are not on the Plant Materials List shall be considered on an individual basis to determine the suitability of the specific plant in the proposed location. A plant not on the Plant Materials List shall be permitted only upon the expressed approval of the Division of Building Inspection.

18-7 VARIANCES - Any landscape plan submitted to, and disapproved by the Division of Building Inspection because it does not meet the requirements of this Article, may be appealed within sixty (60) days of such action to the Board of Adjustment.

18-7(a) LANDSCAPE REVIEW COMMITTEE - To aid the Board of Adjustment in the performance of the duties imposed by this Article, there is hereby created a Landscape Review Committee.

18-7(b) MEMBERSHIP - The Landscape Review Committee shall consist of five (5) members, to be appointed by the action of the Board of Adjustment. One member shall be a nurseryman or horticulturist, one shall be a landscape architect, one shall be a member of the Lexington Homebuilder's Association, one shall be a member of the Urban County Tree Board and one shall be a member of the Board of Adjustment. The term of the Board of Adjustment member shall be the same as his/her Board of Adjustment appointment. For others, at the initial appointment, one shall be appointed for four years, one for three years, one for two years, and one for one year. Subsequent appointments shall be for four years.

18-7(c) ORGANIZATION AND MEETINGS - The Landscape Review Committee shall elect a chairman and any other officers deemed necessary, and keep official minutes of its meetings and recommendations. The Division of Planning shall perform staff service for the committee. Meetings shall be held at regularly scheduled times, or at the call of the chairman, or by joint action of two members. In any case, notification shall be given to all members at least six (6) days prior to any meeting. A quorum shall consist of three (3) members, and official recommendations may be decided by the vote of two (2) members when a quorum is present.

18-7(d) REVIEWING VARIANCE REQUESTS - The committee, in its review of said recommendations on variance requests, shall base its recommendations on all of the following criteria:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
2. The strict application of the provisions of this Zoning Ordinance would deprive the applicant of a reasonable use of the land or would create unnecessary hardship on the applicant.
3. Such special circumstances are not the result of actions of the applicant subsequent to the adoption or amendment of this Zoning Ordinance.
4. Reasons that the variance will adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.

18-7(e) RECORDING - Whenever the committee makes a recommendation, such recommendation shall be forwarded to the Board of Adjustment, the Division of Building Inspection, and be properly described in the committee's minutes.

18-8 ENFORCEMENT - Violations of Article 18 are
subject to the penalty provisions in Article 5-8, and may be enforced through the issuance of a civil citation, pursuant to Article 5-9.
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19-1 INTENT - The designation of flood hazard areas and the regulations imposed on these zones are intended to provide for public awareness of the flooding potential, protect human life and health, minimize public and private property damage, protect individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards, and minimize surface and ground water pollution and erosion of the floodplain soils which will adversely affect human, animal or plant life. It is the intent of this Article to control development which will, when acting alone or in combination with similar development, create an unjustified demand for public investment in flood control works by requiring that users vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction; cause additional flood losses if public streets, sewers, water, and other utilities must be extended below the flood level to serve the development; create an additional burden to the public to pay the costs of rescue, relief, emergency preparedness measures or storm sewer systems; create an additional burden to the public for business interruptions, disruption of transportation routes, interference with utility services and other factors that result in the loss of wages, sales production and tax revenue.

19-2 DEFINITIONS - Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ADDITION TO AN EXISTING BUILDING - 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 firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is considered new construction.

FLOOD - A temporary rise in stream flow or stage that results in water overtopping its bank and inundating areas adjacent to the channel.

FLOODPLAIN - That land, adjacent to a stream, channel, or a body of water, which has been or may be hereafter covered by flood water during the regulatory flood. Floodplain shall include those lands which are included in the special flood hazard areas and those lands that are determined to be included within the post-development floodplain.

FLOODPLAIN VARIANCE - A grant of relief from the requirements of this Article which permits construction or use in a manner otherwise prohibited by this Article where specific enforcement would result in unnecessary hardship.

FLOOD PROFILE - The elevation (usually above mean sea level) of the water surface in a stream during flood discharges. The flood profile that exists during a flood depends upon the flood discharge and stream characteristics. Both the flood discharges of a given frequency and the stream characteristics change with time as the land use on upstream watersheds change and as the stream is changed due to vegetation, bridges, culverts, obstructions, etc. The flood profile can be used to determine the exact limits of the floodplain.

FLOODPROOFING - A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

FLOODWAY - That portion of the floodplain that is reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

FUNCTIONALLY DEPENDENT USE - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, facilities that are necessary for the loading or unloading of cargo or passengers, and boat repair facilities; but does not include any residential use or any long term storage or related manufacturing facilities.

HISTORIC STRUCTURE - Any structure that is listed individually on the National Register of Historic Places or is determined as meeting the requirements for individual listing on the National Register; is certified or preliminarily determined to contribute to the historic significance of a National Register Historic District or an area that meets the requirement of a National Register Historic District; is individually listed on a state...
inventory of historic places; or is located within a Historic District (H-1) Zone.

**LOWEST FLOOR** - The lowest floor of the lowest enclosed area (including basement) of a structure. Lowest floor shall not include an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in compliance with the applicable design requirements of this ordinance.

**LOWEST OPENING** - The lowest opening into a structure, including doors and windows, sills, foundation vents, the top of window wells, crawl space entrances, and the top landing of exterior stairways and other openings leading to below grade spaces. Lowest opening shall not include access to an unfinished or flood resistant enclosure used solely for parking of vehicles, or for building access or storage, nor shall it include openings intended and used solely for the purpose of providing hydrostatic venting.

**MANUFACTURED HOME** - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to required utilities. For the purposes of floodplain management, this term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred and eighty (180) consecutive days. For flood insurance purposes, the term “manufactured home” does not include park trailers, travel trailers and other similar vehicles.

**NEW CONSTRUCTION** - Any structure for which the start of construction commenced on or after the effective date of this Article, including any improvements to such structure.

**OBSTRUCTION** - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**PERSON** - Any natural person, firm, partnership, association, or corporation.

**POST-DEVELOPMENT FLOODPLAIN** - The portion of land adjacent to a stream which is anticipated to be covered with water during the 100-year, 24-hour storm, based on a fully developed watershed and calculated using the procedures of the Division of Engineering Stormwater Manual.

**REGULATORY FLOOD** - A flood of a magnitude having a one percent (1%) chance of occurring in any given year and which, over a long period of time, can be expected to be equaled or exceeded, on the average, once every 100 years. The limits of the regulatory flood for a site shall be determined by reference to the elevations shown on the Federal Emergency Management Agency Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, where such data is available, or shall be the post-development floodplain, whichever is greater. Base flood shall be synonymous with regulatory flood.

**REGULATORY FLOOD PROTECTION ELEVATION** - The elevation of the lowest floor or the lowest opening of a structure which shall be two (2) feet or more above the water-surface elevation of the regulatory flood.

**SPECIAL FLOOD HAZARD AREA** - That land shown as the Special Flood Hazard Area (Zones A and AE) including the channel, floodway, and floodplain of the base flood, as shown on the Federal Emergency Management Agency (FEMA) Digital Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, dated September 17, 2008 (and any revisions thereto including through a Letter of Map Amendment or a Letter of Map Revision) of the Federal Insurance Administration report entitled “The Flood Insurance Study for Lexington-Fayette Urban County Government, Kentucky” (such maps may hereafter be referred to as FEMA Maps).

**START OF CONSTRUCTION** - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (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 sidewalks; nor does it include excavation for a basement or footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of an accessory building.
STREAM - Any river, creek, or channel having well-defined banks, in which water flows for substantial periods of the year. Stream shall include all perennial streams shown as solid blue line, and intermittent streams shown as dashed blue line, on the USGS 7.5-minute topographic maps. A channel that is not shown as a dashed or solid blue line on a USGS Map shall be considered a stream if it has a drainage area of at least 50 acres.

SUBSTANTIAL IMPROVEMENT - Means, for a structure built prior to the enactment of this ordinance, any repair, reconstruction, or improvement of a structure taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure either: (1) before the initial improvement or repair is started, or (2) if the structure has been damaged by any means and is being restored, before the damage occurred.

For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a historic structure listed on the National Register of Historic Places.

WATERSHED - Is the region or area which drains into a river, lake or stream. The total area included within a watershed will vary, depending on the drainage system being considered; but usually the total area above a given point on a stream, channel, or lake that contributes runoff water to the stream or lake at that point is called a watershed.

19-3 NOTIFICATION - The official Digital Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, dated September 17, 2008 (and any revisions thereto including through a Letter of Map Amendment or through Letter of Map Revision) of the Federal Insurance Administration report entitled “The Flood Insurance Study for Lexington-Fayette Urban County Government, Kentucky” shall be filed with the Division of Planning and the Fayette County Clerk and shall be considered an integral part of the subdivision plats maintained on file by the Fayette County Clerk. The purpose of this filing is to give notice to all transferees of those properties which are most susceptible to flooding. Such notice will allow each person to evaluate the impact of such flooding on the intended use.

19-4 WARNING AND DISCLAIMER OF LIABILITY - The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering methods of study. Larger floods may occur on occasion, or flood heights may be increased by manmade or natural causes. This ordinance does not imply that areas outside the designated flood hazard areas or uses permitted within such areas will be free from flooding or flood damages; nor shall this ordinance be the basis for, or create liability on the part of, the Lexington-Fayette Urban County Government or any officer or employee thereof for flood damages that result from reliance on this or any administrative decision made lawfully thereunder.

19-5 LANDS TO WHICH THIS ARTICLE APPLIES - This Article shall apply to all lands within the jurisdiction of the Lexington-Fayette Urban County Government which meet the following:

(a) Special Flood Hazard Areas as defined herein.

(b) The post-development floodplain as it has been established through the subdivision or development plan process which may include all, or portions of, the Special Flood Hazard Area. These areas are not subject to the mandatory flood insurance provisions of the Federal Flood Insurance Administration, but are subject to the land use controls of this Article including, but not limited to, regulatory flood protection elevations.

(c) Areas of Alluvial Soils as regulated in 19-19 herein.

(d) Areas adjoining or adjacent to the floodplain that are Vegetative Buffer Strips or Floodplain Setback Areas.

19-6 INTERPRETATION OF THE FLOOD HAZARD BOUNDARIES - The Division of Building Inspection and the Division of Planning shall refer questions as to the interpretation of the Flood Hazard Boundaries to the Urban County Engineer, who shall be empowered to interpret the boundaries of any flood hazard area based upon the Division of Engineering Stormwater Manual, and sound engineering practices. Appeals to the Urban County Engineer's interpretation shall be as outlined in Section 19-13 herein below. The following principles shall be used to guide the Urban County Engineer:

(a) The provisions of this Article shall be considered as minimum requirements;

(b) The Urban County Engineer shall liberally construe the provisions of this Article in favor of the objective of flood protection; and
This Article shall be deemed neither to limit nor to repeal any other powers granted under state statute or federal law.

19-7 STANDARDS APPLICABLE TO ALL SPECIAL FLOOD HAZARD AREAS AND POST-DEVELOPMENT FLOODPLAINS - Unless otherwise specified, the following standards are applicable in all special flood hazard areas and all post-development floodplains:

19-7(a) PROHIBITED USES - The following uses shall be prohibited in special flood hazard areas and in post-development floodplains unless granted through a special permit or as a floodplain variance:

1. Excavating, grading or filling which disturbs the natural grade of the floodplain. Failure to comply with this prohibition shall constitute a violation of this Zoning Ordinance subject to a civil citation, fine and/or abatement, as provided in Article 5.

2. Principal or accessory buildings, including but not limited to, manufactured buildings for residential, business, office, or industrial use.

19-7(b) PERMITTED ACTIVITIES - The following uses having low obstructive effect shall be permitted in the floodplain to the extent that they are not prohibited by any other ordinance and provided that they do not require grading, filling, structures, storage of materials and equipment, or any other obstructive features:

1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, or wild crop harvesting. Agricultural fences necessary for those uses are permitted.

2. Uses accessory to private and public recreational uses, such as golf courses, driving ranges, archery ranges, picnic grounds, boat-launching ramps, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails, pedestrian trails and crossings.

3. Uses accessory to residential uses, such as lawns, gardens, parking areas, and play areas.

4. Functionally dependent uses as defined herein.

5. Detention and retention basins when designed and constructed as per the Engineering Manuals, and meeting all State and Federal regulations.

19-7(c) LOTS IN A SPECIAL FLOOD HAZARD AREA - Where a new structure is proposed on an existing lot that includes a regulatory flood area, and no regulatory flood protection elevation is shown on the final record plan for the lot, the lowest floor of the structure shall be at or above the regulatory flood protection elevation as determined through reference to the Federal Insurance Administration report, “The Flood Insurance Study for Lexington-Fayette Urban County Government, Kentucky.” Where a substantial improvement of an existing structure is proposed on a lot that includes a regulatory flood area, and no regulatory flood protection elevation is shown on the final record plan for the lot, the lowest opening of the structure shall be at or above the regulatory flood protection elevation as determined through reference to the Flood Insurance Administration report, “The Flood Insurance Study for Lexington-Fayette Urban County Government, Kentucky.” Where a new structure or substantial improvement of an existing structure is proposed within a special flood hazard area, and neither the final record plan nor the Flood Insurance Study specifies a regulatory flood elevation for the stream, a licensed professional engineer shall determine the regulatory flood elevation, or the applicant may request assistance from the Kentucky Division of Water. The engineer may use the Contour Interpolation Method, contained in the Stormwater Manual, to determine the regulatory flood elevation, which shall be the basis for establishing the regulatory flood protection elevation.

19-7(d) LOTS WITH A REGULATORY FLOOD PROTECTION ELEVATION - Where a new structure or substantial improvement of an existing structure is proposed on a lot which has a regulatory flood protection elevation noted on the final record plan of the property, the lowest floor and the lowest opening of the structure shall be at or above the noted elevation.

19-7(e) UTILITY STANDARDS - All utilities shall be designed and located to minimize their potential for flooding during the regulatory flood. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system. New or replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters in the systems and discharges from the systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. 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.

19-7(f) ADDITIONS TO EXISTING STRUCTURES - Additions to structures that were lawfully constructed on fill or at an elevation which was permitted prior to the adoption or amendment of this Article shall be permitted provided:

(1) the addition does not constitute substantial improvement to the structure,
(2) the addition does not require filling in the floodplain,
(3) the floor elevation of the addition is proposed to be at least at the regulatory flood-protection elevation.

19-7(g) GENERAL STANDARDS FOR MAJOR SUBDIVISION PLANS AND DEVELOPMENT PLAN PROPOSALS - All storm water facilities shall be designed and constructed, and all post-development floodplains shall be calculated, in conformance with the requirement of the Division of Engineering Stormwater Manual. All major subdivision plans and final development plans shall, at a minimum, be subject to the following requirements. Failure to comply with these standards during construction or with requirements established by these standards during or after construction shall be a violation of this Zoning Ordinance, subject to a civil citation, fine and/or abatement, as provided in Article 5.

19-7(g)(1) PRELIMINARY SUBDIVISION AND PRELIMINARY DEVELOPMENT PLAN REQUIREMENTS - In order to protect the floodplain during infrastructure construction, a preliminary subdivision plan and/or a preliminary development plan shall indicate the location of a Vegetative Buffer Strip. The Vegetative Buffer Strip shall be 25 feet, measured horizontally from the centerline, on each side of intermittent streams and 25 feet, measured horizontally from the edge of the bank, on each side of perennial streams. The boundary of the Vegetative Buffer Strip may be located inside or outside the horizontal limits of the floodplain. Within the Vegetative Buffer Strip, there shall be no grading, filling, trenching, soil compaction, removal of vegetation, or other disturbance of the soil or ground cover (including parallel utilities), or the storage of equipment or materials during the construction of the infrastructure.

19-7(g)(2) FLOODPLAIN ANALYSIS - For any property in any zone one (1) acre in size or larger, containing or adjacent to a Special Flood Hazard Area as defined herein, or adjoining a stream having minimum drainage area of 50 acres or greater, a floodplain analysis shall be required, in conformance with the Division of Engineering Stormwater Manual, to determine the post-development floodplain. Such analysis shall not be required for the subdivision of property in a residential or agricultural zone for which no infrastructure improvements are proposed; however, the Planning Commission may require a floodplain analysis for such a subdivision in locations of known flooding.

19-7(g)(3) REVISION OF THE SPECIAL FLOOD HAZARD AREA - If the watershed study determines that the proposed development will cause the post-development floodplain to be different than the Special Flood Hazard Area depicted on the Digital Flood Insurance Rate Maps, the project engineer shall prepare and submit the appropriate Letter of Map Change (which may include C-LOMR, LOMR, LOMA, LOMR-F, or other appropriate filing) to FEMA.

19-7(g)(4) FINAL RECORD PLAN AND FINAL DEVELOPMENT PLAN REQUIREMENTS - Final record plans and final development plans that include or adjoin a special flood hazard area or a post-development floodplain shall include and show the floodplain boundaries. Regulatory flood elevations (in relation to mean sea level) shall be noted.

(a) REGULATORY FLOOD PROTECTION ELEVATION - The final record plan shall show the Regulatory Flood Protection Elevation (RFPE) for each lot that includes or is adjacent to a floodplain, and the final development plan shall show the RFPE for each such building.

(b) MINIMUM SETBACK - All lots which contain or adjoin a floodplain shall have a minimum building setback from the floodplain of twenty-five (25) feet depicted on the final record plan and on the final development plan. This building setback shall be measured horizontally from the edge of the floodplain and shall be applicable to all principal and accessory buildings on the lot.

(c) VEGETATIVE BUFFER STRIP - In order to protect the stream from inappropriate activities, there shall be a vegetative buffer strip of 25 feet, measured horizontally from the centerline, on each side of intermittent streams and 25 feet, measured horizontally from the edge of the bank, on each side of perennial streams. The vegetative
buffer strip may coincide with greenways or the setback required above. Within the vegetative buffer strip, there shall be no grading, filling, removal of vegetation, or other disturbance of the soil or ground cover, or construction of principal or accessory buildings.

**19-7(g)(5) SUBDIVISION AND DEVELOPMENT PLAN REVIEW STANDARDS** - All subdivision and development plans shall be consistent with the need to minimize flood damage and shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage to it and to other uses. The following public facilities shall be permitted in the floodplain:

(a) Temporary sediment ponds that will be converted to permanent storm water management ponds, provided they are located outside the horizontal limits of the vegetative buffer strip.

(b) Roadways and utilities that cross at angles within 10 degrees of being perpendicular to the water or to the floodplain.

(c) Sanitary sewers, which shall be constructed outside the horizontal limits of the 10-year post-development floodplain, with manhole covers set at an elevation one (1) foot above the elevation of the regulatory flood.

(d) Storm sewer pipe outlets where the outlet terminates at the edge of the post-development floodplain.

**19-7(h) STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS OR WITHOUT FLOODWAYS** - Within Special Flood Hazard Areas, where streams exist but no base flood data has been provided, or where base flood data has been provided without a floodway, the following provisions shall apply:

(1) No encroachments, including fill material or structures, shall be located within special flood hazard areas, unless certification by a professional engineer is provided demonstrating the pre-development Base Flood Elevation and that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point. The engineering certification must be supported by technical data that conforms to standard hydraulic engineering principles.

(2) New construction, substantial improvement or an addition to an existing structure shall be elevated or flood-proofed to at least the regulatory flood protection elevation and shall meet the requirements of Article 19-8, as necessary.

**19-8 SPECIAL PERMIT USES** - Special permit uses in the floodplain may be permitted only where existing streets or utilities are at elevations which make construction outside the horizontal limits of the floodplain impractical, or in other special circumstances. Structures shall ordinarily be located outside the horizontal limits of the floodplain and at least two feet above the elevation of the regulatory flood, but may be allowed as a special permit use, to be elevated or flood-proofed to a point above the regulatory flood protection elevation. Such structures shall be limited to those that will not be subject to substantial flood damage and which will not substantially affect the capacity of any stream or increase the regulatory flood elevation. All special permit uses shall be located outside the horizontal limits of the vegetative buffer strip, and no structure shall be permitted as a special permit use within the floodway. A licensed professional engineer shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the requirements herein. Such certification, including the specific elevation (in relation to mean sea level) to which such structure is elevated or flood-proofed, shall be provided to the Division of Engineering as a part of the application for the special permit. Failure to comply with the standards for a special permit or with any conditions attached to the special permit shall be a violation subject to a civil citation, fine and/or abatement, as provided in Article 5.

**19-8(a) MANUFACTURED HOMES** - Any manufactured home permitted in any floodplain as a special permit use shall be elevated so as to be at or above the regulatory flood protection elevation and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top and frame ties to ground anchors. Federal Emergency Management Agency Manual (FEMA #85), "Manufactured Home Installation in Flood Hazard Areas," published in September 1985, shall be the basis for determination of compliance with this section. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
19-8(b) FLOOD-PROOFED BUILDINGS - New construction or substantial improvement of an existing structure for business, office, industrial or other non-residential use, so as to be flood-proofed, shall be permitted as a special permit use, provided that below the regulatory flood protection elevation the structure is water tight with walls substantially impermeable to the passage of water, and with the structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

19-8(c) NEW STRUCTURES ON FILL - New construction or substantial improvement of an existing structure on fill shall be permitted as a special permit use, provided the lowest floor and the lowest opening are at or above the regulatory flood protection elevation. Such fill shall be at least one (1) foot above the regulatory flood elevation for the particular area and shall extend at that same elevation towards the stream channel for a distance of at least fifteen (15) feet beyond the limits of the structure thereon. However, no use shall be constructed which adversely affects the capacity of streams or floodplains of any main stream or tributary to the main stream, drainage ditch, or any other drainage facility or system, or will increase the regulatory flood elevation.

19-8(d) ELEVATED BUILDINGS - New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must be certified by a licensed professional engineer and shall meet the following minimum criteria:

1. The structure shall have a minimum of two openings for hydrostatic venting, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

2. The bottom of all such openings shall be no higher than one foot above grade; and

3. Such openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both direction; and

4. Electrical, plumbing, and other utility connections are prohibited below the regulatory flood protection elevation; and

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

6. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

19-8(e) PARKING LOTS AND PARKING STRUCTURES - Parking lots and parking structures shall be permitted in the floodplain as special permit uses.

19-8(f) OTHER USES - Uses such as tennis courts, for which fences are an integral requirement, shall be permitted as a special permit use in the floodplain. Fences must be designed and located to minimize obstruction of the floodplain. Swimming pools shall not be permitted in the floodplain.

19-9 PROCEDURES AND STANDARDS FOR ISSUING SPECIAL PERMITS - Requests for special permits shall be filed with the Division of Building Inspection and will be processed as provided below.

19-9(a) FILING - The Division of Building Inspection shall review all requests for building or location permits in order to determine whether such requests would require a special use permit under the provisions of this Article. The Division of Building Inspection shall refer any request requiring a special permit to the Division of Engineering. Should the Division of Building Inspection be unable to positively determine whether a special permit is required, the request will be referred to the Division of Engineering for such determination. Where a final development plan or a preliminary subdivision plan is filed for consideration by the Planning Commission, the Division of Planning, instead of the Division of Building Inspection, shall refer such plan to the Division of Engineering for review. The Division of Engineering shall process all such requests as described herein.

19-9(b) REVIEW BY THE DIVISION OF ENGINEERING - The applicant for a Special Permit shall be required to furnish such of the following information as is deemed necessary by Division of Engineering to determine the suitability of the particular site for the proposed use:

1. Plans drawn to scale showing the nature, location, dimensions, and elevation for the lot, existing or proposed structures, obstructions, fill, storage of
materials, flood-proofing measures, and the relationship of the above to the location of the stream channel, floodway, and the regulatory flood protection elevation.

(2) A typical valley cross-section showing the channel of the stream, elevation of the land area adjoining each side of the channel, cross-section of areas to be occupied by the proposed development and high water information.

(3) Plans (surface view) showing elevations or contours of the ground; pertinent structures, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures and obstructions on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses, trees, and other vegetation upstream and downstream, soil types, and other pertinent information.

(4) A profile showing the slope of the bottom of the channel or flow line of the stream.

(5) Specifications for building construction and materials, flood-proofing, water supply, and sanitary facilities; and, where proposed, filling, dredging, grading, and storage of materials.

(6) Such other information as may be necessary to evaluate the proposed development in terms of the flood hazard created.

19-9(c) TECHNICAL ASSISTANCE - The Division of Engineering may require the applicant to transmit one copy of the information required above to a designated engineer or other expert person or agency for technical assistance where necessary to aid in evaluating the proposed project in relation to flood heights and velocities; the seriousness of flood damage to the use; the adequacy of the plans for protection; and other technical matters.

19-9(d) ADDITIONAL PERMITS - The Division of Engineering shall advise applicants that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the special use permit.

19-9(e) FACTORS WHICH SHALL BE CONSIDERED - In considering an application for a Special Permit, all relevant factors shall be considered in order to ensure that the purpose and intent of this ordinance are met. The Division of Engineering shall also consider the following factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The availability of alternative locations not subject to flooding for the proposed use.

(7) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(8) The relationship of the proposed use to the adopted Comprehensive Plan and other adopted Community Plans, the uses otherwise permitted in the zone, and the floodplain management program for the area.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(11) Such other factors which are relevant to the purposes of this ordinance.

19-9(f) CONDITIONS ATTACHED TO ALL SPECIAL PERMITS - Upon consideration of the factors listed above and for the purposes of this ordinance, conditions may be attached to the granting of special permits as are deemed necessary to further the purposes of this ordinance. Among such conditions, without limitation because of specific enumeration, may be modification of waste disposal and water-supply facilities, limitations on periods of use and operation, imposition of operational controls, sureties, deed restrictions, requirements for construction of channel modifications, dikes, levees, and other protective measures, flood-proofing measures which shall be designed consistent with the regulatory
flood protection elevation for the particular area, considering flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Urban County Engineer shall require the applicant to submit a plan or document certified by a licensed professional engineer that the flood-proofing measures are consistent with the regulatory flood-protection elevation and associated flood factors for the particular area. The following flood-proofing measures may be required without limitation because of specific enumeration:

1. Structural anchorage such as addition of mass or weight to structures to resist flotation or anchorage to resist flotation and lateral movement.

2. Waterproofing measures such as installation of watertight doors, bulkheads, and shutters, or similar methods of construction; use of paints, membranes, or mortars to reduce seepage of water through walls; construction of water supply and waste treatment systems so as to prevent the entrance of flood waters; installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent back-up of sewage and storm waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.

3. Structural reinforced construction to resist rupture or collapse caused by water pressure or floating debris.

4. Water removal devices such as installation of pumps to lower water levels in structures and installation of pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation, wall and basement flood pressures.

5. Location of hazardous equipment, including all electrical equipment, circuits, and installed electrical appliances, in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood. Any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials which could be hazardous to public health, safety, and welfare shall be designed and constructed in a manner which will assure the facilities are at or above the regulatory flood protection elevation or are adequately flood-proofed to prevent flotation of storage containers, or damage to storage containers, which could result in the escape of toxic materials into flood waters.

19-9(g) URBAN COUNTY ENGINEER'S REVIEW - The Urban County Engineer shall be empowered to approve, conditionally approve or deny any request for a special permit. However, this power is not construed to give the Urban County Engineer authority to grant floodplain variances from the provisions of this Article. Any request for a floodplain variance shall follow the procedures below. Every effort shall be made to complete the review and to render a decision within sixty (60) days of the submission of a completed application. However, failure to complete the review within the time period shall not constitute approval or denial of the special permit. The Urban County Engineer shall notify the Division of Building Inspection of this decision, in writing, giving reasons for granting or denying the request and conditions of approval (if any) of the special permit.

19-9(h) SPECIAL PERMITS ON PUBLICLY OWNED LAND - Any activity requiring a special permit that is proposed to be constructed on land owned by the Lexington-Fayette Urban County Government shall be approved by the Urban County Council prior to issuance of the special permit.

19-9(i) KENTUCKY DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WATER - The Division of Water has authority to review all plans involving any obstructive effect on the stream and floodplain in accordance with KRS 151. In any situation where approval of the Division of Water is required, a copy of such shall be submitted to the Urban County Engineer as a part of the review materials. If the Division of Water disapproves the request, no officer, department or board of the Urban County Government shall have the authority to approve the request.

19-10 APPEAL FROM DECISION OF THE URBAN COUNTY ENGINEER - The decision of the Urban County Engineer regarding the flood hazard status of any property, or approval or denial of a special permit, may be appealed by the property owner or an objector to the Urban County Engineer’s decision within 60 days. The appellant shall clearly state the location of the property, the reason for the appeal, and include such other information as may be necessary to evaluate the proposal. The appeal shall be referred to the Floodplain Appeals Committee and shall follow the procedure established herein.

19-10(a) MEMBERSHIP - The Floodplain Appeals Committee shall consist of five members to be appointed by action of the Planning Commission. One member
shall be the Commissioner of Public Works or the Commissioner’s designee, one member shall be a member of the Planning Commission, one member shall be a member of the Urban County Council, one member shall be a professional engineer licensed in Kentucky and in private practice, and one member shall be a member of the Home Builder’s Association of Lexington. The term of the Planning Commission member shall be the same as the member’s Planning Commission appointment, and the term of the Council member shall be the same as the Council member’s term. For the others, the initial appointment for one member shall be for four years, one for three years and one for two years. Subsequent appointments shall be for four years.

19-10(b) COMMISSIONER OF PUBLIC WORKS’ REVIEW - All appeals from the decision of the Urban County Engineer shall be reviewed by the Commissioner of Public Works prior to filing with the Floodplain Appeals Committee. The Commissioner of Public Works may solicit additional technical or legal advice to assist in the review. The Commissioner of Public Works shall not be empowered to override the decision of the Urban County Engineer, but may refer the request back to the Urban County Engineer for a reconsideration if the Commissioner’s review uncovers new facts or information not considered in the original decision of the Urban County Engineer. However, if so desired, the appellant may file directly with the Floodplain Appeals Committee after the Commissioner has made the review. The Commissioner of Public Works shall document the review and recommendations in writing, and both the Commissioner’s report and the report of the Urban County Engineer shall be required to be filed with any application to the Floodplain Appeals Committee appealing the Urban County Engineer’s decision.

19-10(c) ORGANIZATION AND MEETINGS - The Floodplain Appeals Committee shall elect a chairman and any other officers deemed necessary, and shall keep records of its meeting and decisions. Meetings shall be held at the call of the chairman, or by the joint action of two members. In all cases, notice shall be given to all members at least six (6) days prior to any meeting. A quorum shall consist of three (3) members, and an appeal may be decided by a simple majority vote of two (2) members when a quorum is present.

19-10(d) DECISIONS AND RECORDING - In making its decision concerning a floodplain appeal, the Committee shall consider the factors listed in 19-12(e) of this Article. Every effort shall be made to complete the review and to render a decision within sixty (60) days of the submission of a completed application. However, failure to complete the review within the time period shall not constitute approval or denial of the special permit. The decision of the Floodplain Appeals Committee shall be forwarded to the Division of Building Inspection and to the Division of Engineering in order to be properly filed with the records of the property.

19-11 FLOODPLAIN VARIANCES - An activity needing a floodplain variance under the terms of this Article is defined as any proposed activity in a flood hazard area not considered as either a permitted use or special permit use in this ordinance. All requests for floodplain variances shall follow the same procedures as outlined above for an appeal of the Urban County Engineer’s decision, and shall first include review of the request by the Urban County Engineer. Further review of a floodplain variance request shall be referred to the Floodplain Appeals Committee as established herein. The following shall apply to floodplain variance requests:

(a) Floodplain variances may be issued for the reconstruction, rehabilitation or restoration of historic structures, as defined herein, provided that the Committee finds that the floodplain variance is the minimum necessary so as to not destroy the historic character and design of the building; and that such reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.

(b) In its review of floodplain variance applications, the Committee shall consider all technical evaluations, all relevant factors, and all standards specified in other sections of this Article. In consideration of such factors and the purposes of this Article, the Committee may attach such conditions to the granting of floodplain variances as it deems necessary to further the purposes of this Article.

(c) Floodplain variances shall not be issued within any designated floodplain if any increase in flood levels during the regulatory flood would result.

(d) Floodplain variances shall only be issued upon a determination that the floodplain variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Floodplain variances shall only be issued upon a showing that the property has physical characteristics so unusual that complying with the requirements of this Article would create an exceptional hardship to the applicant or to the surrounding property owners. The characteristics must pertain to the land itself, and not the structure, its inhabitants or the property owners. Economic or financial hardship alone is not
exceptional. Factors such as inconvenience, aesthetic considerations, physical handicaps (except as defined by the Americans with Disabilities Act), personal preferences, or the objections of other property owners in the vicinity do not qualify as an exceptional hardship. These problems may be resolved through other means without the granting of a variance, even if the alternative is more expensive, requires the property owner to build elsewhere, or to put the property to a different use than originally intended.

(f) A floodplain variance may only be issued upon a determination that the granting of a floodplain variance will not result in extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(g) Any applicant to whom a floodplain variance for a structure is granted shall be given written notice by the Division of Planning specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

19-12 COMMISSIONER OF PUBLIC WORKS’ RESPONSIBILITIES - In addition to the responsibilities outlined above, the Commissioner of Public Works or authorized designee(s) shall have the responsibility to:

(a) Notify adjacent political jurisdictions and the Kentucky Department of Natural Resources, Division of Water, prior to any alteration of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

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

(c) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) and the lowest opening of all new structures and all additions to existing structures situated within a flood hazard area, where the base flood elevation is determined by means other than as a special flood hazard area.

(d) Verify and record the actual elevation (in relation to mean sea level) to which any new or substantially improved structure located within a special flood hazard area has been flood-proofed.

(e) When base flood elevation data have not been provided, then the Commissioner of Public Works shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this Article.

19-13 AREAS OF ALLUVIAL SOILS - When a building permit for new construction or substantial improvement to an existing structure is requested for a site where alluvial soils are found, and the site is not located in a Special Flood Hazard Area or a post-development floodplain, where detailed hydrologic and hydraulic calculations have not been performed in conjunction with the development, the Division of Building Inspection shall refer the request to the Division of Engineering for review. These alluvial soils are identified in the Soil Survey, Fayette County, Kentucky, U.S. Department of Agriculture, Soil Conservation Service, 1968 and most specifically are as follows: Armour Silt Loam (ArA), when adjacent to a stream or other alluvial soil; Armour Silt Loam (ArB and ArC) when along the Kentucky River; Captina Silt Loam (CaA), Captina Silt Loam (CaB), Egam Silt Loam (Ea), Egam Silt Loam (Ec), Huntington Silt Loam (Hu), Lanton Silt Loam (La), Lawrence Silt Loam (Lc), Linside Silt Loam (Ld), Melvin Silt Loam (Mt), and Newark Silt Loam (Ne). In its review, the Division of Engineering may require the elevation of the lowest floor and the lowest opening of the structure to be not less than two (2) feet above the nearest regulatory flood elevation for the stream (as shown on the FEMA Maps), or not less than two (2) feet above any calculated or known high water level that the Division of Engineering has on file for the watershed; or may require the submission of information prepared by a licensed professional engineer that the elevation is at least two (2) feet above the elevation of the regulatory flood and will not obstruct the floodplain or create adverse flooding conditions on adjacent properties. In addition, the Division of Building Inspection shall require the submission of a foundation and footer detail prepared by the private professional engineer prior to the issuance of the building permit. Appeals of the elevation requirements of the Division of Engineering shall be referred to the Floodplain Appeals Committee and shall follow the review procedure therein.

19-14 NON-CONFORMING USES - A structure which was lawfully constructed at an elevation below the elevation of the base flood before the passage or amendment of this ordinance, or the use of a structure or premises which lawfully commenced prior to the adoption or amendment to this Article, which is not in conformity with the provisions of this Article, may be continued so long as it remains otherwise lawful subject to the following conditions:
(a) No such use or structure shall be expanded, changed, enlarged or altered in a way which increases its non-conformity.

(b) No substantial improvement of any non-conforming structure shall be permitted, unless the structure is permanently changed to a conforming use.

(c) If any non-conforming use or structure is destroyed by any means, including but not limited to floods, to an extent of fifty percent (50%) or more of its value, it shall not be reconstructed except in conformity with the provisions of this Article.

(d) Any alteration, addition, or repair to any non-conforming structure which would result in substantially increasing its flood-damage potential shall be prohibited.

19-15 EXISTING STRUCTURES NOT NON-CONFORMING - Structures or uses which were lawfully constructed on fill, or elevated, so as to be at least one (1) foot above the regulatory flood elevation, shall be considered conforming uses.

19-16 ENFORCEMENT - The provisions of special use permits shall be enforced by the Divisions of Engineering and Building Inspection. Generally, the Division of Engineering shall determine compliance with elevation requirements and drainage features, and the Division of Building Inspection shall enforce structural requirements where flood-proofing of the structure is required. Minimum floor elevations shall be enforced through an elevation certificate, prepared by a registered land surveyor or a professional engineer, and submitted to the Division of Building Inspection after the elevation of the lowest opening is established and before any further work on the structure proceeds.
20-1 PURPOSE AND INTENT - Within Fayette County, soil erosion from construction sites contributes to the impairment of the floodplain, increased road maintenance costs, clogging of storm sewers, degradation of land surfaces and streams, flooding, and dusty conditions when eroded material on streets dries. Significant erosion results from rainfall and runoff over unprotected soil. Erosion is increased by intense rainfalls, long slopes, steep slopes, and lack of adequate vegetative cover. These conditions are in part caused by or aggravated by improper construction, grading, or excavation, which results in removal of natural ground cover without taking appropriate steps to control erosion problems. The intent of this ordinance is to reduce soil erosion in Fayette County, and to provide procedures for submission, review, and approval of erosion control plans prior to soil disturbance.

20-2 DEFINITIONS - Unless specifically defined below, words and phrases used in this Article shall be interpreted so as to give the meaning they have in common usage and to give this Article the most reasonable application.

EROSION - The process by which the ground surface is worn away by the action of wind or water.

EXCAVATION OR CUT - Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated, and shall include the conditions resulting therefrom.

FILL - A deposit of soil, rock or other non-deteriorating material used by man, to replace or supplement the original soil or sub-soil.

GRADING - Any stripping, excavating, filling, stockpiling of soil or any combination thereof, and shall include the land in its excavated or filled condition.

NATURAL FEATURES - Shall include but not be limited to, existing water courses, soils, vegetation (including grasses, shrubs, legumes, etc.) and tree stands having trees five (5) inches or greater in diameter or fifteen (15) feet or greater in height, whichever is less.

NATURAL GROUND SURFACE - Any ground surface in its original state before any grading, excavation or filling, and shall be established by the Division of Engineering when there is any question of its location.

SEDIMENT - Any solid material, both mineral and organic that is in suspension, is being transported, or has been moved from its site or origin by air, water or gravity as a product of erosion.

SLOPE - Any inclined, exposed surface of a fill, excavation, or natural terrain.

SOIL - All earth material of whatever origin that overlies bedrock, and may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

STRIPPING - Any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

20-3 SCOPE OF COVERAGE - The following are included within the scope of this ordinance:

a. Grading, stripping, excavating, filling or otherwise disturbing the natural ground cover associated with construction and/or demolition shall only be permitted in conformance with this Article.

b. All persons submitting major subdivision plans (see Article 2 of Land Subdivision Regulations for definition of major subdivision class) or development plans must include a note on the preliminary plan stating that no grading, excavating, stripping, filling or other disturbance of the natural ground cover shall take place prior to submission of an erosion and sediment control plan. Where critical conditions exist on the subject property, the Planning Commission may require the developer to indicate on the preliminary plan the methods which will be used to comply with this Article. An erosion and sediment control plan shall be submitted as a part of the required improvement plan materials.
c. Any person disturbing the natural ground cover in an area for which there is an erosion control plan shall conform to the requirements of such plan without exception.

d. EXCEPTIONS - No grading permit or separate erosion and sediment control plan shall be required for the following:

(1) Accepted agricultural land management practices such as plowing, cultivation, construction of agricultural structures, nursery operations such as the removal and/or transplanting of cultivated sod, shrubs, and trees, tree cuttings at or above existing ground level, and logging operations leaving the stump, ground cover and root mat intact.

(2) Installation of lateral sewer lines, telephone lines, electricity lines, gas lines or other public service facilities.

(3) Excavations for cemeteries for human or animal burial.

(4) An excavation or fill, provided it:

(a) is less than four (4) feet in vertical depth at its deepest point as measured from the natural ground; and
(b) does not result in a total quantity of more than one hundred (100) cubic yards of material being removed from, deposited on or disturbed on any lot, parcel or subdivision thereof; and
(c) does not impair existing surface drainage, constitute a potential erosion hazard, or act as a source of sedimentation to any adjacent land or water course; and
(d) has no final slopes steeper than one (1) foot vertical in three (3) feet horizontal; and
(e) has proper vegetative cover reestablished as soon as possible on all disturbed areas; and
(f) has no fill placed on a surface having a slope steeper than five (5) feet horizontal to one (1) foot vertical.

(5) Grading, as a maintenance measure, or for landscaping purposes on existing developed lots or parcels, provided:

(a) the aggregate area(s) affected, or stripped at any one time does not exceed 10,000 square feet, and is not within a natural drainageway (i.e., designated floodplain);
(b) the grade change does not exceed eighteen (18) inches at any point and does not alter the drainage pattern;
(c) proper vegetative cover is reestablished as soon as possible on all disturbed areas; and
(d) the grading does not involve a quantity of material in excess of one hundred (100) cubic yards.

(6) Finished grading and excavation below finished grade for the following uses, in any zone, authorized by a valid building permit, provided the disturbed material or fill is handled in such a manner as to conform to the provisions of Section 20-6 herein:

(a) for basements and footings of a single-family, duplex residential structure, or townhouse structure provided no more than four units are attached;
(b) for retaining walls;
(c) for swimming pools; or
(d) for accessory structures related to single-family residences or duplex structures, or townhouse structures, provided no more than four townhouses are attached.

20-4 PROCEDURES AND STANDARDS FOR SUBMISSION OF EROSION AND SEDIMENT CONTROL PLANS AND FOR ISSUING PERMITS

20-4(a) AUTHORIZATION TO PREPARE PLANS - All erosion and sediment control plans must be prepared by a licensed professional engineer or licensed landscape architect. All hydrologic, hydraulic, structural and geo-technical design must be prepared by a licensed professional engineer. All erosion and sediment control plans shall be prepared in accordance with this Article, the Division of Engineering Stormwater Manual and the Division of Engineering Standard Drawings.

20-4(b) EROSION AND SEDIMENT CONTROL PLANS AS A PART OF THE IMPROVEMENT PLAN - Erosion and sediment control plans prepared as a part of the improvement plan under Article 4 of the Subdivision Regulations. Such plan
shall be subject to the procedures established by the Subdivision Regulations.

20-4(c) INFRASTRUCTURE DEVELOPMENT AGREEMENT - Prior to submission of all other erosion and sediment control plans, the landscape architect or project engineer (as appropriate), the developer and the Lexington-Fayette Urban County Government’s Division of Engineering shall enter into an Infrastructure Development Agreement in a form and containing the provisions of the Procedures Manual. A new Infrastructure Development Agreement shall be required in the event the developer of the property is changed to another development entity, or in the event the private agreement between the developer and the landscape architect or professional engineer is terminated.

20-4(d) SUBMISSION OF THE PLAN AND ISSUANCE OF A GRADING PERMIT - All erosion and sediment control plans shall be submitted to the Division of Engineering, which shall conduct an administrative review of the plan. The purpose of the administrative review shall be to verify that all items have been submitted as required in the Technical and Procedures Manuals. It shall be the sole responsibility of the landscape architect or the project engineer, as appropriate, to ensure the accuracy and completeness of all drawings, calculations, and reports, and to ensure construction feasibility of the design. Within ten (10) working days after receipt of a plan, the Division of Engineering shall notify the project engineer or the landscape architect, as appropriate, in writing, of any omissions or shall authorize the issuance of a grading permit. Upon such authorization, the Division of Engineering shall issue a grading permit, provided all other permit requirements are met. Upon completion of the work required under the erosion and sediment control plan, the project engineer or landscape architect shall certify to the Division of Engineering that the work has been completed.

20-4(e) EXTENSION OF TIME - Every grading permit issued to implement an erosion and sediment control plan shall expire six (6) months from the issuance of a grading permit unless work has been commenced in accordance with the plan. If work is not completed within the terms of the permit, or work is not commenced within six (6) months after issuance, the permit holder may, prior to the expiration of the permit, request in writing an extension. The Division of Engineering may extend the deadlines contained in the permit upon a showing by the applicant:

(1) that there is sufficient justification for the delay;
(2) that delay will not create a new erosion hazard or permit an existing one to continue; and
(3) that a new completion date has been set.

20-4(f) CONTENTS OF THE SOIL EROSION PLAN - All erosion and sediment control plans shall, at a minimum, conform to the requirements of the Stormwater Manual. If the property is to be developed in stages, the erosion and sediment control plan shall contain information on erosion and sediment control features that are proposed to be located up-stream of the current stage. Each stage of construction after the initial stage may proceed only if the erosion control measures for the preceding stage(s) are in conformance with the erosion and sediment control plan.

20-4(f)(1) WRITTEN DESCRIPTION - The project engineer or landscape architect, as appropriate, shall submit a written description of the erosion and sediment control plan, which shall include:

(a) A discussion of the land-disturbing project including the purpose, location, and size of the area to be disturbed;
(b) A discussion of the topography, land cover conditions, soils, percent of impervious areas, and drainage patterns both before and after development;
(c) An identification of land use and cover conditions of adjacent property;
(d) A schedule of the work to be conducted including the beginning and completion dates of construction activities, and construction sequencing, including clearing, grading, and re-vegetation activities, as well as winter shut-downs;
(e) A listing of erosion and sediment control best management practices, along with location installation schedule and the logic for each use; and
(f) A listing of stormwater pollution control and groundwater protection best management practices to minimize pollution during construction (other than erosion) that might result from construction activities.

20-4(f)(2) SITE MAP - The project engineer or landscape architect, as appropriate, shall submit a site map containing the following information:
(a) Current topography from field surveys or aerial photography at a scale of 1” = 50’ with 2-foot contours, showing pre-construction topography, drainageways, property lines, utilities, limits of construction, and trees to be preserved;
(b) Finished grades, building locations, paved areas, construction entrances, access or haul roads, stockpile areas and equipment storage areas, overlaid on the site topography map;
(c) All planned best management practices overlaid on the other features; and
(d) Areas of no disturbance.

20-4(f)(3) OTHER DATA - The project engineer shall submit all hydrologic, hydraulic, structural, and geotechnical design calculations, drawings and specifications.

20-4(f)(4) OPERATION AND MAINTENANCE PLAN - An operation and maintenance plan shall be submitted providing a schedule for inspection, maintenance, and repair of the best management practices during construction.

20-5 EROSION AND SEDIMENT CONTROL BEST MANAGEMENT PRACTICES - Erosion and sediment control plans shall utilize the following Best Management Practices, as appropriate, in conformance with the Division of Engineering Stormwater Manual, to achieve soil stabilization and to minimize erosion and off-site sedimentation.

20-5(a) NON-STRUCTURAL BEST MANAGEMENT PRACTICES - The following non-structural Best Management Practices shall be provided in all erosion and sediment control plans:

(1) FLOODPLAIN AVOIDANCE - Temporary sediment control in a permanent pond shall be allowed in the post-development floodplain, but not in the stream. Construction and grading shall conform to the provisions of Article 19.

(2) REDUCED EXPOSURE TIME - All on-site measures required by the Erosion and Sediment Control Plan shall be made functional before any other land disturbance takes place. Permanent or temporary soil stabilization, as described under Structural Practices, herein, shall be applied to disturbed or constructed areas within fourteen (14) days after final grade is reached. Soil stabilization shall also be applied to all disturbed areas not at final grade, including soil stockpiles, dams, dikes, and diversions, which have been inactive for fourteen (14) days.

(3) LIMITS ON MAXIMUM DISTURBED AREA - The maximum area that may be disturbed at any time during construction, without soil stabilization, is twenty-five (25) acres. For sites over twenty-five acres in size, additional land can be disturbed only when an equal amount of land is stabilized. A construction site shall not be broken into individual permits to avoid this requirement.

(4) EMBANKMENT SLOPE STABILIZATION - To minimize the adverse effects of steep embankment slopes, constructed fill slopes and cut slopes shall not be steeper than 3H:1V. For slopes of 4H:1V or steeper, with slope lengths of greater than one hundred (100) feet, temporary diversion ditches shall be constructed at the top of the slope and every one hundred (100) feet horizontally down the slope.

20-5(b) STRUCTURAL BEST MANAGEMENT PRACTICES FOR SOIL STABILIZATION - The following Best Management Practices shall be used to achieve soil stabilization:

(1) MULCH - Mulch shall be used as soil stabilization for any disturbed area inactive for fourteen (14) days or longer. Areas requiring stabilization during December through February shall receive only mulch held in place with bituminous material. Mulching shall be used whenever permanent or temporary seeding is used.

(2) TEMPORARY SEEDING - Temporary seeding shall be used for soil stabilization when grades are not ready for permanent seeding, except during December through February. Only rye grain or annual rye grass seed shall be used for temporary seeding.

(3) PERMANENT SEEDING - Permanent seeding shall be applied within fourteen (14) days after final grade has been reached, except December through February. Permanent seeding shall also be applied on any areas that will not be disturbed again for a year, even if final grades have not been reached.

(4) SOD - Sod shall be used for disturbed areas that require immediate vegetative cover; e.g., the area surrounding a drop inlet in a grassed
waterway, the design flow perimeter of a grassed waterway that will convey flow before vegetation can be established, and the inlet of a culvert. Sod may be installed throughout the year.

(5) ROAD/PARKING STABILIZATION - Gravel or paving material shall be used to stabilize permanent roads or parking areas or temporary roads or parking areas used repeatedly by construction traffic. Stabilization shall be accomplished within fourteen (14) days of grading or initiation of use for construction traffic. Use of unstabilized roads shall only be permitted when the road will be used less than one month.

(6) CONSTRUCTION ENTRANCE - A stabilized construction entrance shall be constructed wherever vehicles are leaving a construction site to enter a public road or at any unpaved entrance/exit location where there is a risk of transporting mud or sediment on paved roads. The construction entrance, a minimum of fifty (50) feet long, shall be built prior to commencing any further construction.

(7) DUST CONTROL - Dust control shall be utilized in association with all earth moving and site grading activities and in areas with frequent construction traffic.

(8) GEOTEXTILES - Mulch netting, erosion control matting, or turf reinforcement matting shall be used on sloping areas. Mats or nets and permanent seeding may be used as an alternate to sod for culvert entrances and grassed waterways. Turf reinforcement matting shall be used at the water-line to control wave action in wet ponds.

(9) GABION MATTRESSES - Gabion mattresses shall be used at the outlets of all culverts and storm drains with an exit velocity greater than five (5) feet per second when flowing full, except where there are paved ditches. Gabion mattresses shall also be used at the outlet of impact stilling basins.

(10) TEMPORARY DIVERSION DITCHES - Temporary diversion ditches shall be used to collect sediment-laden run-off from disturbed areas and direct it to a sediment pond, where applicable. Temporary ditches are expected to be used for less than one year and do not require stabilization.

(11) LEVEL SPREADER - Level spreaders shall be constructed at the outlets of temporary diversion ditches and at outlets of permanent constructed waterways where they terminate on undisturbed areas.

(12) PERMANENT VEGETATED WATERWAYS - Permanent constructed waterways shall be used to divert stormwater run-off from upland undisturbed areas, around or away from areas to be disturbed during construction. A waterway expected to be in place for at least one year shall be considered permanent. Permanent waterways shall be lined with sod or permanent seeding and nets, mats, or turf reinforcement matting.

(13) PIPE SLOPE DRAINS - Pipe slope drains shall be used, unless a paved ditch (flume) is installed, whenever it is necessary to convey water down a steep slope, which is not stabilized or which is prone to erosion.

(14) IMPACT STILLING BASINS - Impact stilling basins shall be used at the outlet of culverts and storm sewers with calculated exit velocities greater than fifteen (15) feet per second when flowing full.

20-5(c) STRUCTURAL BEST MANAGEMENT PRACTICES FOR SEDIMENT CONTROL - The following Best Management Practices shall be used to achieve sediment control:

(1) CHECK DAMS - Check dams shall be constructed prior to the establishment of vegetation in newly constructed, unpaved, open channels which drain ten (10) acres or less.

(2) SEDIMENT TRAPS - Sediment traps shall be installed below all disturbed areas of less than five (5) acres which do not drain into a sediment pond.

(3) SEDIMENT PONDS - Sediment ponds shall be installed at the outlet of disturbed areas of five (5) acres or more. The maximum drainage area for a single pond shall be one hundred (100) acres. The pond shall be designed to reduce peak discharges during construction to pre-development levels for the ten-year and one-hundred year storms.

(4) SILT FENCES - Silt fences shall be installed down-slope of areas to be disturbed
prior to clearing and grading. The silt fence must be situated such that the total area draining to the fence is not greater than one-fourth acre per one hundred (100) feet of fence. Silt fencing shall be installed at the boundary of a construction site and a post development floodplain and along the boundary of a stream, wetland, sinkhole buffer area, and a permanent constructed waterway filter strip. Silt fences shall be used for storm drain drop-inlet protection and around soil stockpiles.

(5) STORM DRAIN INLET PROTECTION - Storm drain inlet protection shall only be used around drop-inlets when the up-slope area draining to the inlet has no other sediment control.

(6) FILTER STRIPS - Filter strips shall be used on each side of streams, wetlands, sinkholes, and permanent constructed waterways.

(7) STREAM CROSSING STRUCTURES - Crossing structures shall be used in cases where construction traffic, permanent traffic, or utilities must cross streams. If the drainage area exceeds one (1) square mile and a structure is necessary, the structure must be designed by a registered professional engineer.

(8) PUMP-AROUND FLOW DIVERSIONS - Pump-around flow diversions shall be used to divert flow around construction activities occurring in a stream when those activities are reasonably expected to cause the erosion or deposition of sediment in the stream.

20-6 LOW-DENSITY RESIDENTIAL REQUIREMENTS - Construction of, additions to, and accessory structures in conjunction with single-family, two-family, and townhouse structures, in any zone, when located on separate lots and not more than four units are attached, shall not require the submission of erosion control plans to obtain a building permit. However, as a condition to the issuance of the building permit for these uses, the following shall be required during construction:

a. Sediment controls, including silt fences, diversion ditches, earthen berms, grass strips (at least ten feet wide), or other method shall be installed in conformance with the Stormwater Manual on each lot to prevent, to the extent practicable, sediment from washing into streets, catch basins, storm sewers, grassed open channels, or adjacent seeded or sodded lots. Builders who own multiple adjoining lots may install a single sediment control feature for all the lots, rather than installing individual controls for each lot. Disturbed areas that drain directly to sediment ponds or sediment traps by means of temporary diversion ditches do not require additional sediment controls on the lot.

b. All disturbed areas shall be seeded and mulched within fourteen (14) days after final grading of the property.

c. A temporary gravel pad, not a dirt pad, not greater than 30 feet wide and installed in the center of the lot, shall be used to protect the sidewalk from earth moving and other construction equipment.

d. In order to clearly delineate the front corner boundaries of the lot, a 4” X 4” X 3’ post shall be installed at the street right-of-way where the property corner adjoins a lot containing an occupied residence.

20-7 SURETY REQUIREMENTS

20-7(a) EROSION AND SEDIMENT CONTROL INCLUDED IN SURETY IN CONJUNCTION WITH AN IMPROVEMENT PLAN - The surety, if such is required to be posted under Article 4 of the Land Subdivision Regulations, shall include an amount for the completion and proper operation of erosion and sediment control facilities.

20-7(b) POSTING OF SURETY FOR OTHER DEVELOPMENTS - The Division of Engineering may require a surety to be posted for erosion and sediment control facilities which are required to be constructed but are not in conjunction with an improvement plan, when such facilities are to be used by more than one property in a development. The amount of the surety shall be sufficient to provide for completion, proper operation and any required conversion of the basins to permanent stormwater best management practices.

20-8 VIOLATIONS AND PENALTIES

20-8(a) FAILURE TO COMPLETE WORK OR COMPLY WITH TERMS OF PLAN - Failure to complete the work or failure to comply with all the requirements, conditions and terms of the permit or plan shall constitute a violation subject to civil citation, fines and/or abatement by the Urban County Government, as provided by Article 5.
20-8(b) CORRECTION OF VIOLATIONS - All violations shall be corrected within a time period as specified by written notice issued by the Urban County Engineer or the Urban County Engineer’s authorized agent, in conformance with Article 5.

The Urban County Engineer, or the Urban County Engineer’s authorized agent, may direct the Division of Building Inspection to refuse to issue any additional permits for the site until work authorized by the plan or permit is completed to a safe condition.
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ARTICLE 21

DEVELOPMENT PLANS

21-1 INTENT AND PURPOSE - The purpose of this Article is to establish and define development plans that may be utilized for a wide variety of planning related procedures. This Article outlines the content and procedure for submission, review, and approval of all development plans required by the Zoning Ordinance and Subdivision Regulations unless another procedure or different contents are specified elsewhere in this Zoning Ordinance.

21-2 APPROVAL OF DEVELOPMENT PLAN BEFORE BUILDING PERMIT - For any case where a development plan is required by this Zoning Ordinance, no building permits shall be issued until a final development plan is approved by the Planning Commission and a copy of said plan is certified to the Division of Building Inspection by the Secretary of the Commission. The approval of a development plan shall limit and control the issuance of all building and occupancy permits, and restrict the construction, location and use of all land and structures to the conditions as set forth in the plan.

21-3 WHERE REQUIRED - Development plans shall be required as follows:

21-3(a) DEVELOPMENT PLANS REQUIRED FOR P-2, B-5P, B-6P and M-1P - As authorized by KRS 100.203(2), all applications for zone map amendments to the P-2, B-5P, B-6P and M-1P zones shall require the submission and approval of both a preliminary development plan and a final development plan prior to development of the property. The preliminary development plan shall be required to be submitted in conjunction with the zone map amendment request. The development plan shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed.

21-3(b) DEVELOPMENT PLANS REQUIRED FOR MULTIPLE PRINCIPAL STRUCTURES AS PERMITTED BY SECTION 3-1(e) - Development plans required by Section 3-1(e) to permit more than one principal structure and its accessory structures on a lot or parcel of land shall be submitted to the Commission, in accordance with the provisions of this Article.

21-3(c) DEVELOPMENT PLANS REQUIRED IN CONJUNCTION WITH ZONE MAP AMENDMENT REQUESTS - As authorized by KRS 100.203(2), development plans shall be required to accompany any zone map amendment request as set forth in sections 21-3(e)(1), (2), (3) and (4) below. The development plan shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed:

(1) Any map amendment request from an A-R or A-U zone to any nonagricultural zone.

(2) Any map amendment request to any residential or business zone.

(3) Any map amendment request from a residential zoning to a nonresidential zoning.

(4) The Commission, at its discretion, may require the submission and approval of a preliminary development plan, a final development plan, or both, for the subject property of any zoning map amendment proposal if the Commission finds there are existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the subject property that could have an adverse influence on existing or future development of the subject property or other property in the neighborhood.

21-4 DEVELOPMENT PLAN PROCEDURES - The following shall be the procedure for Planning Commission consideration of any development plan.

21-4(a) ON-SITE MEETING - Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester, who will determine if an on-site meeting with the developer’s design professional and/or other pertinent Urban County Government staff is necessary.

21-4(b) FILING - To formally request Planning Commission action on the development plan, the developer shall file a completed application form, filing fee and copies of the plans as required by the Commission’s adopted filing and fee schedules with the Division of Planning. The Division of Planning shall make copies of the plan available to all other concerned agencies.

21-4(c) REVIEW - The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Committee to try to resolve all differences and to make recommendations to the Commission’s Subdivision Committee. The Subdivision Committee will review all recommendations, and then forward their recommendations to the Commission. These Committee meetings shall be open to the developer and to any interested citizen; however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.
21-4(d) COMMISSION ACTION - No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by, the Subdivision Committee unless this requirement is waived by the Commission under its adopted late filing procedures. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed for Commission action with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

The Commission will review the Subdivision Committee's recommendation and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of the Zoning Ordinance, and when applicable, the Land Subdivision Regulations or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property. In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Article 21-7(e) herein below. Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:

21-4(d)(1) APPROVAL - Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.

21-4(d)(2) CONDITIONAL APPROVAL - Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.

21-4(d)(3) POSTPONEMENT - Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.

21-4(d)(4) DISAPPROVAL - Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required under Article 21-4(a).

21-4(e) CERTIFICATION OF APPROVAL - Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void: 1) the developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan including the signed owners' certification to the Division of Planning; 2) the plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension or re-approval of an expired plan, the Commission may require changes in the development plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.

21-4(f) TIMING RESTRICTIONS - The following timing restrictions shall be applicable to development plans:

(1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan; otherwise, the preliminary development plan shall be deemed as disapproved by the Commission.

(2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of Commission action on the development plan; otherwise, no further building permits shall be issued unless and until the plan is reapproved by the Planning Commission.

21-5 TYPES OF DEVELOPMENT PLANS - There shall be a preliminary development plan and a final development plan, defined as follows:

21-5(a) PRELIMINARY DEVELOPMENT PLANS - A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based
upon a preliminary development plan.

21-5(b) FINAL DEVELOPMENT PLAN - A final development plan is a development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking areas, open spaces, access points and any other site design features.

21-6 CONTENTS AND FORMAT OF DEVELOPMENT PLANS - All development plans shall be prepared on mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding 1” = 100’) which enables clear presentation of required information. Required plan information shall be as follows:

21-6(a) CONTENTS OF PRELIMINARY DEVELOPMENT PLAN - A preliminary development plan shall contain the following information at a minimum:

1. A title block containing the plan name, development plan type, name and address of developer and plan preparer, and written and graphic scale.
2. The boundary of the subject property, its record plan designation (if available), and the record plan name or owner’s name of all adjoining property.
3. A vicinity sketch, oriented in the same direction as the design scheme.
4. Topography with contour intervals not greater than five (5) feet.
5. Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, points of ingress and egress (including all gates restricting vehicular access), access points for construction vehicles, and other vehicular and pedestrian rights-of-way.
6. Location and cross-sections of any proposed or existing streets within or abutting the subject property.
7. Screening, landscaping and buffering (as required by Article 18), recreational and other open space areas.
8. Approximate size, location, height, floor area, area arrangement and use of proposed and existing buildings and signs.
9. Storm drainage areas, floodplains, conceptual drainage controls and storm water retention and any other designated environmentally sensitive or geologic hazard area.
10. Proposed and existing easements for utilities or other purposes.
11. A tree inventory map as required by Article 26.
12. Location of any existing burial grounds (including private family cemeteries) on the subject property and all adjoining property, and provisions for their protection, maintenance and accessibility.
13. A statistical summary of all pertinent site data, including site area, zoning, building coverage and floor area, parking, open space, etc.
14. A note stating that no grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.
15. An owner’s certification, signed and witnessed as follows: “I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textual representations shown hereon, and do adopt this as my (our) development plan for the property.”
16. A Commission’s certification to be signed by the Commission’s Secretary if and when the plan is fully approved, as follows: “I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date).”
17. A note stating that no building permits shall be issued unless and until a final development plan is approved by the Planning Commission.

21-6(b) CONTENTS OF FINAL DEVELOPMENT PLAN - All information required for preliminary development plans as required under Sections 21-6(a), numbers 1 through 17 above; except that contour intervals shall be at two (2) feet, a tree preservation plan, data block, and tree protection areas shall be required and that the plan information shall be of an exact nature, rather than approximate or general.

21-7 AMENDMENTS TO DEVELOPMENT PLANS - Amendments to approved development plans can be made only by official Planning Commission action in a public hearing. However, amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission’s Secretary without further action by the Commission.

21-7(a) MINOR AMENDMENTS DEFINED - Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments (1) shall not decrease the overall land area in yards, or other open spaces; (2) shall not increase building ground area coverage, floor area, or height, or increase the number of dwelling units; (3) shall not increase the number or size of signs; (4) shall not change the location or cross-section of any street and shall not increase the number, or change the location of street access points, except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street and the Divisions of Traffic Engineering and Planning concur that such relocation
will not have a negative effect on traffic safety and movement; (5) may include a reduction in parking spaces only when an associated reduction in floor area or number of dwelling units would permit a lesser number of minimum required off-street parking spaces than required for the original development plan. To qualify as a minor amendment, this reduction may be equal to but not exceed the difference in minimum required parking between the original plan and the proposed minor amended plan. For any case where parking in excess of the minimum requirement was provided on the original development plan, that same number of spaces shall be provided in excess of the minimum requirement for the proposed minor amendment plan.

21-7(b) PROCEDURES FOR MINOR AMENDMENTS - Shall be as follows:

21-7(b)(1) FILING - The developer shall file the following materials with the Division of Planning: a reproducible tracing of the plan prepared on mylar or other material capable of clear reproduction using ozalid print process; three (3) blue or black line prints of the tracing; and a filing fee in the amount determined by the Commission's adopted fee schedule.

21-7(b)(2) REVIEW - The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering and others, as appropriate, to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the plan as approved. If any question arises as to compliance, or if the Division of Planning feels that the proposed amendment raises issues deserving the attention of the full Commission, however, the plan shall be referred to the full Commission for action.

21-7(b)(3) CERTIFICATION - Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.

21-7(c) CONTENT AND FORMAT OF MINOR AMENDMENTS - Minor amendments shall have the same content and format requirements as the original development plan, except that 1) the title shall indicate the plan is a minor amendment, 2) a note shall be added listing the exact nature of the requested changes (no plan change shall be considered in effect unless it is referenced in this note), and 3) the following will be the required language for the Commission's certification: "I do hereby certify that this development plan amendment complies with the provisions of Article 21-7 of the Zoning Ordinance."

21-7(d) CONTENT AND FORMAT OF MAJOR AMENDMENT REQUIREMENTS - Major amendments to development plans shall have the same content and format requirements as the original development plan, except that 1) the title shall indicate the plan is an amended development plan, and 2) a note shall be added listing the exact nature of the requested changes. No plan change shall be considered in effect unless it is referenced in this note.

21-7(e) MAJOR AMENDMENT PROCEDURES - The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Article 21-4 above. However, in addition to the standards listed in Article 21-4(c), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare, or alter the essential character of the development as originally approved.

21-8 RELATIONSHIP TO LAND SUBDIVISION REGULATIONS - The relationships between development plans and the Land Subdivision Regulations are established as follows:

21-8(a) APPLICABILITY OF LAND SUBDIVISION REGULATIONS - Although development plans are not subdivision plans, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Subdivision Regulations shall be applied to proposals contained on the development plan.

21-8(b) DEVELOPMENT PLANS REQUIRED UNDER ARTICLE 5-2(g) OF THE LAND SUBDIVISION REGULATIONS - Development plans required under Article 5-2(g) of the Land Subdivision Regulations are required to conform with the provisions of this Article 21 of the Zoning Ordinance.

21-8(c) DEVELOPMENT PLANS AND PRELIMINARY SUBDIVISION PLANS MAY BE COMBINED - It is recognized that for certain development situations it can be advantageous to both the developer and the Commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:

(1) The developer shall meet with the Division of Planning no later than five (5) working days in advance of the filing deadline to discuss the appropriateness of filing a combined plan.

(2) The plan shall show all information required for a development plan (preliminary or final, as appropriate) and all information required for preliminary subdivision plans as set forth in Article 5-2 of the Land Subdivision Regulations.
(3) Provisions relating to the timing of public or private streets or other public or common use improvements in relation to the timing of building permit issuance may be required.

21-8(d) PRELIMINARY SUBDIVISION PLAN MAY BE SUBSTITUTED FOR DEVELOPMENT PLANS REQUIRED IN CONJUNCTION WITH MAP AMENDMENT REQUEST - It is recognized that, in certain cases, a preliminary subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivision plans prior to receiving a zone change approval. When a developer is required to provide a development plan under Article 21-3(c) herein above, and the developer desires to file a subdivision plan in its place, the developer shall meet with the Division of Planning in advance of filing the map amendment request to discuss the appropriateness of a substitution. In any disputed cases, the Planning Commission shall make the final judgments as to whether a development plan or subdivision plan is required.
ARTICLE 22

PLANNED UNIT DEVELOPMENT (PUD) ZONES

22-1  INTENT - It is recognized that this Zoning Ordinance provides zones which allow all types of residential, professional office, business, and industrial uses and provides minimum standards in each zone to ensure the health, safety, and welfare of the community. It is also recognized that such traditional zoning practices can, at times, restrict and hamper innovative but proper approaches. This Article is intended to establish zones which allow for innovation which may not be accomplished using traditional techniques. Certain customary restrictions may not be necessary, or may be altered based on the size and scale of the project. Because customary standards are to be relaxed in these zones, close government scrutiny will be necessary to ensure that the overall standards for the health, safety, and welfare of the community will be maintained. While the traditional zones will continue to be available, this article is intended to establish Planned Unit Development zones, which will provide an alternative to the traditional zones.

It is further intended that the Planned Unit Development zones are established to encourage innovative design and the use of qualified professionals, to provide for flexibility which would not be possible using traditional techniques, to promote the efficient use of existing and proposed facilities, to minimize land use conflicts and promote development compatible with surrounding land uses, to provide a safe and efficient roadway system both for the Planned Unit Development and the surrounding area, to ensure that the development is responsive to the natural and man-made features of the site and to provide for development which will further the implementation of the adopted Comprehensive Plan.

22-2  ESTABLISHMENT OF PLANNED UNIT DEVELOPMENT ZONES - Each Planned Unit Development zone shall be designated PUD-1, PUD-2, etc. in order of adoption. The regulations of each PUD zone shall be included as an appendix to this Article. Thus, the PUD-1 zone shall be Article 22, Appendix A.

22-3  REGULATIONS IN THE PLANNED UNIT DEVELOPMENT (PUD) ZONES - The regulations adopted in each Planned Unit Development zone shall be in keeping with the overall intent of such zones and shall include but not be limited to the following:

22-3(a)  INTENT - A statement of the purposes and objectives of the PUD zone.

22-3(b)  PERMITTED USES - A detailed list of the uses permitted in the zone.

22-3(c)  SITE CRITERIA - The minimum and/or maximum size of the site, its location, etc.

22-3(d)  RELATIONSHIP TO THE COMPREHENSIVE PLAN - Statements and requirements as necessary to define the relationship of the Comprehensive Plan to the proposed use.

22-3(e)  DESIGN STANDARDS - The lot, yard, height, access, parking, open space, and/or other requirements deemed necessary to fulfill the intent of the particular PUD zone.

22-3(f)  APPLICATION MATERIALS - A detailed list of the materials required to be submitted with the application to the PUD zone.

22-3(g)  REVIEW PROCEDURE - The procedure to be followed in the review of the application to a PUD zone.

22-3(h)  TIMING OF DEVELOPMENT - A provision for the development to be completed within a specified period of time.

22-4  CREATION OF PLANNED UNIT DEVELOPMENT ZONES - A proposal to create a Planned Unit Development zone shall be processed and reviewed as a Zoning Ordinance text amendment as provided in Article 6. A PUD zone may be a zoning designation in and of itself or may be an overlay zone with requirements in addition to the remaining underlying zone.
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RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD-1) ZONE

22A-1 INTENT - The intent of the Residential Planned Unit Development (PUD-1) is to encourage a unified design for large tracts of land in the new growth areas of Lexington-Fayette County, which will be consistent with the residential land use recommendations of the adopted Comprehensive Plan.

22A-2 MINIMUM SITE LOCATION AND SIZE CRITERIA - Application for a map amendment request to a PUD-1 zone shall be made only on property that meets the following criteria:

22A-2(a) LOCATION - The property must be entirely or substantially located within an area recommended for residential (low, medium or high density) use in the adopted Comprehensive Plan.

22A-2(b) MINIMUM SIZE - No site may be zoned to a PUD-1 classification unless it is at least three (3) acres in size. Enlargement of the PUD-1 zone may be permitted, regardless of the size, only if it is found that the enlargement is in accord with the requirements of the PUD-1 zone and that the enlargement would be a harmonious extension of the original design of the PUD-1 zone.

22A-3 PERMITTED USES - The following uses shall be permitted in the PUD-1 zone. All uses other than those specifically listed as permitted uses or substantially similar to the permitted uses shall be prohibited.

22A-3(a) PRINCIPAL PERMITTED USES - The primary principal permitted uses shall be single family, two family, townhouse, and multi-family dwelling units. In addition, the following uses shall be permitted, provided that the aggregate total lot area for such uses does not exceed fifteen percent (15%) of the total lot area of the planned unit development:

1. Kindergartens, nursery schools, day nurseries and child care centers for four (4) or more children. For any lot or property which will also be used for residential purposes, no more than twelve (12) children shall be permitted. All kindergartens, nursery schools, day nurseries, and child care centers shall provide a fenced and screened play lot which shall contain not less than twenty-five (25) square feet per child.

2. Churches, Sunday schools, and parish houses.

3. Nursing homes and rest homes.

4. Schools for academic instruction.

22A-3(b) OTHER PERMITTED USES - Within a planned unit development containing at least one hundred (100) gross acres and not less than six hundred (600) total dwelling units, a restricted commercial use shall be permitted within the PUD-1 zone in conformance with the following provisions:

1. The Commercial area(s) shall be designated on the required development plans. Residential and non-residential uses may be provided within the same structure, provided that such uses are not located on the same floor, or separate entrances are provided.

2. Permitted uses and off-street parking shall be as provided for principal permitted uses in the B-1 zone.

3. The commercial area shall be located on a continuous public collector street, but shall not be closer than 2,000 feet (measured along the collector street) to any principal or minor arterial street.

4. The total land area for the commercial use shall not exceed two (2) acres in size, or one percent (1%) of the gross land area within the planned unit development, whichever is the greater acreage.

5. The commercial area shall be in keeping with the overall design of the planned unit development, provide primarily for the needs of the residents of the development, and visually harmonize with the residential areas within the planned unit development.

6. No building permits may be issued for structures designated for commercial uses until occupancy permits have been issued for at least fifty percent (50%) of the total residential dwelling units contained within the planned unit development.

22A-3(c) ACCESSORY USES - The following uses are permitted when incidental and subordinate to principal permitted uses:

1. Private garages, storage sheds and parking areas.

2. Swimming pools, tennis courts, clubhouses and other private or common use open space and recrea-
tional areas.
3. Agricultural uses, excluding commercial stock raising.
4. Home office.

22A-3(d) CONDITIONAL USES - Home occupations shall be the only conditional use permitted upon approval by the Board of Adjustment.

22A-4 CONTENT AND FORMAT OF REQUIRED APPLICATION MATERIALS - The following provisions shall be applicable for materials required for the processing of applications for approvals within the PUD-1 zone.

22A-4(a) AUTHORIZATION TO PREPARE REQUIRED MATERIALS - In order to ensure that the Planned Unit Development Plan has been prepared in a professional manner using a multi-discipline approach, the preliminary Planned Unit Development Plan shall be certified by two or more of the following professionals:

(1) An urban planner who is a full member of AICP.
(2) A landscape architect licensed to practice in the State of Kentucky.
(3) An architect registered to practice in the State of Kentucky.
(4) A civil engineer registered to practice in the State of Kentucky.

The final planned unit development plan shall be certified by a civil engineer registered in Kentucky and one or more of the professionals listed in (1), (2) or (3) above.

22A-4(b) MAP AMENDMENT REQUEST MATERIALS - Any map amendment request to a PUD-1 zone shall be filed in such form and such materials as required by Article 6 of this Zoning Ordinance and the bylaws of the Planning Commission. In addition, a preliminary Planned Unit Development Plan, a site inventory, and any proposed restrictive covenants, including homeowners' association documents, shall be included with the application as the minimum requirements for filing.

22A-4(b)(1) REQUIRED PLANNED UNIT DEVELOPMENT PLANS - Shall comply with the informational and design requirements for preliminary or final development plans under Article 21 of this Zoning Ordinance.

22A-4(b)(2) SITE INVENTORY - The required site inventory shall be a separate document from the required Planned Unit Development Plan. The inventory shall include text and map information indicating soil types and their locations and development limitations; existing drainage features including watercourses, natural swales, ponds, floodplains, etc.; existing vegetative cover, including tree stands and the general type and size of trees, any existing utilities on site; the location and use of any existing structures on the site; identification and location of any historic structures or other natural or man-made features of historic interest; any existing easements; and any other significant site features.

22A-4(b)(3) RESTRICTIVE COVENANTS - Any proposed restrictive covenants or homeowners' association documents shall be provided in triplicate in a recordable form.

22A-5 REVIEW PROCEDURES - All applications for a PUD-1 shall be reviewed under the following procedure. The applicant may request recommendations from the Division of Planning at any point in the review process and make changes so that the revisions can be submitted to the remaining review groups.

22A-5(a) PRE-APPLICATION CONFERENCE - A pre-application conference as set forth in Article 6 shall be required prior to the submission of a map amendment request to a PUD-1 zone. At the conference a sketch plan and a preliminary site inventory shall also be presented.

22A-5(b) FILING - To formally request Planning Commission action on the map amendment to a PUD-1 zone, the applicant shall submit to the Division of Planning a completed application form, all materials as required herein and a fee as required by the Commission's adopted filing and fee schedule.

22A-5(c) TECHNICAL COMMITTEE - The Division of Planning and other concerned agencies shall review the submitted materials and meet together as a Technical Committee to discuss the technical aspects of the physical design elements of the proposed development and to delineate and try to resolve any conflicts. The Technical Committee shall make recommendations that shall be utilized in preparation of the staff's recommendation to the Commission's Zoning and Subdivision Committees.

22A-5(d) STAFF RECOMMENDATION - The Division of Planning shall review all land use and physical design elements of the PUD-1 proposal for compliance with the provisions and intent of this Article, and shall prepare a written report, including recommendations, for consideration by the Commission's Zoning and Subdivision Committees. The staff report shall also be included in information forwarded to the full Commission and Council.

22A-5(e) SUBDIVISION COMMITTEE - The Subdivision Committee shall review the recommendations of the staff and shall evaluate the map amendment request to determine its compliance with the requirements of the PUD-1 zone. The Subdivision Committee shall give special consideration to the physical design aspects of the development proposal in making its recommendation to the
The Zoning Committee shall review the recommendations of the staff and shall evaluate the map amendment request to determine its compliance with the requirements of the PUD-1 zone. The Zoning Committee shall give special consideration to the land use aspects of the application but shall consider all aspects of the development proposal in making its recommendation to the Commission.

The Planning Commission shall conduct a public hearing on the zone map amendment following the Commission procedure as set forth in Article 6 and shall vote to recommend approval, conditional approval or disapproval of the proposed map amendment within ninety (90) days of the date of filing unless the applicant agrees to a longer time period. The Commission shall review all submitted material and may recommend approval only if it is found that all materials including the preliminary Planned Unit Development Plan comply with the requirements and the intent of the PUD-1 zone.

The Planning Commission shall review all submitted material and may recommend approval only if it is found that all materials including the preliminary Planned Unit Development Plan comply with the requirements and the intent of the PUD-1 zone.

If the Council elects to hold a new public hearing, it may also consider any materials or information submitted at the public hearing in making its decision. If it so desires, the Council may, upon holding a public hearing, declare certain aspects of the preliminary Planned Unit Development Plan as only being permitted to be changed on the final Planned Unit Development Plan, or subsequent amendments, with the approval of the full Council. Such declarations may take the form of specific restrictions or may be parameters within which subsequent plans may deviate from the approved preliminary Planned Unit Development Plan. For all plans where no such declaration is made, or where subsequent plans conform to the declarations or where the Council does not hold a new public hearing on the map amendment, no further action by the Council shall be required.

The Zoning Committee shall give special consideration to the land use aspects of the application but shall consider all aspects of the development proposal in making its recommendation to the Commission.

The Planning Commission shall conduct a public hearing on the zone map amendment following the Commission procedure as set forth in Article 6 and shall vote to recommend approval, conditional approval or disapproval of the proposed map amendment within ninety (90) days of the date of filing unless the applicant agrees to a longer time period. The Commission shall review all submitted material and may recommend approval only if it is found that all materials including the preliminary Planned Unit Development Plan comply with the requirements and the intent of the PUD-1 zone.

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The Planning Commission shall conduct a public hearing on the zone map amendment following the Commission procedure as set forth in Article 6 and shall vote to recommend approval, conditional approval or disapproval of the proposed map amendment within ninety (90) days of the date of filing unless the applicant agrees to a longer time period. The Commission shall review all submitted material and may recommend approval only if it is found that all materials including the preliminary Planned Unit Development Plan comply with the requirements and the intent of the PUD-1 zone.

If the Council elects to hold a new public hearing, it may also consider any materials or information submitted at the public hearing in making its decision. If it so desires, the Council may, upon holding a public hearing, declare certain aspects of the preliminary Planned Unit Development Plan as only being permitted to be changed on the final Planned Unit Development Plan, or subsequent amendments, with the approval of the full Council. Such declarations may take the form of specific restrictions or may be parameters within which subsequent plans may deviate from the approved preliminary Planned Unit Development Plan. For all plans where no such declaration is made, or where subsequent plans conform to the declarations or where the Council does not hold a new public hearing on the map amendment, no further action by the Council shall be required.

The Zoning Committee shall give special consideration to the land use aspects of the application but shall consider all aspects of the development proposal in making its recommendation to the Commission.
Commission's Secretary if it is in conformance with the Commission's and Council's requirements. Required copies of the tracing shall be made by the Division of Planning at the applicant's expense.

If the requirements listed above have not been met within six (6) months, the staff shall notify the Commission and the Council and either may initiate a map amendment to the previous zone or other appropriate zone. The Commission shall have the authority to grant a time extension or to re-approve an expired plan, unless Council reserves authority for approval of the plan, in which case the Council shall have final authority. Either body may require changes in the plan where it finds that time has necessitated such changes for the health, safety or welfare of the community.

22A-5(m) EFFECT OF APPROVAL OF THE FINAL PLANNED UNIT DEVELOPMENT PLAN - Upon certification and recordation of the final Planned Unit Development Plan, the developer shall be authorized to do the following:

1) PREPARATION OF IMPROVEMENT PLANS - The approval and certification of the final Planned Unit Development Plan shall have the same effect as approval of a preliminary subdivision plan. The applicant may proceed to prepare improvement plans in conformance with the requirements for preparation and review of such plans contained within the Land Subdivision Regulations.

2) PREPARATION OF FINAL SUBDIVISION PLAN - A Final Subdivision Plan shall be required for all planned unit developments. Such plan shall be prepared, reviewed, and recorded in conformance with the requirements for Final Subdivision Plans contained within the Land Subdivision Regulations. Any restrictive covenants, or other restrictive notes required by the Commission or agreed to by the applicant at the Council's public hearing shall be shown or referenced on the final subdivision plan.

3) ISSUANCE OF BUILDING PERMITS - Upon certification of the final Planned Unit Development Plan and recording of the Final Subdivision Plan, the Division of Planning shall forward copies to the Division of Building Inspection which may issue permits in accord with the approved final Planned Unit Development Plan and the Final Subdivision Plan. The plans shall limit and control the issuance of all building and occupancy permits and restrict the construction, location and use of all land and structures to the conditions set forth in the plans.

22A-5(n) AMENDMENTS TO FINAL PLANNED UNIT DEVELOPMENT PLANS - Amendments to final Planned Unit Development Plans shall require the same information and shall be reviewed and processed in accordance with the requirements and design standards contained herein for the original plan submission, except that amendments which meet the definitions of minor amendments under Article 21-7 of the Zoning Ordinance may be approved by the Division of Planning in accordance with the procedures contained within Article 21-7.

22A-6 DESIGN STANDARDS - The following design standards and criteria shall be applicable in the PUD-1 zone:

22A-6(a) DWELLING UNIT DENSITY - The overall gross dwelling unit density within the planned unit development shall not exceed the recommendations contained within the adopted Comprehensive Plan.

22A-6(b) MINIMUM LOT SIZE - Except for the minimum total area requirement of three (3) acres under Section 22A-2, there shall be no minimum or maximum lot size dictated within this Article for the PUD-1 zone. However, the required development plans shall indicate lot sizes; and through the review and approval process, restrictions for minimum, and where appropriate, maximum lot sizes for the entire planned unit development, or defined areas within it, shall be established.

22A-6(c) PERIMETER YARD REQUIREMENTS - A minimum height-to-yard ratio of 1:1 for principal and accessory structures shall be required along the outside perimeter boundary of the planned unit development.

22A-6(d) ALL OTHER YARDS - There shall be no minimum setbacks or other yard requirements dictated within this Article for the PUD-1 zone other than those required through the Building and Fire Codes and a minimum required front yard of ten (10) feet along any continuous public collector street. However, the required development plans shall indicate proposed yard requirements, and through the review and approval process, restrictions on yards for the entire planned unit development or defined areas within it shall be established.

22A-6(e) USABLE OPEN SPACE - Within a planned unit development, not less than thirty percent (30%) of the gross land area shall be restricted to usable open space.

22A-6(f) BUILDING COVERAGE - The maximum building coverage shall not exceed thirty percent (30%) of the gross land area of the planned unit development.

22A-6(g) FLOOR AREA RATIO - The maximum floor area ratio shall not exceed 1:1, based upon the gross land area of the planned unit development.

22A-6(h) OFF-STREET PARKING - Off-Street parking shall be provided as follows:

Single family, two-family and townhouse dwellings:
The planned unit development shall utilize a design or arrangement of unit types which would not be customary using traditional techniques. While some units or buildings may be arranged in a traditional manner, the overall design should reflect the intent of the PUD zones as well as comply with all requirements and the intent of the PUD-1 zone.

22A-7 TIMING OF DEVELOPMENT - Within five (5) years of the approval of the final Planned Unit Development Plan, unless an extension of the time period is granted, the applicant shall be required to obtain building permits for all structures shown thereon. No permits for unconstructed buildings may be issued after that date based on the final Planned Unit Development Plan. The applicant may submit a new final plan for review or may request that the previous plan be re-evaluated to determine if time has necessitated changes in the plan for the health, safety, or welfare of the community. In either case, the procedure for submission and
review shall be as required for a final planned unit
development plan contained herein.

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ARTICLE 23

EXPANSION AREAS ZONING CATEGORIES AND RESTRICTIONS

23-1 PURPOSE - As a part of adoption of the Comprehensive Plan, the Planning Commission adopted an Expansion Area Master Plan (EAMP) element, which sets forth provisions to guide growth within designated Expansion Areas (EA) to Lexington-Fayette County’s Urban Service Area. The Expansion Area Master Plan is intended to establish a new approach to development coordination and regulation than has been previously used within the existing Urban Service Area. The Expansion Area Master Plan encourages innovative design and a range of uses which are integrated into the development; encourages development which is sensitive to the topographic features and the unique rural character of the Bluegrass; encourages the new development within the Expansion Area to function as a “community” with a mix of uses, housing types and land for economic development and community facilities, including parks, public facilities, and community centers. The purpose of this Article and its appendices is to provide the necessary implementing regulations to achieve the goals of the Expansion Area Master Plan.

23-2 GENERAL PROVISIONS - Within the Expansion Areas, the following provisions shall be applicable to all properties as appropriate:

23-2(a) APPLICABILITY - Except as specifically modified by the provisions of this Article, all other provisions of the Zoning Ordinance shall be applicable to the Expansion Areas.

23-2(b) EXISTING AGRICULTURAL USES NOT NON-CONFORMING USES - Agricultural uses of land or agricultural uses of buildings or structures which were lawful prior to the adoption of the Expansion Areas Zoning Categories and Restrictions and which would be otherwise prohibited, regulated, or restricted by the provisions of this Article, shall for the purposes of this Article be deemed permitted uses in the zone or district in which they are located and shall not be deemed non-conforming.

23-2(c) EXISTING LOTS AND EXISTING RESIDENTIAL USES - Notwithstanding any provision of this Article, any lot which was in existence at the time of the adoption of these Expansion Areas Zoning Categories and Restrictions may be used for one (1) single family house and permitted accessory uses with lot, yard and height as in the Agricultural Rural (A-R) Zone as a principal or accessory use, as appropriate.

23-2(d) ZONING CATEGORIES PERMITTED - The only zoning categories to be permitted within the Expansion Areas shall be those expressly created in Appendix 23A. The only exception to this requirement shall be that the Lexington-Fayette Urban County Government, in conjunction with a government sponsored comprehensive rezoning of the Expansion Area, may opt for developed land to keep the zoning in existence at the time of adoption of this Article in place if it finds such action to be in the best interest of furthering the goals of the Expansion Area Master Plan. Likewise, the zoning categories created herein shall only be utilized within the Expansion Areas, and shall not be permitted within other areas of Fayette County, except in conformance with any future amendments to the Comprehensive Plan.

23-3 INTERPRETATIONS AND DEFINITIONS - The provisions of this Article shall be construed so as to liberally carry out its purpose in the interest of protecting the public health, safety and welfare by managing growth and development in the Expansion Areas. For the purposes of administration and enforcement of this Article, the following rules of construction shall apply:

(a) In case of any difference of meaning or implication between the text of this Article and any caption, illustration, summary table, or illustrative table, the text shall control.

(b) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction "and", "or" or "either ... or":

(1) "And" indicates that all the connected terms, conditions, provisions or events shall apply;

(2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination;

(3) "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
(c) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(d) All terms used herein shall have the same meaning as in the Lexington-Fayette Urban County Comprehensive Plan, the other provisions of the Lexington-Fayette Urban County Zoning Ordinance, and the Lexington-Fayette Urban County Land Subdivision Regulations unless otherwise indicated. The following words and phrases are defined for the purposes of this Article (and when used in the Article shall have the defined meaning regardless of whether the term is capitalized in the text):

ACCESSORY DWELLING UNIT - A residential dwelling unit of no more than 700 square feet which is incidental and subordinate to a principal single family attached or detached residential unit of at least 1,600 square feet on the property. Accessory dwelling units shall be permitted to be located within an otherwise permitted accessory structure (subject to any size limitations for such accessory structure) or contained within the principal structure.

ACREAGE, GROSS - The total number of acres within a parcel including land to the centerline of any adjoining right-of-way.

ACREAGE, NET DEVELOPABLE - The total number of acres within a parcel proposed for development less the area that is designated as a greenway, or is a public right-of-way, steep slope over 30%, water body, floodplain, sinkhole or sinkhole cluster area or woodlands.

AFFIDAVIT OF DENSITY TRANSFER RIGHTS (DTR) - An affidavit of Density Transfer Rights (DTR) is a sworn, written statement by a property owner which attests that: 1) the property owner owns or has an option to purchase DTR, and 2) that the DTR have not previously been used on the parcel of land from which the Rights have been transferred or on any other parcel of land. For the purposes of this Section, an option to acquire a DTR which is specifically enforceable shall constitute ownership. An Affidavit of DTR shall be in conformance with a form provided by the Division of Planning.

AFFORDABLE HOUSING UNIT - A dwelling unit which is provided for sale to an owner-occupant household with an income which does not exceed 80% of median income (adjusted for family size) for Lexington-Fayette County, or for rent to a household with and income which does not exceed 60% of the median income (adjusted for family size) for Lexington-Fayette County. For the purposes of this Article, a unit shall be deemed affordable to an owner-occupant if the total principal, interest, taxes and insurance does not exceed 36% of the household’s income; and a unit shall be deemed affordable to a renter household if the total rent, including any tenant-paid utilities, does not exceed 30% of the household’s income.

CERTIFICATE OF DENSITY TRANSFER RIGHTS (DTR) - A Certificate of DTR is a document which is issued by the Lexington-Fayette Urban County Government which attests to the existence of DTR which may be transferred to a particular Receiver Site. The certificate constitutes an official determination by Lexington-Fayette Urban County Government that particular DTR are eligible for transfer to a specific Receiver Site, subject to approval of a development plan. The Certificate is not an opinion of title by the Lexington-Fayette Urban County Government in regard to the DTR which are proposed to be transferred.

DENSITY TRANSFER RIGHT (DTR) - A residential density development right which is severable from the real property to which it is appurtenant and which is transferable to another parcel within a specific expansion area.

DIRECT VEHICULAR ACCESS - A driveway which allows a motorized vehicle to move from a residential lot on to a public or private way.

EXPANSION AREAS - The land area of Lexington-Fayette County added to the Urban Service Area under the provisions of the adopted Expansion Area Master Plan and more specifically designated as EA-1, EA-2A, EA-2B, EA-2C and EA-3; as applied to density transfers and exactions as set forth herein, each of the five designated Expansion Areas shall be considered distinct and separate.

EXPANSION AREA MASTER PLAN (EAMP) - An element of the Lexington-Fayette Urban County Government’s Comprehensive Plan adopted by the Planning Commission on July 18, 1996, including any duly approved subsequent amendment. As used in this Article, the term shall also be construed to extend to any other Comprehensive Plan element expressly and directly applicable to the Expansion Areas.

FENCE, STONE - A fence either built of quarried or dressed rocks; or from rocks which have been gathered
from fields or creek bottoms; or of undressed ledge or quarried rock.

**FENCE, TRANSPARENT** - A fence which has at least 60% of its surface area open, and allows the free and unobstructed passage of light.

**GREENWAY** - Land designated as a greenway in the Expansion Area Master Plan.

**OPEN SPACE, COMMON** - Outdoor area of a lot or tract which is used for outdoor living, recreation, pedestrian access, or plantings, including buffer yards. Such open space shall generally be available for the use and enjoyment of larger groups of persons such as homeowners’ associations, tenant associations, the general public and the like; but shall not be construed to include lands purchased by any government entity for public use, such as parks or street rights-of-way.

**OPEN SPACE, GENERAL** - An area not covered by structures, driveways, parking lots, walkways, streets, or other paved surfaces.

**PEDESTRIAN ACCESSWAY** - An improved path or sidewalk which is designed for pedestrian movement.

**RECEIVER SITE** - A parcel of land to which DTR are transferred.

**RURAL SCENIC ROADS** - A road which is designated as a Rural Scenic Road in the Expansion Area Master Plan.

**SCENIC RESOURCE AREA** - An area designated and mapped as a Scenic Resource Area in the Expansion Area Master Plan.

**SENDER SITE** - A parcel of land from which DTR are severed and transferred.

**SPECIAL DESIGN AREA** - An area designated and mapped as a Special Design Area in the Expansion Area Master Plan.
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APPENDIX 23A - ZONING CATEGORIES AND RESTRICTIONS

23A-1 PURPOSE - The purpose of this appendix is to set forth the zoning categories and restrictions for use in the Expansion Areas, and to establish their regulatory content.

23A-2 GENERAL PROVISIONS APPLICABLE IN ALL ZONES - The following provisions shall be applicable in all zones within the Expansion Areas:

23A-2(a) SPECIAL RURAL ROAD ACCESS REQUIREMENTS - In order to protect the unique character of rural roads within the Expansion Areas, no new street or new driveway access shall be permitted to the following roads: DeLong Road in Expansion Area 1 and 2C; northwest side of Walnut Grove Lane in Expansion Area 2A and Deer Haven Lane in Expansion Area 2B; and the southeast side of Chilesburg Road in Expansion Area 2C.

23A-2(b) FENCES - No more than fifty (50) feet of fence which is not a transparent fence or a stone fence shall be located in a single horizontal plane.

23A-2(c) ENVIRONMENTALLY SENSITIVE LAND - Except as provided under 23A-2(d), 23A-2(g), and 23A-2(u) below, any environmentally sensitive lands or geologic hazard areas shall be regulated in accordance with the provisions of Articles 6-7(l) and 6-10 of the Subdivision Regulations as applicable.

23A-2(d) STEEP SLOPE AREAS - No building or structure shall be located on any land with a slope which is greater than 30%. For areas with slopes between 15% and 30%, the provisions of Article 6-10 of the Land Subdivision Regulations shall be applicable.

23A-2(e) RURAL SERVICE AREA SETBACK - No building or structure other than transparent fences and stone fences shall be located within 100 feet of the Rural Service Area Boundary.

23A-2(f) RURAL SERVICE AREA AGRICULTURAL USE BUFFER YARD - All development shall provide a buffer yard along any boundary of a parcel proposed for development adjacent to land which adjoins the Urban/Rural Service Area Boundary, which is used for agricultural uses and which is not located across an arterial street, which shall be:

1. Fifty (50) feet in width with two parallel fences of not less than six (6) feet in height located along the outermost and innermost boundaries of the buffer yard with barbed wire not less than six (6) feet above ground level or landscaping material along each fence which will prevent persons from climbing onto or over the fence; or

2. One hundred (100) feet in width with a fence of not less than six (6) feet in height located at the innermost boundary of the buffer yard with barbed wire not less than six (6) feet above ground level or landscaping material which will prevent persons from climbing onto or over the fence; or

3. Three hundred (300) feet in width with a fence of not less than four (4) feet in height located along the innermost boundary of the buffer yard with landscaping material which will prevent persons from climbing onto or over the fence; or

4. A buffer yard width as agreed to in the form of a legally recorded covenant by the owner of the land used for agricultural purposes which provides comparable protection to the agricultural use.

23A-2(g) GREENWAYS - All greenways shall be either dedicated to public use or encumbered by a conservation or storm water management easement, and shall be provided with sufficient points of access as necessary to achieve the intent of the Expansion Area Master Plan. No building, structure, or other development shall be permitted in a greenway except for pedestrian and/or bicycle pathways, or structures necessary for storm water management. The greenway shall be at least 100 feet on each side of the centerline of the stream, or 50' in width measured from the edge of the stream banks.

23A-2(h) PEDESTRIAN ACCESSWAYS - All properties shall have access to a pedestrian accessway, and development plans shall provide for connections between residential uses, non-residential uses, greenways, and other pedestrian accessways. The development of any parcel of land, which abuts a land in a CC zone, shall provide a pedestrian accessway directly to the Community Center.

23A-2(i) FRONT YARD DRIVEWAYS - Any driveway within a front yard of a residential dwelling:

1. On any detached dwelling unit, where no enclosed garage is provided, the driveway must extend beyond the front wall of the residence into the side or rear yard for a distance of at least 20 feet. For
attached housing, the developer and the Commission are encouraged to find alternative parking schemes within street rights-of-way as an alternative to front yard parking.

2. Where the dwelling is set back from the right-of-way less than 25 feet, the driveway may not access a garage which fronts the street, but may extend to a side or rear facing garage, or a front facing garage located more than 25 feet from the right-of-way.

3. Where the residence is set back 25 feet or greater, the driveway may access a front facing garage located no closer than 25’ from the right-of-way.

4. In any case, the width of a front yard driveway shall not exceed 50% of the width of any lot at the building line as established on the final development plan or final subdivision plan, as appropriate.

23A-2(j) BUILDING AND FENCE RELATIONSHIP TO YARD ABUTTING MAJOR STREET - No residential dwelling shall be developed so that the rear of the structure abuts an arterial or collector street unless the dwelling is located not less than 200 feet from the arterial or collector street. Walls or fences other than transparent fences and stone fences shall only be permitted along the rear of any property abutting an arterial or collector street right-of-way where such are shown on the approved development plan. The Commission shall only approve such walls or fences where they are designed and planned as a part of the overall project, do not create any areas where proper maintenance would be impaired, and would not have the effect of impairing the view of open space areas.

23A-2(k) ACCESSORY STRUCTURES PROHIBITED IN FRONT YARDS - Notwithstanding any other provision of this Article, no accessory structure may be located within any yard area directly between a principal structure and any street except an alley.

23A-2(l) GENERAL LOT, YARD, AND HEIGHT REQUIREMENTS - Shall be as follows:

1. There shall be no minimum lot sizes in any Expansion Area Zone (CD, EAR 1-3, TA, ED, or CC). However, the developer shall establish restrictions for minimum and, where appropriate, maximum lot sizes on the final development plan or the final subdivision plan, as appropriate.

2. With the exception of the setback/yard required to achieve the requirements of the Rural Scenic Roads provisions, Scenic Resource Areas, and Special Design Areas, or other expressly stated yards as established elsewhere in this Article, there shall be no minimum setback or other yard requirements other than those required through the Building Code and the Fire Code. However, the developer shall establish restrictions on yards on the final development plan.

23A-2(m) DENSITY CLUSTERING AND TRANSFERS - Shall be permitted as follows:

1. Density may be clustered on lands which are part of a single development plan under the same ownership and within the same zone and the same Expansion Area so that the average density of the site does not exceed the maximum for the zoning category.

2. Density Transfer Rights may be transferred from any land which is designated as a Special Design Area, a Scenic Resource Area, a greenway or any land which contains environmentally sensitive land when the density allocated to that land by the underlying zoning district cannot be developed on site. Such density rights may be transferred to any parcel of land within the same Expansion Area which is designated as EAR-2, EAR-3, CC or TA and used in accordance with the density limitations of those districts.

   a) Transfers of Fractions of DTR Prohibited - The transfer of less than one DTR or any other fraction of a unit shall not be permitted.

   b) Use of Sender Site after Transfer - Once DTR have been severed from a Sender Site, the future use of the Sender Site shall be limited to the extent of the transfer, and a deed restriction in favor of the Lexington-Fayette Urban County Government shall be recorded restricting the use of the Site in accordance with procedures established by the Division of Planning.

   c) Aggregation of DTR Permitted on Single Receiver Site - DTR may be aggregated from different Sender Sites for development on a single Receiver Site.
d) **Receiver Site Must Meet Underlying Zone District Requirements** - Development using DTR shall meet each and every requirement of the Zone District.

e) **Density Rights Appurtenant to Land Until Development Plan Approval Obtained** - The owner of DTR may transfer such rights at any time to any person; provided, however, that the use, rights and the value thereof shall be deemed for taxation and all other purposes to be appurtenant to the land from which the rights are transferred until a development plan is approved and certified, which authorizes the use of the transferred density.

f) **Procedures** - The use of DTR shall be carried out as follows:

1) **Application for Certificate of DTR and Approval of a Transfer** - Prior to filing an application for development plan approval using DTR, the owner of a DTR shall obtain a Certificate of DTR from the Lexington-Fayette Urban County Government. In order to obtain a Certificate of DTR, the owner shall prepare an Affidavit of DTR and intent to transfer the DTR to a specific Receiver Site. Along with the Affidavit of DTR, the owner of a DTR shall attach a copy of the executed but unrecorded deed conveying the DTR and a copy of the executed but unrecorded deed restriction for the Sender Site. The affidavit shall be filed with the Division of Planning at least thirty (30) days prior to any application for development plan approval. The Division of Planning shall review the application and issue the Certificate of DTR if they determine that adequate documentation of ownership has been submitted and that the deed documents are recordable.

2) **Application for Development Plan Approval** - An application for development plan approval utilizing DTR shall include the Certificate of DTR and shall demonstrate that the proposed development plan complies with the regulations applicable to the Receiver Site. The deeds of conveyance and restriction shall be recorded prior to certification of approval of the development plan.

3) Where a developer dedicates land to a public entity, at no cost, for a purpose not expressly provided for through an exaction, and the public entity accepts such dedication, the developer may transfer the density allocated by the underlying zoning category of that parcel to any parcel of land within the same Expansion Area which is designated as EAR-2, EAR-3, CC or TA.

**23A-2(n) ACCESSORY DWELLING UNITS** - Density, which might otherwise be implied by provisions which permit an Accessory Dwelling Unit, shall not be transferred to any other area or parcel of land.

**23A-2(o) FENCING ALONG AGRICULTURAL LAND** - Fencing shall be provided along the boundary of any development that adjoins land being used for agricultural purposes and which is recommended for Core Agricultural and Rural Land in the Comprehensive Plan. Such fencing shall be required to be a single standard gauge diamond mesh wire fence, of durable construction, not less than seventy-two (72) inches high set on 9-foot posts with a required 6-inch top board, unless the owner of the agricultural parcel agrees to an exemption, or to comparable protection, in the form of a legally recorded covenant.

**23A-2(p) SATELLITE DISH ANTENNAS** - Shall be permitted in all zones subject to the provisions of Article 15-7.

**23A-2(q) FRONT YARD LANDSCAPING IN RESIDENTIAL ZONES** - At least 50% of the front yard of any residential dwelling in any EAR category shall be landscaped with vegetative material of any type.

**23A-2(r) BUFFERING OF USES** - Buffering of uses shall be as follows:

1. Except as provided herein, where adjacent housing developments differ by more than three (3) dwelling units per acre, the Planning Commission may require a buffer yard of six (6) feet in width, with one tree for every 40' of linear boundary from the Group A, B, or C of the Plant List, as referenced by Article 18 of the Zoning Ordinance; plus a minimum 4-foot high hedge, fence, wall or
earth mound or combination thereof. In order to encourage a diversity of housing types within a single development, such buffering shall not be required where single family detached houses are interspersed with or are adjacent to detached single family houses, duplexes, tri-plexes or four-plexes in a single development.

2. Any development in an ED or CC zone which directly adjoins any EAR zone shall be required to provide a buffer yard of six feet (6') in width, with one tree for every 30' of linear boundary from the Group A, B, or C of the Plant List, as referenced by Article 18 of the Zoning Ordinance; plus a 6-foot high fence, wall or earth mound. The responsibility for such buffer shall be the ED or CC property, although the buffer yard may be shared as provided in Article 18-3(a)(3)(c).

3. Any residential or non-residential development in the Expansion Areas which abuts an interstate highway shall meet the requirements of Article 18-3(a)(1)(4) as for a residential zone.

23A-2(s) SCENIC RESOURCE AREAS - Areas designated as Scenic Resource Areas shall be limited to a maximum on-site density of no more than three (3) dwelling units per five (5) acres. All development shall be clustered so that at least 80% of the portion of the development within the Scenic Resource Area is preserved as common open space or agricultural uses and is sited so as to minimize the visual impact of the development on the adjoining rural road to the greatest extent feasible. Within the Scenic Resource Areas, there shall be no parking areas and no buildings or structures other than driveways, transparent fences and stone fences permitted within 200 feet of the right-of-way of Delong Road, Athens-Boonesboro Road and Chilesburg Road.

23A-2(u) BOUNDARIES OF SDAs - The boundaries of SDAs shall be as shown on the adopted Comprehensive Plan, unless it is determined during the development review process by the Planning Commission that the final boundary requires refinement based upon more detailed analysis of the final development features, such as roads; land use; topography; and view sheds. To further refine the boundary, the Planning Commission must find that the final development configuration will better implement the intent of the SDA than when the boundary was first established in the 1996 Comprehensive Plan. In all cases, the Planning Commission shall not reduce the overall land area in the SDA, nor modify the minimum setbacks from roadways established in 23A-2(t), and must adopt findings that the final boundary meets the intent of the Expansion Area Master Plan, and this Article of the Zoning Ordinance.

23A-2(v) PROTECTION OF WOODLANDS - The development of parcels of land which contain mature woodlands, tree stands, and/or significant individual trees which are identified in the Expansion Area Master Plan Natural Resources Map Series and/or Land Capability Study shall be designed and carried out so as to protect and preserve all mature trees to the maximum extent practicable. Individual trees may be removed only as necessary to carry out economically feasible development and/or to achieve the objectives of the Expansion Area Master Plan, provided that the removal of individual trees will not result in the loss of the woodlands or tree stands of which they are a part; and that the design of the development has maximized the preservation of tree stands and significant individual trees. Consideration should be given by the Planning Commission to alternative street cross-sections, street geometrics, and development designs where the developer has established that significant trees will be properly preserved as a result of such alternative designs and/or standards.

23A-2(w) AFFORDABLE HOUSING UNITS - Units that are designated as Affordable Housing Units shall be
restricted by the developer exclusively to affordable housing for a minimum period of 15 years. Further, such units shall be identified separately in the Certificate of Land Use Restriction filed for the development where the units are located, and such units shall be subject to a deed restriction in favor of the Lexington-Fayette Urban County Government which shall restrict the use of the property and shall establish monitoring procedures to ensure that the units remain affordable during the period. During the affordability period, an affordable housing unit may be sold to a non-low-income household by acquisition of a DTR, which must be assigned to the site, and repayment of any and all development exactions that may have been waived. Such site may be a receiver of a DTR only if the maximum density permitted with DTR would not be exceeded.

23A-3 SCHEDULE OF ZONES - Sections 23A-4 through 23A-10 create the zoning categories for use within the Expansion Areas and establish the requirements and restrictions within each zone. The zones are as follows:

23A-4 CONSERVATION DISTRICT (CD) ZONE

23A-5 EXPANSION AREA RESIDENTIAL 1 (EAR-1) ZONE

23A-6 EXPANSION AREA RESIDENTIAL 2 (EAR-2) ZONE

23A-7 EXPANSION AREA RESIDENTIAL 3 (EAR-3) ZONE

23A-8 TRANSITION AREA (TA) ZONE

23A-9 COMMUNITY CENTER (CC) ZONE

23A-10 ECONOMIC DEVELOPMENT (ED) ZONE

The terms principal, accessory, conditional and prohibited, as applied to uses and structures within the Expansion Areas, shall have their usual and customary meaning as provided elsewhere within this Zoning Ordinance. Only those uses specifically named as principal, accessory or conditional uses or substantially similar to principal, accessory or conditional uses are permitted in each zone. All uses not specifically permitted or substantially similar to permitted uses are prohibited. Prohibited uses shall include, but not be limited to, those specifically named as prohibited.
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23A-4 CONSERVATION DISTRICT (CD) ZONE

23A-4(a) INTENT - This zone is intended to provide areas within the Expansion Area for active and passive recreation and to provide neighborhood and community recreational facilities needed to serve the residents of the Expansion Area.

23A-4(b) PRINCIPAL USES

1. Outdoor commercial and noncommercial recreational facilities such as golf courses, driving ranges, zoological gardens, sportsmen’s farms (excluding rifle and other firearm ranges), riding stables, fishing lakes, and outdoor swimming pools, outdoor tennis courts, outdoor skating rinks, baseball fields, soccer fields, polo fields, and the like; and including a structure not exceeding 1000 square feet for the administration of the outdoor recreational use.

23A-4(c) ACCESSORY USES

1. Private garages, storage sheds, and parking lots.

23A-4(d) CONDITIONAL USES

1. Sale of food and merchandise directly associated with the recreational activity when accessory to a principal use.
2. Lighting of outdoor recreational facilities.
3. Outdoor speakers and public address systems. Such systems shall only be permitted by the Board of Adjustment upon finding that the system would not constitute a public nuisance by creating excessive noise on the property and surrounding properties; and is a necessary adjunct to the proposed use and has been designed to serve only such need. The Board may limit such features as to the location, power, and time of operation of such systems to ensure the protection of surrounding uses and properties.

23A-4(e) PROHIBITED USES

1. Commercial recreational facilities such as amusement parks, bowling alleys, skating rinks, pool or billiard halls, outdoor theaters, automobile race tracks, athletic club facilities.
2. Indoor recreational facilities.

LOT, YARD AND HEIGHT REQUIREMENTS

23A-4(f) MAXIMUM HEIGHT OF A BUILDING - 35 feet.

23A-4(g) PARKING REQUIREMENTS

Outdoor Athletic Facilities - One space for every five spectator seats.

Riding Stables, Sportsmen’s Farms, and Zoological Gardens - Five spaces plus one space for each employee.

Golf Courses - Three spaces for each hole on the main course.

Driving Ranges - One space per driving tee, plus one space per employee, with a minimum of five spaces.
23A-5 EXPANSION AREA RESIDENTIAL 1 (EAR-1) ZONE

23A-5(a) INTENT - This zone is intended to provide a mixture of low density residential uses which will serve as a transition between the more intensely developed suburban neighborhoods and the Rural Service Area.

23A-5(b) PRINCIPAL USES
1. Single family, two-family, multi-family, and townhouse dwellings.
2. Community Residences.
3. Golf Courses and common open spaces.
4. Churches and Sunday schools, with or without associated child care, in locations where the Comprehensive Plan recommends semi-public uses.

23A-5(c) ACCESSORY USES
1. Private garages and parking areas.
2. Accessory dwellings, as defined herein.
3. Swimming pools and tennis courts, which may include a clubhouse, as approved by the Planning Commission on a final development plan, for the use and enjoyment of the surrounding neighborhood, which may also include weight training and exercise rooms, restrooms, meeting rooms, or similar facilities.
5. Family child care for up to six children.
6. The keeping of not more than two roomers or boarders by a resident family.

23A-5(d) CONDITIONAL USES
1. Home Occupations.
2. Family Child care for seven and not more than 12 children, provided the total number of children living or being cared for on the premises shall not exceed twelve.
3. Temporary Real Estate Sales Offices for the sale of lots located only within the subdivision in which the sales office is located, to be removed at the end of two years or when all the lots are sold, whichever comes first.
4. Clubhouse, with sale of food and merchandise, when accessory to a golf course.
5. Historic house museums.

23A-5(e) PROHIBITED USES - All uses not specifically listed as permitted shall be prohibited.

LOT, YARD, HEIGHT AND DENSITY REQUIREMENTS

23A-5(f) DWELLING UNIT DENSITY - The dwelling unit density within the EAR-1 zone shall not exceed three (3) units per gross acre. (See Special Provisions below)

23A-5(g) MAXIMUM HEIGHT OF BUILDING - 35 feet.

23A-5(h) FLOOR AREA RATIO - None; except where more than one principal residential structure is placed on a lot, the FAR shall not exceed 0.5.

23A-5(i) OFF-STREET PARKING REQUIREMENTS
1. There shall be a minimum of one space per dwelling unit for single family detached, duplex and townhouse residential units. Multi-family units shall have a minimum of 1.5 spaces per unit; except for elderly housing, which shall provide three (3) spaces for every four (4) units. One additional space shall be provided for any accessory dwelling unit.

2. Community Residences - One space per every four (4) beds, plus one space for each employee on the maximum working shift, with a minimum of five (5) spaces.

4. Accessory and Conditional Uses - Parking shall be as provided elsewhere in the Zoning Ordinance within the zone where the use is first permitted.

23A-5(j) SPECIAL PROVISIONS
1. At least twenty-five percent (25%) of the net developable acreage of any project in the EAR-1 zone shall be open space.
23A-6 EXPANSION AREA RESIDENTIAL 2 (EAR-2) ZONE

23A-6(a) _INTENT_ - The intent of the Expansion Area Residential 2 Zone is to provide a mixture of residential uses and housing types, to allow density transfer from areas which should not be developed, and to provide for well-designed neighborhoods.

23A-6(b) _PRINCIPAL USES_

1. As for EAR-1.
2. Schools for academic instruction.

23A-6(c) _ACCESSORY USES_ - As for EAR-1.

23A-6(d) _CONDITIONAL USES_

1. As for EAR-1.
2. Boarding houses, rehabilitation homes, nursing homes, rest homes, and assisted living facilities. As a prerequisite requirement, sites for such uses must front on a street with a functional classification of collector or arterial.
3. Existing radio, telephone or television transmitting or relay facilities as of May 26, 2005, including line-of-sight relays and towers, except as permitted by KRS 100.324, and only under the following conditions:
   a. Such facilities shall be operated at all times in compliance with applicable Federal, State and local laws and regulations, including all standards of the Federal Aviation Administration and the Federal Communications Commission.
   b. No transmitting or relay tower shall be located closer than the height of the tower from another lot under different ownership, or any public or private street or highway, unless the tower is constructed to withstand a minimum wind speed of one hundred (100) miles per hour.
   c. The plans of tower construction shall be certified by an engineer registered in the Commonwealth of Kentucky.
   d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.

23A-6(e) _PROHIBITED USES_ - As for EAR-1.

LOT, YARD, HEIGHT AND DENSITY REQUIREMENTS

23A-6(f) _DWELLING UNIT DENSITY_

Minimum Density - Three dwelling units per gross acre.

Maximum Density without DTR - Six dwelling units per gross acre.

Maximum Density with DTR - Nine dwelling units per gross acre.

23A-6(g) _MAXIMUM HEIGHT OF BUILDING_ - 35 feet.

23A-6(h) _FLOOR AREA RATIO_ - None; except where more than one principal residential structure is placed on a lot, the FAR shall not exceed 0.75

23A-6(i) _MINIMUM FRONT YARD_ - 5 feet.

23A-6(j) _OFF-STREET PARKING REQUIREMENTS_ - There shall be a minimum of one space per dwelling unit for single family detached, duplex and townhouse residential units. Multi-family units shall have a minimum of 1.5 spaces per unit; except for elderly housing, which shall provide three (3) spaces for every four (4) units. One additional space shall be provided for any accessory dwelling unit.

23A-6(k) _SPECIAL PROVISIONS_

1. Affordable housing units shall not be considered as dwelling units for the purposes of calculating maximum density, provided the number of affordable units does not exceed eight (8) units per gross acre.
2. At least twenty-five percent (25%) of the net developable acreage of any project in the EAR-2 zone shall be open space.
3. Permitted schools shall not be located on a lot exceeding 15 acres in area.
23A-7 EXPANSION AREA RESIDENTIAL 3 (EAR-3) ZONE

23A-7(a) INTENT - The intent of the Expansion Area Residential 3 Zone is to provide a mixture of residential uses and housing types at a higher density than the other Expansion Area Residential zones, to allow density transfer from areas that should not be developed and to provide for well-designed neighborhoods.

23A-7(b) PRINCIPAL USES - As for EAR-2.

23A-7(c) ACCESSORY USES - As for EAR-2.

23A-7(d) CONDITIONAL USES - As for EAR-2.

23A-7(e) PROHIBITED USES - As for EAR-2.

LOT, YARD, HEIGHT AND DENSITY REQUIREMENTS

23A-7(f) DWELLING UNIT DENSITY

Minimum Density - Six dwelling units per gross acre.

Maximum Density without DTR - Eighteen dwelling units per gross acre.

Maximum Density with DTR - Twenty-four dwelling units per gross acre.

23A-7(g) MAXIMUM HEIGHT OF BUILDING - 60 feet.

23A-7(h) FLOOR AREA RATIO - None.

23A-7(i) MINIMUM FRONT YARD - 5 feet.

23A-7(j) OFF-STREET PARKING REQUIREMENTS - There shall be a minimum of one space per dwelling unit for single family detached, duplex and townhouse residential units. Multi-family units shall have a minimum of 1.5 spaces per unit, except for elderly housing which shall provide three (3) spaces for every four (4) units. One additional space shall be provided for any accessory dwelling unit.

23A-7(k) SPECIAL PROVISIONS

1. Affordable housing units shall not be considered as dwelling units for the purposes of calculating maximum density, provided the number of affordable units does not exceed eight (8) units per gross acre.

2. At least twenty-five percent (25%) of the net developable acreage of any project in the EAR-3 zone shall be open space.

3. Permitted schools shall not be located on a lot exceeding 15 acres in area.

4. There shall be no off-street parking permitted in a yard which abuts a collector street.
23A-8 TRANSITION AREA (TA) ZONE

23A-8(a) INTENT - The intent of the Transition Area zone is to create an overlay district to be used in conjunction with an EAR zoning category to allow for the development of residential uses and civic, cultural, religious, and educational institutions on lands which are located immediately adjacent to Community Center zones.

23A-8(b) PRINCIPAL USES

1. As for the underlying EAR zoning category.
2. Only when the Transition Area is included as an integral part of the development plan for adjacent land in the Community Center zone, then the following uses shall be permitted:
   a) Nursing homes and rest homes.
   b) Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
   c) Churches, Sunday schools and parish houses.
   d) Buildings and facilities for social or recreational purposes operated by a non-profit organization and which are generally open to the public and do not render a service customarily carried on as a business.

23A-8(c) ACCESSORY USES - As for the underlying EAR zoning category.

23A-8(d) CONDITIONAL USES - As for the underlying EAR zoning category.

23A-8(e) PROHIBITED USES - As for the underlying EAR zoning category.

LOT, YARD, HEIGHT AND DENSITY REQUIREMENTS

23A-8(f) DWELLING UNIT DENSITY - As for the underlying EAR zoning category; except that when the property zoned TA is included as an integral part of the development plan for adjacent land in the Community Center zone, the maximum permitted height shall be 48 feet.

23A-8(h) FLOOR AREA RATIO - As for the underlying EAR zoning category; except that when the property zoned TA is included as an integral part of the development plan for adjacent land in the Community Center zone, the FAR shall be as provided for the CC zone herein below.

23A-8(i) MINIMUM FRONT YARD - 5 feet

23A-8(j) OFF-STREET PARKING REQUIREMENTS

1. Residential Uses - As per the underlying EAR category.
2. Other Permitted Uses - Parking shall be as provided elsewhere in the Zoning Ordinance within the zone where the use is first permitted.

23A-8(k) SPECIAL PROVISIONS

1. As per the underlying EAR zoning category.
23A-9 COMMUNITY CENTER (CC) ZONE

23A-9(a) INTENT - The intent of this zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and non-residential uses which serve the needs of the surrounding residential neighborhoods.

23A-9(b) PRINCIPAL USES

1. As for EAR-3.
2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
3. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including but not limited to, real estate sales offices.
5. Libraries, museums, art galleries, and reading rooms.
6. Medical and dental offices, clinics, and laboratories.
7. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
8. Community centers and private clubs.
9. Nursing and rest homes, and rehabilitation homes.
10. Computer and data processing centers.
11. Ticket and travel agencies.
12. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
13. Business colleges, technical or trade schools or institutions.
14. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
15. Restaurants, except as prohibited under Section 8-16(e)(14) and (15), which offer no live entertainment or dancing.
16. Establishments for the retail sale of merchandise, including clothing; shoes; fabrics; yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products; paint and other interior or exterior care products; hobby items; toys; gifts; antiques; newspapers and magazines, stationery and books; flowers; music; cameras; jewelry and luggage; business supplies and machines; prescription and non-prescription medicines and medical supplies.
17. Beauty shops, barber shops, shoe repair, self-service laundry, or laundry pick-up station, including clothes cleaning establishments of not more than 40 pounds capacity and using a closed system process.
18. Automobile service station, provided such use conforms to all requirements of Article 16.
20. Retail sale of plant nursery or greenhouse products, except as prohibited herein.
21. Outdoor miniature golf or putting courses.
22. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
23. Circuses and carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time; parking; access; or in other ways to protect public health, safety, or welfare, or deny such if public health, safety, or welfare are adversely affected.
24. Indoor theaters.
25. Rental of equipment whose retail sale would be permitted elsewhere in this zone.
26. Arcades, including pinball, and electronic games.
27. Athletic club facilities.
28. Swimming pools, tennis courts, putting greens, and other similar commercial and non-commercial recreational uses.

23A-9(c) ACCESSORY USES

1. As for EAR-3.
2. Storage, excluding outdoor storage, and provided that no building for such accessory use shall have openings other than stationary windows within one hundred feet (100') of any residential zone.
3. The sale of malt beverages, wine, or alcoholic beverages when accessory to a restaurant permitted under Section 8-16(b)(3). Such accessory use shall not devote more than twenty percent (20%) of its public floor area exclusively to the preparation and
service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.

4. Parking lots and structures.
5. Satellite dish antennas as further regulated by Article 15-7.
6. One (1) or two (2) pool or billiard tables within an establishment.

23A-9(d) CONDITIONAL USES

1. As for EAR-3.
2. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.
3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b) That a reasonable degree of reclamation and proper drainage control is feasible; and
   c) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
4. Self-service car washes when accessory to a service station, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
5. Animal hospital or clinic, provided that all exterior walls are completely soundproofed; and further provided that animal pens shall be completely within the principal building and used for the medical treatment of small animals.
6. A restaurant, without live entertainment or dancing, which devotes more than twenty percent (20%) of its public floor area exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.
7. Restaurants offering live entertainment and/or dancing, cocktail lounges, or nightclubs [unless prohibited under Section 8-14(e)(14) and (15)]. Such uses shall be located at least 100 feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.
8. Upholstery shop.
9. Outdoor speakers and public address systems. Such systems shall only be permitted by the Board of Adjustment upon findings that the system would not constitute a public nuisance by creating excessive noise on the property and surrounding properties; and is a necessary adjunct to the proposed use and has been designed to serve only such need. The Board may limit such features as the location, power, and time of operation of such systems to ensure the protection of surrounding uses and properties.
10. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
   a. To check on all operating equipment;
   b. To check fire suppression system(s);
   c. To check the condition of the fire alarm(s);
   d. To check for indications of fuel leaks and spillage;
   e. To remove trash from the site;
   f. To monitor the general condition of the site.

23A-9(e) PROHIBITED USES

1. As for EAR-3.
2. As for A-R, except as expressly permitted herein.
3. Any use dependent upon septic tanks or pit privies.
4. Pawn shops.
5. Golf driving ranges.
6. Except when accessory to a permitted automobile service station, the above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas; and the above- or below-ground storage of more than five (5) gallons of gasoline.
7. Greenhouses, plant nurseries, and garden centers.
8. Establishments primarily engaged in agricultural sales and services.
9. Warehouses, as well as storage uses, except as accessory uses herein.
10. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; printing; electrical; sign painting; tile, mosaic and terrazzo work; electroplating; drilling; excavating; wrecking; construction, and paving. This is not intended to prohibit the administrative offices of such.
11. Manufacturing, compounding, assembling, bottling, processing and packaging and other industrial uses for sale or distribution other than as retail on the premises.
12. Truck terminals and freight yards.
13. Amusement enterprises, such as outdoor theaters, automobile racing, horse racing.
14. Kennels, outdoor runways or pens for animals.
15. Establishments engaged in the display, rental, sales, service and major repair of automobiles, repair of motorcycles, boats, trucks, travel trailers, farm implements, contractor's equipment, mobile homes, and establishments primarily engaged in the sale of supplies and parts for any of the above-mentioned vehicles or equipment, except as permitted herein.
16. Establishments for cleaning, dyeing, laundering and the like, other than self-service and pick-up stations; except for clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed system process.
17. Hotel or motel.
18. Wholesale establishments.
20. Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
21. Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
22. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy, or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
23. Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy; or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
24. Pool or billiard halls.

LOT, YARD, HEIGHT AND DENSITY REQUIREMENTS

23A-9(f) DWELLING UNIT DENSITY - No limitation (See Special Provisions below).

23A-9(g) MAXIMUM HEIGHT OF BUILDING - 48 feet.

23A-9(h) FLOOR AREA RATIO - A maximum of 1.0; however, the FAR may be increased to 1.5, provided that the FAR in excess of 1.0 is used for affordable housing.

23A-9(i) MINIMUM FRONT YARD - 5 feet.

23A-9(j) OFF-STREET PARKING REQUIREMENTS

1. Residential Uses - As per EAR-3.
2. All other uses - Parking shall be as provided elsewhere in the Zoning Ordinance within the zone where the use is first permitted.

23A-9(k) SPECIAL PROVISIONS

1. At least 25% of the net developable acreage of any development within a CC zone shall be open space.
2. At least 40% of the aggregated floor area of buildings within a development in a CC zone shall be devoted to residential uses as permitted in EAR-3 and schools, churches and their accessory structures, and public buildings.
3. No building shall exceed 15,000 square feet in floor area unless:
a. the building contains a mix of residential and non-residential uses; or
b. the building is designed and intended to be used for a school, church or public building; or
c. the building is designed and intended to be used principally as a store selling food, produce and other grocery items (not primarily general merchandise) and not exceeding 50,000 square feet.
4. Parking areas shall be designed so as to minimize the placement of parking between the buildings and the adjoining streets.
5. Each development within a CC zone shall have access to a pedestrian accessway.

6. Each development shall provide suitable facilities for the parking of bicycles.

7. The development shall be screened from adjoining zones as for a business zone under Article 18-3(a)(1).

8. Structures shall be sited to avoid the rear of the building facing a street (other than an alley) to the greatest extent practicable.
ARTICLE 23A-10 ECONOMIC DEVELOPMENT (ED) ZONE

23A-10(a) INTENT - The purpose of the Economic Development zone is to provide land within the Expansion Area for employment opportunities compatible with the overall character of development as provided in the Expansion Area Master Plan.

23A-10(b) PRINCIPAL USES

1. Offices for business, professional, governmental, civic, social, fraternal, political, religious and charitable organizations.
2. Computer and data processing centers.
3. Medical and dental offices, clinics and laboratories.
4. Research development and testing laboratories or centers.
5. Mail order businesses.
6. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of articles of merchandise from the following previously prepared materials: asbestos, bone, canvas, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semi-precious metals, precious and semi-precious stones, rubber, sheet metal (excluding large stampings), shell, textiles, tobacco, wax, wood (excluding sawmills, planing mills), and yarn.
7. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of such products as: bakery goods; billboards; candy; ceramics; cosmetics; drafting instruments; electrical parts; appliances; electric or neon signs; electronic instruments; food products; meat packaging; ice cream; medical and dental instruments; musical instruments; pharmaceuticals; pottery, china, or figurines; radios; record players; rubber and metal stamps; rubber products; scientific instruments and equipment; shoes; television receivers; toiletries, soaps and detergents; toys; and watches and clocks.
8. Other industrial and manufacturing uses such as auto parts rebuilding; battery manufacturing; beverage manufacturing; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; caterers; cooperage; crematory; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental) and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; stone monument works; tool manufacturing, welding, and other metal working shops.
9. Regional medical campus consisting of an integrated complex of medical service providers and related support facilities on a campus of not less than fifty (50) gross acres governed by a single development plan. The development plan must demonstrate that the regional medical campus will contain hospitals and similar in-patient treatment facilities, which may include accessory cafeterias, pharmacies and gift shops. In addition, the following uses shall be considered part of a regional medical campus: outpatient clinics and treatment facilities, surgery centers, nursing homes, medically-supervised assisted living facilities, and extended-stay hotels.
10. Colleges, universities, business colleges, technical or trade schools, and other schools and institutions for academic instruction.
11. Offices of purchasers, processors, and handlers of agricultural products, limited to administrative uses only.

23A-10(c) ACCESSORY USES

1. Off-street parking areas and structures, and loading facilities.
2. A dwelling unit for watchmen or caretakers, provided that such facilities shall be located on the same premises as the permitted use.
3. Facilities for serving food only for employees and visitors, having no direct access to the exterior and having no signs visible from the exterior of the building.
4. Offices.
5. Recreational facilities.
6. Sale of finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than five percent (5%) of the total floor and storage area.
7. Storage and warehousing.
9. Meeting and conference centers.
10. Establishments limited to the filling of prescriptions and retail sale of pharmaceutical and medical supplies with a drive-through window, provided it meets the following conditions:
   a) Establishments limited to the filling of prescriptions shall be located in a building, the primary use of which is for medical uses; including, but not limited to, hospitals; in-patient treatment facilities; outpatient facilities; surgery centers; medical and dental offices, clinics or laboratories.
   b) Establishments principally used for the retail sale of pharmaceutical and medical supplies shall be internally oriented to the site (e.g., not located on adjoining arterial streets).
   c) It shall have no more than one public entrance and one service entrance directly to the outside of the building.
   d) Signage for such establishments may be directly, indirectly or internally illuminated; there shall be no more than one (1) wall-mounted business sign per such establishment, not to exceed thirty-two (32) square feet in area; and no more than one (1) free standing monument type business sign, eight (8) feet in height, with a maximum size of thirty-two (32) square feet.

11. Satellite dish antennas, as further regulated by Article 15-8. When located within 200 feet of the Urban Service Area boundary, satellite dish antennas shall be limited to:
   a) A maximum height of four (4) feet above the highest point of the principal building on the lot.
   b) If located on the ground, satellite dish antennas shall not be visible from the road, and shall be screened with landscape material.

12. Restaurants, provided they meet the following conditions:
   a) It shall be located in an office building or extended-stay hotel containing a minimum of 40,000 square feet of floor area.
   b) It shall occupy not more than twenty-five percent (25%) of the building in which it is located.
   c) It shall have no more than one public entrance and one service entrance directly to the outside of the building, and this use shall be at least one hundred fifty (150) feet from any residential zone.
   d) It shall have no drive-in or drive-through food service.

   e) There shall be no more than two restaurants within an office building or extended-stay hotel, provided that the 25% limitation is not exceeded.
   f) Signs permitted per office building may be used to identify the restaurant and/or the office use.

23A-10(d) CONDITIONAL USES

1. Kindergartens, nursery schools and child care centers, where enrollment of children is sponsored and licensed by established churches and non-profit community based groups; and/or where enrollment may be limited to children of employees and staff of an office, business or commercial establishment that is located within the contiguous ED zone as the proposed child care facility. A fenced and screened play area shall be provided in an area located a minimum of ten (10) feet from a collector or arterial street, and shall contain not less than twenty-five (25) square feet per child.

2. Helistops and heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
   a) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
   b) That a reasonable degree of reclamation and proper drainage control is feasible; and
   c) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

23A-10(e) PROHIBITED USES

1. All uses listed as permitted or prohibited within the B-4, I-1 and I-2 zones, except as expressly permitted herein.

2. Radio, telephone or television transmitting or relay facilities, including line-of-sight relays and towers.

3. Dormitories.
LOT, YARD, HEIGHT AND DENSITY REQUIREMENTS

23A-10(f) MAXIMUM HEIGHT OF BUILDING - 90 feet, exclusive of mechanical equipment; or a 1:2 height-to-yard ratio, whichever is less, as measured from the contiguous ED zone boundary, provided that the average height of all buildings within the contiguous ED zone shall not exceed 48 feet.

23A-10(g) FLOOR AREA RATIO - A maximum of 0.75.

23A-10(h) MINIMUM FRONT YARD - 5 feet.

23A-10(i) OFF-STREET PARKING REQUIREMENTS - Parking shall be as provided elsewhere in the Zoning Ordinance within the zone where the use is first permitted.

23A-10(j) SPECIAL PROVISIONS

1. At least 25% of the net developable acreage of any development within an ED zone shall be open space.
2. No structures other than sidewalks, transparent fences, or stone fences shall be located within 5' of any public street right-of-way.
3. No more than half of the required off-street parking area shall be located between a building and any collector street.
4. Each parcel in an ED zone shall have direct access to a pedestrian accessway.
5. The development shall be screened from adjoining zones and arterial highways as for an industrial zone under Article 18-3(a)(1).
6. All uses shall be conducted in a completely enclosed building, except for outdoor storage uses, which shall be enclosed on all sides by a solid wall or fence not less than six feet (6') in height.
7. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no openings except stationary windows and doors that are designed and intended solely for pedestrian access.
8. No buildings or structures in the ED zone, other than driveways, transparent fences and stone fences, shall be located in a Scenic Resource Area; however, the Scenic Resource Area may be used to calculate the required floor area ratio.
9. No outdoor loud speakers shall be permitted.
10. No portion of a regional medical campus shall be located within 1,000 feet of the boundary of the Urban Service Area.
11. There shall be no more than one extended-stay hotel for a regional medical campus that contains 100 acres or less; a second extended-stay hotel is permitted for a regional medical campus that contains more than 100 acres, provided that there shall be no more than two (2) extended-stay hotels in a regional medical campus. The extended-stay hotel shall be: a) a part of a building that also contains medical facilities permitted on the campus; or b) physically connected by interior access ways to facilities containing medical services permitted on the campus. Extended-stay hotels shall be internally oriented to the site (e.g., not located on adjoining arterial streets).
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APPENDIX 23B - EXPANSION AREAS PROCEDURES AND REQUIREMENTS

23B-1 PURPOSE - The purpose of this appendix is to create and define procedures and requirements for approval of development within the Expansion Areas of the Lexington-Fayette County Urban Service Area.

23B-2 PRELIMINARY AND FINAL DEVELOPMENT PLAN REQUIRED - A preliminary development plan shall be required as specified in Article 21-3 in conjunction with any zone map amendment request in the Expansion Area. The standards and procedures specified in Articles 21-4, 21-5 and 21-6 shall be applicable. No development activity, building, or occupancy of property shall be permitted unless and until a final development plan has been approved by the Planning Commission. The development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land to the conditions as set forth in the plan.

23B-3 INTERIM AGRICULTURAL USES EXCEPTED - The only exception from the provisions of 23B-2 above shall be the principal permitted uses as set forth for the A-R zone in Article 8-1. Such uses, including the construction of one principal single family dwelling, shall be permitted by right, subject to the typical requirements of law contained in this Zoning Ordinance or other applicable ordinances for such construction, such as building permits, land disturbance permits, and the like.

23B-4 CONTENT AND FORMAT FOR FINAL DEVELOPMENT PLANS WITHIN THE EXPANSION AREAS - Final development plans required pursuant to this Article shall meet, at a minimum, all information as required for a final development plan as set forth under Article 21-6. In addition, the following shall be a required part of the final development plan and shall be submitted at the time of the application:

23B-4(a) COMPREHENSIVE PLAN COMPLIANCE STATEMENT - This document shall set forth the developer’s specific actions related to natural environment, land use, open space, housing, community design, public facilities, design features and criteria, density, and similar matters to demonstrate that the final development plan complies with the “Future Land Use” and “Community Design” Elements of the adopted Expansion Area Master Plan.

23B-4(b) INFRASTRUCTURE STATEMENT - This document shall set forth a project description including engineering and construction cost estimates prepared by a professional engineer for the public and/or private expenditures for system improvements that the developer proposes to construct, and for construction, or other development activity which will be in place prior to or in conjunction with the development. This document will demonstrate that the proposal complies with the “Infrastructure Element” of the adopted Expansion Area Master Plan. Any proposed or executed development agreement that is required or anticipated by the developer as set forth under 23C-7 herein below shall also be a part of this statement. At the time of the application, the developer shall distribute copies of the Infrastructure Statement to the Chief Administrative Officer, the Commissioner of Public Works, the Commissioner of Finance, and the Commissioner of General Services. Such officials shall review the proposed statement and provide their comments to the Division of Planning prior to Planning Commission action.

23B-4(c) OTHER INFORMATION ON THE FINAL PLAN - The final development plan shall indicate the developer’s restrictions for lot sizes (minimum and, where appropriate, maximum); yard and setback restrictions; coverage restrictions; height limitations; floor area ratios; project lighting; or similar restrictive techniques to be established within the development or defined areas within it so as to achieve the purposes of the Expansion Area Master Plan and to prevent or minimize potential adverse effects upon properties within and in the vicinity of the proposed development.

23B-4(d) DTR RELATED INFORMATION - For any final development plan which proposes units permitted under a DTR, a copy of the Certificate of DTR shall be filed as a part of the application.

23B-5 REVIEW PROCEDURES - Final development plans required under this Article shall follow the development plan procedures as set forth in Article 21-4, except as specifically modified herein.

23B-5(a) STAFF REPORT ON COMPLIANCE WITH EXPANSION AREA MASTER PLAN AND INFRASTRUCTURE - In addition to all other reports and recommendations from staff and review committees provided to the Commission, the Division of Planning shall prepare and submit for Commission review a report reviewing the final development plan’s compliance with
the Expansion Area Master Plan. The report shall review
the statements and information provided by the developer
under 23B-4(a) through (d) above, and may make specific
recommendations on design changes needed to establish
compliance with the Expansion Area Master Plan. The
Division shall include comments from all applicable
Departments involved with public facilities within the
development, including the physical extent of the
proposed project improvements; exactions; related capital
improvements financing; regulations; and similar matters.

23B-5(b) COMMISSION HEARING AND ACTION
The Planning Commission shall advertise and conduct at
least one public hearing and shall approve, conditionally
approve with conditions noted, or disapprove any request
for action on a final development plan within 120 days of
its filing unless the applicant agrees to an extension of
time beyond such period. The minimum notice shall
include a newspaper notice placed not more than 21 days,
nor less than 7 days, in advance of the hearing; and the
posting by the applicant of a sign in a conspicuous
location on the property. The sign shall be constructed of
durable material; shall not be less than four (4) feet by
four (4) feet; shall state “development plan” in bold letters
not less than three (3) inches in height; shall state the time,
date, and location of the hearing and the phone number of
the Division of Planning in letters at least one (1) inch in
height; and shall be posted on the property at a location
which is visible from the highest traffic volume roadway
abutting the property not more than 14 days after the filing
of the plan and maintained until the hearing date. The
applicant shall provide an affidavit to the Planning
Commission at the hearing, stating that the sign was
posted as required and has been maintained on the
property during the notice period to the best of the
applicant’s knowledge and ability.

23B-5(c) COMMISSION ACTION - No development
plan shall be considered for action by the Commission
until it has been reviewed by, and recommendations made
by, the Subdivision Committee unless this requirement is
waived by the Commission under its adopted late filing
procedures. The Commission will review all staff and
committee recommendations, comments made in the
public hearing, and shall then act for approval, conditional
approval with conditions noted, postponement, or dis-
approval. The Commission may modify through
conditional approval or disapprove the development plan
if it finds the plan does not comply with the requirements
of the Zoning Ordinance, and when applicable, the Land
Subdivision Regulations; or if it finds there are existing or
potential flood, drainage, traffic, topographic, health,
safety, nuisance or other similar problems relating to the
development of the subject property which cannot be
properly mitigated.

Further, approval of the development plan will require a
finding on the part of the Planning Commission that the
plan is in compliance with the Infrastructure, Future Land
Use, and Community Design Elements of the Expansion
Area Master Plan, and the Commission may disapprove or
require modifications to the development plan to ensure
such compliance, and the need to prevent or minimize
adverse effects upon properties within or in the vicinity of
the development. The Commission shall impose
conditions regarding construction of required infra-
structure and the proposed development to ensure that
development is supported by infrastructure consistent with
the Expansion Area Master Plan and any development
agreement. The Commission shall permit the construction
and bonding of required infrastructure pursuant to the
provisions of Section 4-7 of the Land Subdivision
Regulations.

In addition to these items, development plans which seek
to amend the original development plan or its approved
amendments shall also be subject to the provisions of
Article 21-7(e). Reasons for action of postponement or
disapproval shall be fully incorporated in the Com-
misson’s minutes. The following actions by the
Commission shall have the meanings so stated:

(1) APPROVAL - Means the development plan is
ready to be certified by the Commission’s Secretary with
no further corrections or revisions of the plan required
by the developer.

(2) CONDITIONAL APPROVAL - Means the
development plan cannot be certified by the
Commission’s Secretary until the developer has
complied with the conditions of approval set forth in the
Planning Commission’s action on the plan.

(3) POSTPONEMENT - Means that the Commission
has deferred action until some future Commission
meeting in order that certain clarifications can be made
in regard to the development plan. No completely n
re-submittal is required of the developer as is the case
for disapproval.

(4) DISAPPROVAL - Means disapproval of the plan.
To request new review and action, the developer must
file a new application along with a filing fee, plan
copies, and other material as required herein. For any
action of disapproval, the Planning Commission shall be required to make specific findings to support such action.

23B-5(d) CERTIFICATION OF APPROVAL - Within one (1) year of the Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void:

(1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan, including the signed owners' certification, to the Division of Planning:

(2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense.

In conjunction with any request by the developer for a time extension or re-approval of an expired plan, the Commission may require changes in the development plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.

23B-6 SUBDIVISION OF LAND - The following provisions shall apply to subdivision of land within the Expansion Area.

23B-6(a) APPLICABILITY TO SUBDIVISIONS - Except as expressly specified in this Article, all subdivision of land within the Expansion Area shall be required to comply with all procedures, requirements and standards of the Land Subdivision Regulations for major or minor subdivisions as applicable to the nature of the proposed subdivision.

23B-6(b) APPLICABILITY TO DEVELOPMENT PLANS - Where any development plan under this Article indicates a need or intent to subdivide property, all design and improvement standards contained in the Land Subdivision Regulations shall be applicable to the development plan.

23B-6(c) DEVELOPMENT PLAN AND PRELIMINARY SUBDIVISION PLAN MAY BE COMBINED - The required development plan and preliminary subdivision plan may be combined as set forth in Article 21-8(c).

23B-7 AMENDMENTS - Amendments to development plans under this Article shall be as provided in Article 21-7 of the Zoning Ordinance, except as modified herein above.
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APPENDIX 23C - EXPANSION AREAS DEVELOPMENT EXACTIONS

23C-1 INTENT - This Article is intended to implement and facilitate orderly growth consistent with the Expansion Area Master Plan element of the 1996 Lexington-Fayette Urban County Comprehensive Plan by assuring that new development activity is served by adequate public facilities and bears a proportionate share of the cost of improvements necessary to provide roads, parks, open space and sanitary sewer treatment, sanitary sewer transmission capacity and storm water management facilities in the Expansion Areas of Lexington-Fayette County; and to mitigate the loss of rural landscape in the Expansion Areas by providing for an exaction for preservation of undeveloped land within the Rural Service Area in the vicinity of the Expansion Areas or of community-wide significance. The provisions of this Article are intended to implement the infrastructure financing concepts contained in the Expansion Area Master Plan in a manner consistent with the laws of the Commonwealth of Kentucky. The Expansion Area Master Plan financing concepts included allocation of certain exactions at 50% to be paid prior to building permit, with the remaining 50% to be obtained from ultimate users of the property. The provisions of Section 23C-6(b) are designed to address this concept by providing mechanisms which allow for the direct or indirect recovery of exactions paid by builders/developers from such ultimate users.

23C-2 DEFINITIONS - The terms as defined herein shall apply to all of Article 23.

BUILDING PERMIT - A document issued by the Lexington-Fayette Urban County Government, pursuant to its zoning regulations, authorizing the construction, repair, alteration or addition to a structure; or authorizing the placement or relocation of a mobile home.

CAPITAL IMPROVEMENTS - Those capital improvements necessary to support new development activity and which are identified in that portion of the Lexington-Fayette Urban County Expansion Area Master Plan as public facilities which are to be financed by the imposition of an exaction.

CAPITAL IMPROVEMENT PLAN - A plan reviewed and updated annually by the Lexington-Fayette Urban County Government, which in addition to other facilities, designates the size, extent, location, need and estimated cost of public facilities to serve the need created by new development activities.

DEVELOPER - Any person who engages in development activity.

DEVELOPMENT ACTIVITY - Any construction, modification or expansion of a building, structure or use that will generate additional impact or demand on the Urban County Government's public facilities for which an exaction is imposed pursuant to this Article, which is governed by the Lexington-Fayette Urban County Zoning Ordinance and/or the Lexington-Fayette Urban County Land Subdivision Regulations.

ENCUMBER - To legally obligate by contract or otherwise commit to use by appropriation or other official act of the Lexington-Fayette Urban County Government.

EXACTION - A fee or a land dedication in lieu of a fee required pursuant to this Article, and calculated based upon the cost of capital improvements in reasonable relationship and in a proportionate share to new development activities creating the need for such capital improvements.

EXACTION CREDIT - An obligation owed by the Lexington-Fayette Urban County Government to a developer for construction of system improvements.

EXACTION CREDIT, APPLICATION OF - The act of redeeming an approved exaction credit for the payment of exactions due under this Article, and in a manner permitted under this Article.

EXACTION CREDIT, CLAIMED - The written declaration by a developer of the construction (or proposed construction) of a system improvement eligible for an exaction credit.

EXACTION CREDIT CERTIFICATES - Instruments issued to the developer by the Lexington-Fayette Urban County Government, payable only from the exaction fund in amounts equal to the actual cost of system improvements constructed by the developer, or contributions or dedication of land by the developer, which exceeds the other exactions due with respect to the developer’s property. These certificates shall be used only for the payment of exactions as provided herein; or may be surrendered for payment from the Exaction Fund in an order based upon the date of surrender. Exaction credit
certificates are for the expressed purpose of reimbursing a developer for credits due for system improvements; and unless otherwise specified under a development agreement, shall not accrue interest or any other increase in value over the face amount stated in the certificate.

EXACTION DISTRICT - A geographic area identified by the Expansion Area Master Plan in which a defined set of public facilities is required to provide service to new growth and development. Any road right-of-way used to define exaction district boundaries may be considered to be within any exaction district it bounds for the purpose of using the funds collected pursuant to this Article.

EXACTION FUND - A separate fund established by the Lexington-Fayette Urban County Government exclusively to hold or pay out exactions.

EXPANSION - Means the expansion of the capacity of a public facility, and applies to all modifications designed to accommodate increased capacity, or to any capacity enhancements made reasonably necessary by new development activities.

FEESPAYOR - That person who pays an exaction, or his successor in interest.

OPEN SPACE - As used for exaction purposes only, this term is applied to undeveloped land within the Rural Service Area to be acquired or otherwise preserved in its undeveloped state and which may be used only for purposes which include recreation, agriculture, or aesthetic preservation.

PARK - A system improvement which consists of land identified in the Expansion Area Master Plan intended for acquisition by the Lexington-Fayette Urban County Government for use as a public park, or any land acquired by the Lexington-Fayette Urban County government for such purpose. For the purposes of this Article, the term “park,” and the exactions attendant thereto, shall also include lands which meet all of the following criteria: 1) the land is designated as a greenway in the Expansion Area Master Plan, or has been designated as a greenway by the Planning Commission on an approved development plan; 2) the land lies outside of the post-development floodplain; and 3) the land lies outside of an area measured 100 feet in both directions from the center of the greenway.

PERSON - An individual, a corporation, a partnership, an incorporated association, or any other similar entity.

PROJECT IMPROVEMENTS - Site improvements and facilities that are planned and designed to provide service for a particular development which are not system improvements and which are necessary solely for the use and convenience for the occupants or users of the project.

PROPORTIONATE SHARE - That portion of the cost of system improvements which is reasonably related to the demands and needs of a project.

PUBLIC FACILITY - Those facilities identified in the Expansion Area Master Plan for which exactions are imposed to pay the cost of capital improvements and include road improvements, open space acquisition, park acquisition, storm water management facilities, sanitary sewer treatment facilities and sanitary sewer transmission facilities.

PUBLIC FACILITY COSTS - Includes, but is not limited to, costs incurred to provide additional public facility capacity needed to serve new growth and development. Costs attributable to planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions; including, but not limited to, the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchasers, court awards and costs, attorney fees, and expert witness fees) and costs associated with the provisions of Section 23C-7(b). Costs may also include expenses incurred for qualified staff or professional consultants necessary to prepare or update the Capital Improvement Plan; and administrative costs equal to five percent (5%) of the total amount of the project costs for system improvements. Public facility costs also include projected interest charges and other finance costs for system improvements if and to the extent the exactions are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued by or on behalf of the Lexington-Fayette Urban County Government to finance the Capital Improvement Plan. Such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

ROADS - Streets which have been designated as required roads in the Infrastructure Element of the Expansion Area Master Plan together with all necessary appurtenances; including, but not limited to, bridges and traffic control improvements.

SANITARY SEWER TRANSMISSION LINES AND SANITARY SEWER TREATMENT FACILITIES - Those sanitary sewer system improvements identified in the Expansion Area Master Plan to serve new growth and development activity in the Expansion Areas. These public improvements are, or will be, part of the sanitary sewer system owned and operated by the Lexington-Fayette Urban County Government.
STORM WATER MANAGEMENT FACILITIES - A system improvement which provides watershed-wide management of post-development storm water, including storage, treatment, water quality facilities and discharge runoff.

SYSTEM IMPROVEMENTS - Public facilities which are designed to provide service to the Expansion Area "at large," rather than project improvements which substantially or exclusively benefit only a single project. If an improvement or facility provides or will provide more than incidental service or facilities capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement. The character of the improvement shall control a determination of whether an improvement is a project improvement or system improvement; and the physical location of the improvement, on-site or off-site, shall not be considered determinative of whether an improvement is a project improvement or a system improvement. The costs of system improvements, but not project improvements, are calculated as the basis for the determination of the exaction schedule.

23C-3 IMPOSITION OF EXACTIONS - Except as specifically exempted under 23C-9 herein below, any person who, after the effective date of this Article, engages in development activity within a designated Expansion Area shall pay an exaction in the manner and amount set forth herein. No exaction or other fee charge related to the construction of Expansion Area system improvements may be imposed as a condition of development activity approval except pursuant to this Article. No building permit for any development activity shall be issued by the Division of Building Inspection unless and until the required developer exaction has been paid or the Lexington-Fayette Urban County Government has approved a development agreement, pursuant to Section 23C-7(d) herein, setting out in detail how the cost of the system improvements is to be paid.

23C-4 EXACTION DISTRICTS ESTABLISHED - Exaction Districts for each public facility for which an exaction is required pursuant to this Article are hereby established as follows:

23C-4(a) ROAD EXACTION DISTRICTS:
Road Exaction District 2-A/2-B - This exaction district is composed of Expansion Areas 2-A and 2-B.
Road Exaction District 2-C - This exaction district is composed of Expansion Area 2-C.
Road Exaction District 3 - This exaction district is composed of Expansion Area 3.

23C-4(b) OPEN SPACE EXACTION DISTRICT: This exaction district is composed of Expansion Areas 1, 2-A, 2-B, 2-C and 3.

23C-4(c) SANITARY SEWER TREATMENT CAPACITY EXACTION DISTRICT: This exaction district is composed of Expansion Areas 1, 2-A, 2-B, 2-C and 3.

23C-4(d) SANITARY SEWER TRANSMISSION CAPACITY DISTRICTS:
Sanitary Sewer Transmission Capacity Exaction District 1 - This exaction district is composed of Expansion Area 1.
Sanitary Sewer Transmission Capacity Exaction District 2-A - This exaction district is composed of Expansion Area 2-A.
Sanitary Sewer Transmission Capacity Exaction District 2-B - This exaction district is composed of Expansion Area 2-B.
Sanitary Sewer Transmission Capacity Exaction District 2-C - This exaction district is composed of Expansion Area 2-C.
Sanitary Sewer Transmission Capacity Exaction District 3 - This exaction district is composed of Expansion Area 3.

23C-4(e) PARK EXACTION DISTRICTS:
Park Expansion Exaction District 2-A/2-B - This exaction district is composed of Expansion Areas 2-A and 2-B.
Park Expansion Exaction District 2-C - This exaction district is composed of Expansion Area 2-C.

23C-4(f) STORM WATER MANAGEMENT FACILITIES EXACTION DISTRICTS:
Storm Water Exaction District 2-A - This exaction district is composed of Expansion Area 2-A.
Storm Water Exaction District 2-B - This exaction district is composed of Expansion Area 2-B.
Storm Water Exaction District 2-C - This exaction district is composed of Expansion Area 2-C.

23C-5 COMPUTATION OF THE AMOUNT OF THE EXACTION - The amount of exactions shall be determined by zoning, public facility cost and acreage in accordance with a schedule adopted by resolution of the Lexington-Fayette Urban County Council. Any amendments to the Exaction Schedule, as specified under 23C-5(b), shall also be adopted by resolution of the Council.

3C-5(a) MISCELLANEOUS EXACTION PROVISIONS - The following special circumstances shall be addressed as provided below:

1. Inasmuch as land in the Conservation District (CD) zone is proposed for future public acquisition, there shall be no exactions imposed for any use permitted in the CD zone.
(2) Land developed in the Transition Area (TA) zone shall be subject to an exaction based on the underlying zone.

(3) The Exaction Schedule shall include an adjustment for the exactions of any EAR-1 property which lies in its entirety within a Scenic Resource Area. The adjustment shall be based proportionally upon the reduced on-site density. Should such density be recaptured under a Density Transfer Right, exactions shall be paid for such unit as a part of obtaining a Certificate of DTR under Article 23A-2(m)(2)(g).

(4) In the event a zone change is granted to a category where no exaction is shown in the adopted Exaction Schedule, no development activity shall occur until the Urban County Council has amended this Article and/or the Exaction Schedule, as necessary, to create an appropriate exaction.

23C-5(b) REVIEW, ADJUSTMENT AND AMENDMENT OF EXACTIONS - The exactions set forth in this Article are based upon good faith estimates of the costs of acquiring lands for open space, parks, and infrastructure, and the costs of constructing system improvements. The Lexington-Fayette Urban County Government acknowledges that a cost estimate, which as closely as possible approximates the actual construction cost, is in the best interest of the operation of the exaction program. Therefore, beginning four months after the date of the adoption of the resolution establishing the Exaction Schedule, and on a quarterly basis thereafter, the Department of Finance and the Department of Public Works shall review the methodology report and recommend the increase or decrease of all exactions, with the exception of the Open Space Exaction, based upon the actual costs of acquiring properties or interests in properties and the actual costs of constructing system improvements. The methodology for calculation of the estimated public facility cost and exaction shall entail:

1. Adjusting the total estimated cost of the facility by factoring the actual costs for system improvements constructed as of the date of the calculation into the estimated cost of the system improvement to the extent those improvements have been constructed;
2. Subtracting from this adjusted total estimated facility cost the total committed exactions paid or due as calculated by totaling the exactions on previously recorded subdivision plats; and
3. Subsequently recalculating the Exaction Schedule based upon the calculations described under (1) and (2) by apportioning the remaining cost by zone and acreage of all land in the exaction district not accounted for in section 2 above.

Beginning January 1, 2002, and at least at five-year intervals thereafter, the Open Space Exaction shall be subject to such review and adjustment based on the actual cost of acquiring the interest in property. The failure to review such exactions and methodology report shall not invalidate this Article or exactions imposed pursuant to this Article. The Department of Finance shall consult with the Divisions of Engineering, Planning and other Divisions of the Urban County Government, as appropriate, in the review of the methodology report and the determination of the adjustments to the exactions.

23C-6 PAYMENT OF EXACTIONS - Any person required to pay exactions pursuant to this Article shall render such exaction to the Director of Building Inspection prior to the issuance of a building permit, except as permitted herein.

23C-6(a) EXACTIONS DUE - The amount of the exaction applicable to the property shall be shown on the final record plan of each subdivision in the Expansion Area. The calculation of the amount due may include the direct application of approved credits against such exaction, pursuant to Section 23C-7 herein; provide for deferred or phased payment of the exaction if so specified in a development agreement, or for the contribution or dedication of land in lieu of payment of exactions.

23C-6(b) PERMITTED INSTALLMENTS - Except where a development agreement provides otherwise, feepayers shall be entitled to make the entire exaction payment at the time of building permit or to pay in two equal installments. Under this installment option, 50% of the exactions due shall be paid prior to the issuance of the building permit. The second payment shall be made no later than one year from the date of issuance of the building permit. In consideration of such installment payment, the owner shall enter into a contract with the Urban County Government, which shall include agreement to the placement of a lien against the property for the exaction amount outstanding. The lien shall be subordinate to any financing for construction purposes. No interest shall be assessed against such installment payment as long as it is fully paid within one year of the issuance of the building permit. After one year, interest shall accrue on a monthly basis at a rate equal to the current interest rate of the three-month United States Treasury bill, plus 2%.

23C-6(c) DEPOSIT OF FUNDS - All exactions collected pursuant to this Article shall be identified by the Exaction District from which they were collected and promptly transferred for deposit into the appropriate Exaction Account to be held and used as provided for in this Article. Exactions shall be used solely for the purposes specified in this Article.
23C-7 DEVELOPER PROVISION OF SYSTEM IMPROVEMENTS: CALCULATION OF CREDITS AGAINST EXACTIONS - Developers seeking to construct and/or dedicate system improvements or land, and to receive credit for such against exactions otherwise due, shall be subject to the provisions of this section.

23C-7(a) CREDITS AGAINST EXACTIONS - Shall be determined as follows:

(1) A developer shall construct and dedicate, as necessary, all project improvements required for the development. No credit shall be given for project improvements. A developer shall be entitled to construct all system improvements reflected in the Expansion Area Master Plan for the property proposed for development activity. Stormwater management facilities which are constructed in conformance with the Expansion Area Stormwater Facilities Master Plan may be constructed by the developer, and the cost of such improvement shall be credited as provided herein against exactions which would be otherwise owed. Credits shall be given for the actual cost of the construction of system improvements or contribution or dedication of land as outlined in Section 23C-7(b) by a developer at any time subsequent to the effective date of this Article and required or accepted by the Lexington-Fayette Urban County Government from the developer or predecessor in title for system improvements.

(2) Developers wishing to claim credits for system improvements shall be subject to the procedures outlined in 23C-7(b) below. A developer shall be entitled to receive exaction credits for the construction of a system improvement only upon executing a “System Improvement Design and Construction Memorandum” or a “Development Agreement” as provided below. The system improvement design and construction memorandum shall be used only for projects not involving “special circumstances,” as defined herein. Development agreements shall be required for all other system improvement projects. “Special circumstances,” as used herein, shall mean any case where the system improvement involves a material deviation from the Expansion Area Master Plan; deviation from the provisions of Article 23C-7(b), its subsections, or other relevant sections of this ordinance for the calculation of exactions owed; the type or extent of system improvements; the design of the system improvements; the payment of exactions; the application of exaction credits; refunds from an Exaction Fund; the transfer of exaction credits; or the apportionment of costs or construction responsibilities between developers, or between a developer and the Urban County Government.

23C-7(b) SYSTEM IMPROVEMENT DESIGN AND CONSTRUCTION MEMORANDUM - Prior to commencement of the design of system improvements, the developer and the Urban County Government, as represented by the Chief Administrative Officer or authorized agent, shall jointly execute a system improvement design and construction memorandum. A developer claiming credits for system improvements shall submit to the Chief Administrative Officer a detailed project description, including engineering and construction cost estimates prepared by a licensed professional engineer. In addition, the developer shall submit property appraisals prepared by professional appraisers to determine the cost of land acquisition or right-of-way dedication for system improvements. All construction must be publicly bid and must be carried out in accordance with applicable development and design standards. The Chief Administrative Officer shall refer all land and construction cost estimates to the Exaction Credit Advisory Committee, who shall review all materials and make recommendation to the Chief Administrative Officer as to their appropriateness. The Exaction Credit Advisory Committee shall consist of the following individuals or their designees: the Commissioner of Finance, the Commissioner of Public Works, the Commissioner of Law, the Director of the Division of Engineering, the Director of the Division of Planning, and the Urban County Council Administrator. The Chief Administrative Officer has the right to confirm the amount proposed to be credited by having engineering and construction cost estimates and/or property appraisals prepared for those system improvements, and by having verification of developer expenses claimed. The system improvement design and construction memorandum shall include provisions which shall establish:

(1) The specific nature and extent of the system improvements to be constructed and eligible for credit.

(2) That the developer shall receive credit for construction of full or partial system improvements, or for contribution or dedication of land as outlined in this Article. This credit shall take the form of either direct application against the required exaction or as exaction credit certificates in an amount which cannot exceed the eligible credits. Credits shall be permitted to be used as authorized by 23C-7(c)(3) and (4) herein below.

(3) If the amount of the credit created by such construction, contribution or dedication is in excess of the exaction which would have been otherwise due
and owing for that improvement, the developer shall be reimbursed for such excess contribution from the Exaction Fund as provided herein.

(4) The public bid process to be used for selection of the contractor and estimated cost for the system improvements.

(5) The developer’s management/overhead fee cost to be included in the exaction-eligible cost of the construction equal to 5% of total cost of the system improvements.

(6) The procedures to be used to submit, evaluate and approve (if warranted) change orders to any contracted system improvement.

(7) A statement establishing that the actual cost of the system improvement construction and/or dedication as calculated at the time of recording of the plat shall be the basis for any credits. For any system improvements not in place at the time of recording, the cost of the completion shall be covered by surety as provided generally for subdivision improvements in the Land Subdivision Regulations. For these items, the bid price for the completion of such improvements shall be used to calculate the cost of the system improvement. The memorandum shall also provide for verification through documentation required of the developer by the LFUCG; including, but not limited to, periodic submittal of invoices, proof of payment, audits or other means determined necessary by the LFUCG to ensure validity of claimed credit amounts. All such materials shall be referred to the Exaction Credit Advisory Committee, who shall make recommendations to the Chief Administrative Officer. The Chief Administrative Officer shall approve the final amount of such actual costs prior to plat recording.

(8) A developer proposing credits for land dedication shall present property appraisals prepared by qualified professionals and a certified copy of the most recent property valuation administration assessment of the property to the Chief Administrative Officer to be used in determining the amount of credit. The Chief Administrative Officer shall have a review appraisal prepared by a professional MAI to confirm the accuracy of the appraisals submitted by the developer, and shall refer all such materials to the Exaction Credit Advisory Committee, who shall make a recommendation to the Chief Administrative Officer.

(9) A statement affirming the understanding that no credits shall be given for project improvements.

(10) That the total exactions required under this ordinance and the amount of exactions due after the application of any credits authorized under 23C-7(b)(2) or provisions of a development agreement shall be shown on the final plat of the subdivision. The exaction rate schedule to be used shall be the one in effect as of the date the Division of Engineering transmits its certified original of the final plat to the Division of Planning for final certification, provided the plat is recorded within 30 days of that date; otherwise, the net exaction shall be calculated upon any amended rate schedule adopted by the Urban County Council in the intervening time.

23C-7(c) CLAIMING AND APPLICATION OF CREDITS - The application of credits shall be as follows:

(1) The dollar amount of any credits shall be applied either as a credit against exactions due for the development providing the system improvement, or for the issuance of exaction credit certificates as outlined under 23C-7(b)(2) above.

(2) Credits must be claimed by no later than the time of the certification of the final record plan. Any credits not so claimed shall be deemed waived.

(3) The credits for roads, parks, open space or storm water management facilities may be applied against all exactions for roads, parks, stormwater management facilities and open space owed by the developer with respect to the development. To the extent that the total credits for roads, parks, open space or storm water management facilities exceed exactions due for roads, parks stormwater management facilities and open space with respect to the developer’s property, the development agreement may provide for the developer to receive a refund from the exaction fund, as outlined in 23C-7(c)(8) below.

Credits for roads, parks, stormwater management facilities and open space may be applied as follows:

a. Credits earned in either Expansion Area 2-A or 2-B may be applied only against stormwater facilities, road, park and open space exactions in either Expansion Area 2-A or 2-B.

b. The stormwater credit is only applicable within the specific exaction district as noted in Table A.

c. Credits earned in Expansion Area 2-C may be applied only in Expansion Area 2-C.

d. Credits earned in Expansion Area 3 may be applied only in Expansion Area 3.
### Table A
Application of Credits for System Improvements (Other than Sanitary Sewer Capacity and Transmission)

<table>
<thead>
<tr>
<th>Credits for system improvements constructed in Expansion Area:</th>
<th>May be applied against exactions due in the following Expansion Districts:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expansion Area 1</td>
<td>N/A</td>
</tr>
<tr>
<td>Expansion Area 2-A</td>
<td>Roads 2-A and 2-B&lt;br&gt;Open Space&lt;br&gt;Parks 2-A and 2-B&lt;br&gt;Storm Water Management 2-A</td>
</tr>
<tr>
<td>Expansion Area 2-B</td>
<td>Roads 2-A and 2-B&lt;br&gt;Open Space&lt;br&gt;Parks 2-A and 2-B&lt;br&gt;Storm Water Management 2-B</td>
</tr>
<tr>
<td>Expansion Area 2-C</td>
<td>Roads 2-C&lt;br&gt;Open Space&lt;br&gt;Parks 2-C&lt;br&gt;Storm Water Management 2-C</td>
</tr>
<tr>
<td>Expansion Area 3</td>
<td>Roads 3&lt;br&gt;Open Space</td>
</tr>
</tbody>
</table>

### Table B
Application of Exaction Credits for Sanitary Sewer Transmission and Treatment Capacity

<table>
<thead>
<tr>
<th>Credits for Sanitary Sewer Transmission and Capacity system improvements constructed in Expansion Area:</th>
<th>May be applied against exactions due in the Sanitary Sewer Treatment Capacity District and in the following Transmission Capacity Districts:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expansion Area 1</td>
<td>Sanitary Sewer Transmission Capacity in Expansion Area 1</td>
</tr>
<tr>
<td>Expansion Area 2-A</td>
<td>Sanitary Sewer Transmission Capacity in Expansion Area 2-A</td>
</tr>
<tr>
<td>Expansion Area 2-B</td>
<td>Sanitary Sewer Transmission Capacity in Expansion Area 2-B</td>
</tr>
<tr>
<td>Expansion Area 2-C</td>
<td>Sanitary Sewer Transmission Capacity in Expansion Area 2-C</td>
</tr>
<tr>
<td>Expansion Area 3</td>
<td>Sanitary Sewer Transmission Capacity in Expansion Area 3</td>
</tr>
</tbody>
</table>
(4) The credits for sanitary sewer transmission capacity may only be applied against exactions due for sanitary sewer transmission capacity in the Expansion Area from which credit originates, or against exactions due for sanitary sewer treatment capacity in any Expansion Area.

(5) If the area proposed for development includes lands designated for parks in the Expansion Area Master Plan, the developer shall dedicate such lands to the Lexington-Fayette Urban County Government with credit given for the value of the land against the required exaction. If an area proposed for development includes land which is located outside the horizontal limits of the greenway and which is designated in the Expansion Area Stormwater Facilities Master Plan for stormwater management facilities, the developer shall dedicate such land. The developer shall obtain a credit for the value of such lands against any open space, park or road exactions which may be due. The value of such credit shall be computed as set forth in Article 23C-7(b)(7) and shall be applied in the same manner as credits for constructed system improvements.

(6) In cases where the land proposed for development is entirely or substantially in an area designated in the Expansion Area Master Plan for park land, and the extent of the designation is such as to render the development of the land infeasible, the developer may enter into an agreement with the Lexington-Fayette Urban County Government establishing interim uses of the property in conformance with the Conservation District (CD) Zone, timing of acquisition, schedule of payments, and other related uses.

(7) In the event a building permit is abandoned, credits shall be given for the full amount of any exactions paid against future exactions for the same parcel of land paid upon issuance of such building permit. A building permit shall be deemed abandoned if no construction has been commenced prior to the expiration of the building permit.

(8) If the application of all credits against exactions exceeds the amount of the exactions due, the developer shall be repaid for the actual cost of system improvements from the Exaction Fund as monies become available with the order of payment to be the order of the date of award of the credit. Alternatively, the developer may be reimbursed in Exaction Credit certificates, which shall be used as specified within this Article. Developers desiring any other arrangement shall be required to enter into a development agreement with the LFUCG as outlined below.

23C-7(d) DEVELOPMENT AGREEMENTS - A fee-payer may propose, and the Lexington-Fayette Urban County Government may approve, a development agreement which provides for the deferred or phased payment of exactions which were not eligible for application of credits, as provided under 23C-7(c), provides for credits, provides for the dedication of land in lieu of cash payment, provides for the repayment of credits from the exaction fund, provides for payment of interest, provides for the issuance of exaction credit certificates, or provides for any combination thereof. Any developer contemplating an activity which involves a development agreement shall submit a proposed agreement to the Chief Administrative Officer, who shall solicit comments from the Exaction Credit Advisory Committee for the determination of compliance with the provisions of this Article and the Expansion Area Master Plan. The Chief Administrative Officer shall review the proposed development agreement and transmit the proposed development agreement, together with a recommendation and the comments of the Exaction Credit Advisory Committee, to the Lexington-Fayette Urban County Council for appropriate action. The Lexington-Fayette Urban County Council shall not approve a development agreement unless it determines that the development agreement satisfies the intent and purpose of this Article, is in compliance with the Expansion Area Master Plan, is in the best interest of the Lexington-Fayette Urban County Government and is consistent with the public health, safety and welfare of the citizens of Lexington-Fayette County. The Lexington-Fayette Urban County Council has sixty (60) days from receipt of the fully completed draft development agreement to take final action on the development agreement.

23C-7(e) - Exaction Credit Certificates are transferable from one developer to another, from a developer to a property owner, and from one project to another, provided that such credits only be used in conformance with 23C-7(c)(3, 4, and 5), or as authorized under a development agreement pursuant to Article 23C-7(d).

23C-8 USE OF FUNDS - Funds collected as exactions shall be used for system improvements. No funds shall be used for periodic or routine maintenance or repair of capital facilities. Exactions shall be used exclusively for system improvements within the Exaction District which contains the project for which the fees were paid or for reimbursement from credits against exactions as authorized elsewhere in this Article. In the case of open space exactions, funds collected shall be used to acquire open space; including, but not limited to, conservation easements in the Rural Service Area, with priority to be given to land
within a one-mile radius of the boundary of the Expansion Area from which the funds were collected or pursuant to a duly adopted rural land management program. The open space funds may also be used as reimbursement for credits against exactions as authorized elsewhere in this Article. Exaction funds collected for Sanitary Sewer Transmission Capacity and for Sanitary Sewer Treatment Capacity shall be transferred to the Sanitary Sewer fund established by the Lexington-Fayette Urban County Government for sanitary sewer system improvements designed to increase capacity or otherwise accommodate sewage generated in the Expansion Areas.

Each fiscal year the Department of Finance shall present to the Lexington-Fayette Urban County Council an annual report describing the amount of exactions collected, encumbered and used during the preceding year. Monies, including any accrued interest, not encumbered in any fiscal period shall be retained in the same Exaction Fund(s) until the next fiscal year, except as provided in Section 23C-9 below. Exactions may be used for the payment of principal and interest on bonds, notes or other financial obligations issued by or on behalf of the Lexington-Fayette Urban County Government to finance system improvements.

23C-9 EXEMPTIONS - After an exaction requirement has been paid, no further exactions shall be required for any development activity. In addition, the following shall be exempted from payment of exactions:

(a) The alteration or expansion of an existing building or use of land where no additional living units are created, where the use is not changed, where no development activity takes place, or where the proposed use shall not result in need for increased public facilities.

(b) The construction of accessory buildings, excluding accessory dwelling units; attached garages in conjunction with a residential use; additions to structures existing at the time of adoption of this Article; or structures which will not produce additional impact on the roads, parks, open space, storm water management facilities, sanitary sewer transmission lines and sanitary sewer treatment facilities over and above those produced by the principal building, accessory dwelling units, or use of the land.

(c) The replacement of a building, mobile home or structure that was in place on the effective date of this Article, or the replacement of a building, mobile home or structure that was constructed subsequent thereto and for which the correct exactions had been paid or otherwise provided for, with a new building, mobile home, or structure of the same use; provided that no additional impact on the roads, parks, open space, storm water management facilities, and sanitary sewer transmission lines and sanitary sewer treatment facilities will be produced over and above those produced by the original use of the land.

(d) The construction, alteration or expansion of publicly owned and operated school buildings or other public buildings owned, operated and occupied by local, state, or federal government agencies.

(e) Affordable housing shall be eligible for a reduced exaction if the developer can demonstrate that the housing to be constructed will be used to provide housing for low income persons for a period of no less than fifteen (15) years. Factors to be considered in determining the amount of reduction shall include the size and scope of the project, whether other funds are available to pay for the portion of the developer exaction which is otherwise due, and whether the proposal will fulfill established goals or policies in the Comprehensive Plan and the Expansion Area Master Plan to ensure a wide range of housing options to the citizens of Lexington-Fayette County. The determination of the reduction shall be by appeal to the Exaction Appeals Committee, as outlined in Article 23C-12.

(f) Developments located within a Scenic Resource Area which are not included in the pre-calculated reduced exaction in the Exaction Schedule shall be eligible for a reduced exaction if the developer can demonstrate that the permitted units to be developed are so low as to cause an unfair burden relative to the impact of the development. Factors to be considered in determining the amount of the reduction shall include the size and scope of the project, whether or not the right to sell density transfer rights has been forfeited, and whether the proposal will fulfill established goals or policies in the Comprehensive Plan and the Expansion Area Master Plan. The determination of the reduction shall be by appeal to the Exaction Appeals Committee as outlined in Article 23C-12.

(g) Any person claiming exemption(s) pursuant to Section 23C-9(a) through (f) above shall submit to the Chief Administrative Officer information and documentation sufficient to permit a determination of whether such exemption claimed is proper and, if so, the extent of such exemption. Exemptions must be applied for by no later than the time of the application for a building permit. Any exemptions not so applied for shall be deemed waived.
23C-10 **EXACTION FUNDS** - There is hereby established an exaction fund, containing separate accounts for each Exaction District as set forth in Section 23C-4. Funds shall be deposited and maintained in one or more interest bearing accounts. Interest earned on funds shall be funds of the account on which it is earned and is subject to all restrictions imposed by Section 23C-8. Funds withdrawn from these accounts must be used in accordance with the provisions of Section 23C-8.

23C-11 **REFUNDS** - Exactions collected shall be encumbered for public facilities cost within six (6) years of the date of collection. In the absence of a development agreement, and in the event the exactions are not encumbered within six (6) years from the date of collection, the Lexington-Fayette Urban County Government shall refund the amount of the exaction to the feepayer. The exactions collected pursuant to this Article shall be returned to the feepayer through submission of a refund application to the Department of Finance by no later than the calendar quarter following seven (7) years from the date the exactions were paid. The refund application shall include the following information:

(a) a notarized sworn statement that the feepayer paid the exactions for the property and the amount paid;

(b) a copy of the dated receipt issued by the Lexington-Fayette Urban County Government for payment of the exactions;

(c) a certified copy of the latest recorded deed for the property;

(d) a copy of the most recent ad valorem tax bill; and

(e) a sworn statement of entitlement.

Within thirty (30) working days of receipt of a refund application, the Department of Finance shall determine if it is complete. If the Department of Finance determines the refund application is not complete, the Department of Finance shall send a written statement specifying the deficiencies by mail to the person submitting the refund application. Unless the deficiencies are corrected, the Department of Finance shall take no further action on the refund application.

When the Department of Finance determines the refund application is complete, it shall review it within fifteen (15) working days, and shall approve the proposed refund if it determines the feepayer has paid an exaction which the Lexington-Fayette Urban County Government has not spent or encumbered within six (6) years from the date the exactions were paid. The exactions shall be returned, less five percent (5%) of the total, to defray the costs of administration. Feepayers who are owed a refund for exactions paid or credits given shall receive refunds in the order, by date, that contributions were made.

23C-12 **ADMINISTRATIVE APPEALS** - Shall be as follows:

(a) Any person directly aggrieved by a decision of the Lexington-Fayette Urban County Government with respect to any of the following determinations, or is seeking an adjustment to exactions as provided elsewhere in this Article, shall have the right to appeal the decision to the Exaction Appeals Committee:

(1) the imposition of an exaction,

(2) the amount of an exaction,

(3) the entitlement to and/or the amount of credits to an exaction,

(4) the entitlement to an exemption from an exaction,

(5) the entitlement to and/or the amount of a refund of an exaction, or,

(6) the adjustment of exactions under 23C-5(b), 23C-9(e) or 23C-9(f).

The Committee shall consist of a representative of the Mayor’s Office, the Commissioner of Public Works, the Commissioner of Finance, and the Commissioner of General Services (or their designated representatives), one member of the Urban County Council, and one member of the Planning Commission. The Committee shall forward its recommendations on any appeal to the Urban County Council as set forth under 23C-12(d) herein.

Prior to any appeal to the Exaction Appeal Committee, the aggrieved party shall file a request for reconsideration with the Department of the Lexington-Fayette Urban County Government which took the action giving rise to the appeal. Such Department shall take final action affirming, modifying, or denying the request within fifteen (15) working days. The file shall constitute the record and shall include all documentation submitted by the developer, as well as any information including appraisals or estimates prepared for the Lexington-Fayette Urban County Government, and which formed a basis for the Department’s decision.

(b) Any appeal shall be taken within fifteen (15) working days of the reconsideration decision by filing a notice of appeal with the Exaction Appeal Committee, setting forth the grounds therefor. The Department shall forthwith transmit to the Exaction Appeal Committee all papers constituting the record upon which the action appealed from is taken. The Exaction Appeal Committee shall thereafter establish a reasonable date and time for a hearing on the appeal, and give due notice thereof to the parties in interest. Any party taking an appeal shall have the right to appear at the hearing to present evidence and may be represented by counsel. The Exaction Appeal
Committee shall render a decision granting, modifying, or denying the appeal within ten (10) working days of the hearing.

(c) A developer may pay an exaction under protest to obtain a building permit, and by making such payment shall not be estopped from exercising his right of appeal or receiving a refund of any amount determined to have been improperly collected.

(d) The Exaction Appeal Committee shall be required to maintain records of its actions, including minutes of any official meeting. Such records shall be available for public inspection, and shall be distributed on a routine basis to the Planning Commission and the Urban County Council.

**23C-13 PENALTY AND ENFORCEMENT** - Any violation of this Article shall be subject to the penalties provided in Article 5 of the Zoning Ordinance. In addition to criminal remedies, the Lexington-Fayette Urban County Government retains the right to enforce the provisions of this Article by filing an enforcement action in civil court. Knowingly furnishing false information to the Lexington-Fayette Urban County Government on any matter relating to the administration of this Article shall constitute a violation thereof.
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ARTICLE 24

AGRICULTURAL & RURAL CORRIDOR OVERLAY ZONES

24-1 INTENT - It is recognized that this Zoning Ordinance provides zones which allow many types of residential, professional office, business, and industrial uses and provides minimum standards in each zone to ensure the health, safety, and welfare of the entire community. It is also recognized that the application of these more traditional zoning categories along lands adjacent to transportation routes in the Rural Service Area of Lexington-Fayette County can, at times, hamper innovative but proper regulatory and management approaches along these corridors.

This Article is intended to establish overlay zones, which recognize the special characteristics of all (or most) lands along such rural transportation arteries. Customary standards may need to be relaxed in these zones, in some instances, and strengthened in others, depending upon the information gathered and the policies set forth in the adopted Comprehensive Plan. While the traditional zones will continue to be available, the new overlay zones established in this Article will provide an alternative to the traditional zones that exist elsewhere in this Ordinance.

It is further intended that these zones be established to facilitate proper regulation and management along transportation corridors. These zones are to promote the efficient use of existing and proposed agricultural lands, to minimize land use conflicts, and to respect existing and planned agricultural facilities. At the same time, these zones must also ensure a safe and efficient roadway system, and ensure that new development will further the implementation of the adopted Comprehensive Plan.

24-2 ESTABLISHMENT OF AGRICULTURAL OVERLAY ZONES AND RURAL CORRIDOR OVERLAY ZONES - Following their adoption, the regulations of each agricultural overlay zone shall be included as an appendix to this Article. Thus, the PARIS PIKE/LEXINGTON ROAD CORRIDOR OVERLAY ZONE shall be Article 24, Appendix A, and subsequent overlay zones shall be designated Appendix B, Appendix C, etc.

24-3 REGULATIONS IN OVERLAY ZONES - The regulations adopted in each agricultural overlay zone shall be in keeping with the overall intent of such zones and shall include, but not be limited, to the following:

24-3(a) INTENT - A statement of the purposes and objectives of the zone.

24-3(b) PERMITTED USES - A listing of the allowable uses permitted in the zone.

24-3(c) PROHIBITED USES - A listing of the uses not permitted in the zone.

24-3(d) SITE CRITERIA AND/OR LOCATIONAL STANDARDS - The specific characteristics of the size or location of the overlay zone.

24-3(e) RELATIONSHIP TO THE COMPREHENSIVE PLAN - Statements and requirements as necessary to define the relationship of the Comprehensive Plan (including the applicable Small Area Plan, Corridor Plan, etc.) to the allowable or prohibited uses.

24-3(f) DESIGN STANDARDS - The lot, yard, height, access, parking, open space, and/or other requirements deemed necessary to fulfill the intent of the particular overlay zone.

24-3(g) REVIEW PROCEDURE - The procedure to be followed in the application of the zone, if necessary.

24-4 CREATION OF AGRICULTURAL OVERLAY ZONES - A proposal to create a new agricultural overlay zone shall be processed and reviewed as a Zoning Ordinance text amendment, as provided in Article 6. An agricultural overlay zone may be a zoning designation with requirements in addition to the remaining underlying zone classification.
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24A-1 INTENT - The intent of this corridor overlay zone is to...

1) implement the recommendations of the Paris Pike Corridor Small Area Plan (excluding the designated transition areas) &
2) regulate permitted land uses in the corridor in conjunction with an inter-local agreement between Bourbon County, the City of Paris, and the Lexington-Fayette Urban County.

This corridor overlay zoning classification is intended for lands adjoining the Paris Pike between Johnston Road (to the south) and the Paris City limits (to the north); and the regulations hereunder shall be established in addition to the zone classifications shown on the zoning map atlas for the subject areas, and the applicable regulations contained in this Zoning Ordinance. The use, dimensions and other requirements for said zones, as provided in the Zoning Ordinance, shall apply unless further restricted hereunder. Where there are conflicts between the regulations hereunder, and those contained elsewhere in the Zoning Ordinance, the more restrictive shall apply.

24A-2 PRINCIPAL USES PERMITTED - Those uses listed as permitted in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone, unless listed as a prohibited use below.

24A-3 ACCESSORY USES PERMITTED - Those uses listed as accessory in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone, unless listed as a prohibited use below (those uses customarily accessory, clearly incidental and subordinate to permitted uses).

24A-4 CONDITIONAL USES - Those uses listed as conditional (permitted only with Board of Adjustment approval) in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone, unless listed as a prohibited use below.

24A-5 PROHIBITED USES - Those uses listed as prohibited in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone.

1. Advertising signs (billboards).
2. Aircraft landing strips.
3. Airports.
4. Asphalt plants.
5. Bait shops.
6. Commercial cemeteries, crematories, columbariums, mausoleums, including animal burial grounds. (Non-commercial cemeteries, crematories, columbariums, mausoleums, including animal burial grounds, are not prohibited under this section).
7. Additional Churches, Sunday schools, and parish houses; except that existing churches may expand with approval of the Board of Adjustment up to a total of 10,000 square feet.
8. Commercial composting.
9. Concrete mixing.
10. Above-ground facilities for the extraction of crude petroleum or natural gas and mining of metal, anthracite, lignite or bituminous coal.
11. Funeral home.
12. Commercial garages, storage sheds, parking lots, and vehicle fueling facilities.
13. Golf clubs and golf courses or related facilities, including driving ranges.
14. Except as ancillary to row crop production, commercial greenhouses and plant nurseries.
15. Kindergartens, nursery schools, and child care centers for more than twelve (12) children.
16. Landfills.
17. Above-ground facilities for mining activities and quarrying of non-metallic minerals.
18. Mobile homes.
19. Non-service facilities of public utilities when not incidental to a service facility as provided in KRS 100.324.
20. Commercial outdoor recreational facilities such as the following: golf courses, sportsmen's farms, riding stables, fishing lakes, swimming pools, tennis courts, campgrounds, zoological gardens, outdoor rifle and other firearm ranges, native animal game preserves, outdoor rodeos, hunting and trapping (non-commercial outdoor recreational facilities are not prohibited under this section).
21. Commercial outdoor athletic facilities (non-commercial outdoor athletic facilities are not prohibited under this section).
22. Parking lots and structures, except as accessory to a business or office use.
23. Radio or television studios and offices and associated equipment.
24. Radio, telephone or television transmitting or relay facilities.
25. Rehabilitation homes.
26. Schools for academic instruction, including accessory dormitories, other than those for agricultural instruction which are incidental to a farming operation.

27. Temporary cellular telephone transmitting facility.

28. Utilities, pump stations, utility offices, substation offices

29. Commercial woodlots.

24A-6 LOCATIONAL STANDARDS - While the Paris Pike/Lexington Road Corridor Overlay Zone is intended to apply to land fronting along Paris Pike/Lexington Road for a depth of approximately one thousand (1,000) feet from the right-of-way, the boundaries, dimensions and locations of this overlay zone are subject to review and approval by the appropriate legislative bodies in Bourbon and Fayette Counties. From time to time, especially resulting from changes in the location of the road's rights-of-way, there may be adjustments made in the application of the corridor overlay zone.

24A-7 MINIMUM DESIGN STANDARDS

24A-7(a) REVIEW - Major subdivisions and major development plans which are proposed within the Paris Pike/Lexington Road Corridor Overlay Zone shall be reviewed by the Paris Pike Corridor Commission, as outlined in the inter-local agreement between Bourbon County, the City of Paris, and the Lexington-Fayette Urban County. Following its review, the Paris Pike Corridor Commission may choose to advise the appropriate Planning Commission whether to grant approval, conditional approval, approval with modifications or disapproval of the proposed subdivision or development plan. The Paris Pike Corridor Commission shall state the reasons for any recommendation. In the event the Corridor Commission cannot meet between the filing of a subdivision or development plan and its scheduled consideration by the appropriate Planning Commission, the plan should not be delayed for consideration based upon this factor alone.

24A-7(b) ACCESS - Access to Paris Pike/Lexington Road shall be in conformance with the designated access points and cross-over points developed in the roadway design plans. No additional direct access points to Paris Pike/ Lexington Road shall be permitted unless approved first by the Planning Commission (after considering the recommendation of the Paris Pike Corridor Commission) and then with final approval by the Kentucky Transportation Cabinet. Access shall also be in conformance with the applicable provisions of the Subdivision Regulations.

24A-8 LOT, YARD AND HEIGHT REQUIREMENTS

24A-8(a) MINIMUM LOT AREA - Those listed as minimum or required in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone.

24A-8(b) MINIMUM LOT WIDTH - Those listed as minimum or required in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone, if applicable.

24A-8(c) MINIMUM LOT FRONTAGE - 500 feet for single family detached residences and conditional uses which rely upon the Paris Pike/Lexington Road for frontage; otherwise, those listed as minimum or required in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone.

24A-8(d) MINIMUM FRONT YARD REQUIRED - 300 feet from the Paris Pike/Lexington Road for single family residences and conditional uses; otherwise, those listed as minimum or required in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone.

24A-8(e) MINIMUM SIDE & REAR YARDS REQUIRED - Those listed as minimum or required in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone.

24A-8(f) MAXIMUM BUILDING HEIGHT - Those listed as maximum in the zone classification underlying the Paris Pike/Lexington Road Corridor Overlay Zone.

24A-9 PROCEDURE - The procedure for obtaining a Zoning Map Amendment to the Paris Pike/Lexington Road Corridor Overlay Zone shall be the same as those procedures outlined in this Zoning Ordinance, and the applicable provisions of KRS 100 for a zoning map amendment. In the event a future amendment is proposed to the text of this zoning regulation, notice shall be given by first class mail in advance of any scheduled public hearing to the property owners of land to which the Paris Pike/Lexington Road Overlay Zone has been applied.
AGRICULTURAL MARKET (AM-1) OVERLAY ZONE

24B-1 INTENT - This zone is established to promote the agricultural industry, which is vital to the economy of Lexington-Fayette County. However, some of those uses that are integral to the agricultural economy may not necessarily be agricultural uses. Uses such as livestock markets, horse sales facilities and horse race tracks are recognized as providing a benefit to the surrounding agricultural community, but must be appropriately located throughout the community so as not to be a detriment to the surrounding agricultural areas which they are to serve. In order to provide appropriate locations for these operations and their accessory uses, the Agricultural Market (AM-1) Overlay Zone is hereby created to accompany lands located in an Agricultural Rural (A-R) zone that are not designated for future residential uses.

24B-2 AGRICULTURAL MARKETS DEFINED - These facilities provide for the large scale marketing operations of agricultural products (such as livestock markets) and some agricultural-entertainment uses, such as horse race tracks. Agricultural Markets are generally large facilities of at least forty (40) acres in size.

24B-3 PRINCIPAL PERMITTED USES - The uses allowed in this overlay zone are those listed as permitted in the zone classification underlying the AM-1 zone, unless listed as a prohibited use in Article 24B-6. In addition, the following uses are also permitted in the AM-1 zone:

1. Livestock markets and stockyards.
2. Horse race tracks with allotted race meets, and horse riding and training facilities.
3. Horse sales establishments.

24B-4 ACCESSORY USES PERMITTED - Those uses that are listed as accessory uses in the zone classification underlying the AM-1 zone, meaning they are clearly subordinate and incidental to principal permitted uses, are those also allowed in this overlay zone, unless listed as a prohibited use in Article 24B-6. The aggregate of all accessory uses in an AM-1 zone may not exceed twenty-five percent (25%) of the total square footage of the principal structure on the property, or 40,000 square feet, whichever is less; and except as otherwise provided, shall be located within the principal building. In addition, the following accessory uses are also permitted in the AM-1 zone, but only when incidental and subordinate to a principal use permitted under Article 24B-3 that is not listed as permitted in the zone classification underlying the AM-1 zone:

1. Parking areas and loading docks.
2. Accessory offices for government agencies related to agriculture, banking, insurance and financial institutions.
3. Livestock and grain commodity trading office.
4. One (1) coffee shop and/or restaurant not to exceed five thousand (5,000) square feet, or five per cent (5%) of the total floor area, whichever is less.
5. Veterinary clinic, including the sale of livestock pharmaceutical supplies.
6. Meeting rooms, not to exceed five percent (5%) of the total floor area.
7. One (1) dwelling unit for owners, operators, or employees of a permitted use, which may be in a separate structure.
8. One (1) dwelling unit for watchmen or caretakers, which may be in a separate structure.
9. Outdoor lighting, but only when directed away from and shielded from adjacent agricultural and residential areas.
10. Sale of agricultural products produced on the premises.
11. One (1) gift shop not to exceed two thousand five hundred (2,500) square feet, or five per cent (5%) of the total floor area, whichever is greater.
12. Display area for farm machinery/equipment, provided that no on-site sales shall be permitted.
13. Retail sale of agricultural products, supplies and related items, including the acceptance of orders for bulk agricultural supplies, with no on-site storage of such supplies, not to exceed five thousand (5,000) square feet.

24B-5 CONDITIONAL USES - The uses listed as conditional (permitted only with Board of Adjustment approval) in the zone classification underlying the Agricultural Market (AM-1) Overlay zone, unless listed as a principal permitted or prohibited use in this Article. In addition, approval of the following uses can also be sought from the Board of Adjustment:

1. Outdoor Retail Farmers Market.

24B-6 PROHIBITED USES - The uses listed as prohibited in the zone classification underlying the Agricultural Market Overlay Zone, except as otherwise permitted herein. However, the following uses are prohibited in the AM-1 overlay zone, regardless of their regulation in the underlying
zone classification:

1. Advertising signs, as defined in Article 17 herein (aka: billboards).
2. Aircraft landing strips.
3. Airports.
4. Asphalt plants.
5. Commercial cemeteries, crematories, columbariums, mausoleums, including animal burial grounds.
6. Churches, Sunday schools, and parish houses.
7. Concrete mixing.
8. Above-ground facilities for the extraction of crude petroleum or natural gas and mining of metal, anthracite, lignite or bituminous coal.
10. Kindergartens and nursery schools.
11. Landfills.
12. Above-ground facilities for mining activities and quarrying of non-metallic minerals.
14. Non-service facilities of public utilities when not incidental to a service facility as provided in KRS 100.324.
15. Rehabilitation homes.
17. Family child care.
18. Spreading of any animal waste upon land outdoors in an AM-1 zone.

24B-7 LOCATIONAL STANDARDS - An AM-1 zone may be established only upon land that meets two or more of the following criteria:

1. The property shall be located within one (1) mile of the point of intersection of the centerlines of an interstate interchange with a state or federal highway (excluding the two interchanges of Interstate 75 with Interstate 64), provided the property has lot frontage and access on that same state or federal highway, so long as the access is also within one (1) mile of that interchange; and/or...
2. The portion of the property wherein site improvements are proposed is not located on land within the Urban Service Area that is recommended for a residential use, nor in an identified environmentally sensitive area, including any wellhead protection area; and/or...
3. The property was approved prior to August 28, 2003 for a conditional use permit by the Board of Adjustment for a horse sales facility, a horse training facility or a horse race track.

24B-8 RELATIONSHIP TO THE COMPREHENSIVE PLAN - The location of an AM-1 zone must be based upon furthering the goals, objectives and land use policies of the Comprehensive Plan for Lexington-Fayette County. Any application for an AM-1 zone should be accompanied by a detailed statement from the applicant to this effect, which shall be submitted at the time of the application.

24B-9 SITE STANDARDS - Any parcel considered for an AM-1 zone must meet all of the following site criteria:

1. The property shall be at least forty (40) acres in size.
2. The property must have easy access to a state or federal highway, with that access approved by the Kentucky Transportation Cabinet, or the LFUCG Division of Traffic Engineering, as appropriate. All roads to the site should be of sufficient width, and constructed to safely handle all sizes of trucks when fully loaded during all weather conditions.
3. The property must be at least three hundred (300) feet from any property in a residential zone, or any property designated as either a Rural Settlement (RS) land use or as an Existing Rural Residential (ERR) land use in the adopted Comprehensive Plan for Lexington-Fayette County.

24B-10 MINIMUM DESIGN STANDARDS

24B-10(a) ENCLOSED BUILDINGS REQUIRED FOR SOME USES - All sales and marketing of livestock, and all horse sales shall be conducted in an enclosed facility. All pre-sale and post-sale handling of livestock shall take place under roof in a facility enclosed by a combination of fences and gates in order to secure livestock while allowing adequate ventilation and air circulation.

24B-10(b) PROPER SITE LANDSCAPING REQUIRED - All new facilities proposed in the AM-1 overlay zone must be landscaped and screened, if those facilities are visible from adjoining properties. Article 18 may be used to plan the proposed screening of loading docks and vehicular use areas, but the Planning Commission may impose additional screening requirements and landscape buffers as necessary.

24B-10(c) ENVIRONMENTALLY SENSITIVE AREAS ARE TO BE AVOIDED - Site improvements such as buildings, underground and above-ground storage tanks, septic sewage disposal systems, and all truck parking and loading areas shall be located outside of any environmentally sensitive area, including any wellhead protection area. In addition, storm water management shall be provided pursuant to the requirements of the LFUCG Engineering Manuals; and storm water must be treated appropriately prior to its discharge, and directed away from environmentally sensitive areas and known karst geologic features. Muck piles are prohibited in all environmentally sensitive areas.

24B-10(d) APPLICABLE LAWS MUST BE MET - All facilities must be operated at all times in compliance with applicable federal, state and local laws and regulations, including those pertaining to noise, air and water quality.

24B-10(e) LOT AND YARD REQUIREMENTS - Those
Those with the procedure for obtaining a building permit shall be issued for buildings and structures in an AM-1 zone (not exempted from such requirements under Article 3-4 herein) until a final development plan has been approved by the Commission and certified to the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all required building and occupancy permits, and shall restrict the construction, location, and use of all land and structures listed as minimum or required in the zone classification underlying the Agricultural Market (AM-1) Overlay Zone shall apply. However, no principal or accessory building for uses permitted under Article 24B-3, that are not listed as permitted in the zone classification underlying the AM-1 zone, may be located closer than three hundred (300) feet:

1. from a residence on a lot under different ownership;
2. from any property designated on the National Register of Historic Places.

24B-11 Procedure - The procedure for obtaining a Zoning Map Amendment to the AM-1 Zone shall be the same as those procedures outlined in this Zoning Ordinance, and the applicable provisions of KRS 100 for a zoning map amendment. In addition, the following shall also be required in an AM-1 zone:

1. A preliminary development plan shall be submitted with the application for a Zoning Map Amendment with the information as specified in Article 21 herein.
2. Within two (2) years of approval by the Urban County Council of any AM-1 Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and approval. The final development plan shall show the information as specified by Article 21 herein. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits the development plan, unless a longer period of time is agreed to by the applicant.

24B-11(c) Operational Plans Required - With the submission of any development plan, other than minor amendments as regulated by Article 21-7 herein, where land uses permitted under Article 24B-3 above that are not listed as permitted in the zone classification underlying the AM-1 zone are proposed for a site, an Operational Plan must also be submitted for review by the Commission. Where the Commission deems appropriate, a Kentucky No Discharge Operational Permit (KYNDOP), or other appropriate permit from the Kentucky Division of Water may be required prior to approval of an Operational Plan.

The Operational Plan shall address the following:
1. Provisions for animal and/or product waste disposal, subject to all applicable local, state and federal requirements.
2. Provisions for sewage disposal, maintaining air and water quality, and odor management.
3. Hours of operation, and anticipated hours for truck deliveries and truck shipments.
4. Routing of trucks on the site, including truck stacking, parking and loading areas.
5. Protection measures proposed for any environmentally sensitive area located on the site, including any wellhead protection area.
6. Existing and proposed utilities.
7. Any other pertinent information to indicate clearly the orderly operation proposed.

24B-11(d) Planning Commission May Seek Recommendations - The Planning Commission may also refer any submitted development plan or Operational Plan to an appropriate public body (such as the Royal Spring Water Supply Protection Committee or the Paris Pike Corridor Commission) for their recommendations prior to the Commission’s consideration of the request. In any event, that body must either make a recommendation to the Planning Commission within sixty (60) days of the date of submission, or abide by the Commission’s decision.

24B-11(e) Building Permit Required - No building permit shall be issued for buildings and structures in an AM-1 zone (not exempted from such requirements under Article 3-4 herein) until a final development plan has been approved by the Commission and certified to the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all required building and occupancy permits, and shall restrict the construction, location, and use of all land and structures in an AM-1 zone (not exempted from such requirements under Article 3-4 herein).
to all conditions set forth in the plan. Amendments to the development plan can be made only as permitted in Article 21: Development Plans.
ARTICLE 25

TELECOMMUNICATION TOWERS

25-1 INTENT - Inasmuch as the Congress of the United States enacted the Telecommunications Act of 1996, to deregulate the telecommunications industry by providing a more competitive environment for wired and wireless telecommunications, the Kentucky Legislature initially passed House Bill 168, and later enacted House Bill 270, to allow local governments that have adopted planning and zoning regulations to plan for and regulate the siting of cellular antenna towers. The intent of this section of the Zoning Ordinance is to provide for cellular telecommunication towers in appropriate locations throughout the community at sites that provide adequate cellular telecommunication service while protecting the public, preserving the character and value of surrounding property, and protecting the view from residential areas.

25-2 APPLICABILITY - This section of the Zoning Ordinance shall apply to all cellular telecommunication towers located, or to be located, within the jurisdiction of the Lexington-Fayette Urban County Government.

25-3 DEFINITIONS - For the purposes of this Article, the following definitions shall apply:

ALTERNATIVE CELLULAR ANTENNA TOWER - Any facility, such as a clock or bell tower; steeple; light pole; or other similar alternative-design mounting structure that accommodates, minimizes, camouflages or conceals the presence of a cellular antenna or cellular antenna tower and that is constructed (or reconstructed) primarily for the purpose of accommodating a cellular antenna or tower and related equipment.

ANTENNA OR RELATED EQUIPMENT - A transmitting or receiving device that may be mounted on a tower, or other equipment used to support cellular telecommunication services or personal communication services.

CELLULAR ANTENNA, ROOFTOP - Any exterior transmitting or receiving device mounted on, or attached to, the rooftop of a building through gravity mounts or other surface attachments used for wireless or other telecommunication signals; integrated into the natural rooftop profile of a building so that it resembles a permissible rooftop structure, such as a ventilator, cooling equipment, solar equipment, water tank, chimney or parapet.

CELLULAR ANTENNA TOWER - A tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunication services or personal communication services. A cellular tower is generally a self-supporting monopole or lattice structure or a structure designed to be supported by guy wires.

CELLULAR ANTENNA TOWER HEIGHT - The distance from the anchored base of the tower, whether on the top of another building or at grade, to the highest point of the antenna structure.

CELLULAR EQUIPMENT CABINET - A cabinet designed to house radio equipment, similar in size to a traffic signal cabinet, not designed for human occupancy. Any maintenance to radio equipment can only be done from outside the cabinet, as opposed to a larger sized equipment shelter that can be totally accessed by service personnel.

CELLULAR TELECOMMUNICATION FACILITY - The lot, tract, or parcel of land that contains the cellular antenna tower, its supporting structure, any accessory building, parking, and any other uses or structures that are associated with the transmission facility.

CELLULAR TELECOMMUNICATION SERVICE - A retail telecommunication service that uses radio signals transmitted through cell sites and mobile switching stations.

CELLULAR TELEPHONE TRANSMITTING FACILITY, TEMPORARY - Any system of wires, poles, rods, reflecting disks, or similar devices used for the transmission or reception of electromagnetic waves, not meeting the definition of a “structure” as defined by this Zoning Ordinance. Temporary facilities shall be subject to issuance of a locational permit from the Division of Building Inspection prior to being located on a property.

CELLULAR TOWER HEIGHT-TO-YARD RATIO - For the purposes of this section of the Zoning Ordinance, a cellular tower height-to-yard ratio shall be the relationship of the height of the tower to the lot line, the boundary of the long-term lease area, or to the nearest building intended for human habitation, whichever is greater, whether or not that building is located on the lot with the tower and as further specified in these regulations.

CO-LOCATION - Locating two (2) or more transmission antennae or related equipment on the same cellular antenna tower.
The application submitted to the Planning Commission by an applicant, complete and meeting all requirements as provided in KRS 100.9865, for the construction of a cellular antenna tower for cellular telecommunication services or personal communication services.

25-4 WHERE PERMITTED - To the largest extent feasible, applicants are encouraged to consider properties owned by the local government for the location of cellular towers, if such properties are appropriate in view of surrounding land uses. Whenever possible, cellular antenna towers, whether temporary or permanent, shall be sited at locations that minimize their adverse effect on residential uses in the immediate area. Only when no other adequate site is available shall a cellular antenna tower be permitted in a residential zone, unless located on a property not used or intended for residential purposes. In accordance with the procedures established by this Article, cellular antenna towers may be permitted in any zone when approved by the Planning Commission, with the following exceptions:

(a) No cellular antenna tower, accessory structure or cabinet shall be permitted in a designated flood hazard area. Any cellular tower accessory structure must be located at least twenty-five (25) feet outside of a designated flood hazard area, in compliance with the adopted Engineering Manuals. However, the tower itself, the equipment cabinet (as defined herein), as well as the fence that surrounds the tower and cabinet, may be located within the 25-foot buffer area.

(b) No cellular antenna tower shall be constructed on land that is environmentally sensitive or a geologic hazard area.

(c) No cellular antenna tower shall be permitted in or within 1,200 feet of a local Historic District (H-1 Overlay zone) or Landmark, or in or within 1,200 feet of a National Register District or Property, unless the Planning Commission, in addition to the requirements of 25-9(c), finds that no other reasonable site within the search ring is available; and unless it can be determined that the location of a cellular tower will be beneficial to the historic property or district where it is proposed. Every means feasible shall be used to conceal the tower or antenna so that it is impossible to discern its existence.

(d) No cellular antenna tower shall be located along a Scenic Byway, as designated by the State of Kentucky, so as to have a negative impact on the scenic qualities of the roadway and the views from the roadway. When approved by the Planning Commission, any wireless communication facility proposed to be located along a state and/or federally designated Scenic Byway, or within a Scenic View Corridor, shall be located on an existing tower structure or utility pole, or shall be designed as an alternative tower, as described in Section 25-3. Any tower or antenna that is not an alternative tower design shall be designed to blend into the surrounding environment through the use of color and/or other camouflage treatments, except in instances where color is dictated by federal or state authorities, such as the Federal Aviation Administration. In addition, the base of the tower and any supporting equipment shall be located either three hundred (300) feet from the right-of-way or beyond the view shed of the designated Scenic Byway, whichever is greater.

25-5 DESIGN STANDARDS - The following design standards shall apply to all cellular antenna towers:

(a) Cellular antenna towers shall not be lighted, except as required by the Federal Aviation Administration (FAA).

(b) The arrangement of the tower and its accessory structures on the lot or site shall provide adequately for the servicing of the facilities, including safe access points from streets and roads.

(c) No signs shall be located on the cellular antenna tower; on the fence surrounding the antenna; or on any buildings accessory to the cellular antenna tower, with the exception of signs providing information or instructions relating to warnings, safety, emergencies and the like.

(d) Cellular antenna towers located in non-residential zones shall have a height-to-yard ratio of not less than 3:1, unless the owners of the adjoining properties agree to a height-to-yard ratio that is less. The Planning Commission will have the authority to reduce the height-to-yard ratio in cases of demonstrated hardship and only when that location is essential for service.

(e) The tower shall be constructed to withstand a minimum wind speed of 75 miles per hour with ½ inch of ice or 90 miles per hour basic wind speed, and seismic load capacity standards as determined by Kentucky Building Code. The tower design shall be certified by a registered engineer, licensed in the State of Kentucky.

(f) The location of the cellular antenna tower shall not interfere with traffic circulation, access, storm drainage, required landscaping or other requirements of the Zoning Ordinance, and shall not reduce the number of parking spaces below what is otherwise required.

(g) All accessory structures associated with the cellular antenna tower shall be located as close to the antenna tower as possible and at least twenty-five (25) feet from any adjoining property in a residential zone or
any property used for residential purposes. The Commission shall have the power to reduce the 25-foot setback in cases of demonstrated hardship or where adequate natural screening exists on the cell tower lot itself.

(h) An amended development plan shall be filed for those sites that were subject to a previous development plan. Such amended plans shall be filed with the Planning Commission within thirty (30) days of Planning Commission approval of a cellular tower, and shall be subject to the procedures and requirements of a minor amendment as set forth in Article 21.

(i) A security fence, not less than eight (8) feet in height, shall enclose the base of the cellular antenna tower. In addition, the perimeter of the facility (other than for a temporary tower) shall be bounded on all sides by a five-foot landscape easement, which shall contain one tree for every forty feet of linear boundary, or fraction thereof, from Group A or B of the Plant List (as provided in Article 18), plus a six-foot high planting, hedge or fence. The Planning Commission shall have the authority to waive the landscape requirements if adequate natural screening already exists on the property or if an alternative tower design is used, where the equipment cabinet is within and part of the alternative design, such as a clock or bell tower.

(j) Monopole and alternative design cellular antenna towers shall be permitted in all zones. Lattice towers and guyed towers may only be located in Professional Office zones; the Office, Industry and Research Park zone; the Highway Service and Wholesale and Warehouse Business zones, where deemed appropriate by the Planning Commission; and in industrial and agricultural zones. In agricultural zones, lattice and guyed towers shall only be permitted when more than 250’ from all existing residences.

(k) Co-location shall be encouraged in each site considered by the Planning Commission. Each cellular antenna tower should be of sufficient height, and the site should be of sufficient size, to accommodate more than one antenna user, except in cases of alternative tower design. Where co-location is not an option, innovative (alternative) design, as described in Section 25-3, shall be encouraged and will require that only staff review be provided to the Planning Commission, provided it meets the setback and screening requirements as set forth in Section 25-5(d) and (i) and the criteria set forth in Section 25-9(c). A bond or other surety will be required, as described in Section 25-12 herein below.

(l) Rooftop antennae (as opposed to monopole or other tower construction) 15 feet or less in height, as measured from the rooftop of a building, shall be permitted by right, subject only to applicable permits being obtained from the Division of Building Inspection. An antenna may exceed 15 feet in height, provided there is a 1:1 height-to-yard ratio; but in no case shall it exceed 20 feet without Planning Commission approval.

(m) In cases where a cellular antenna tower or antenna is located on a portion of a property whose “subdivision” is based on a long-term lease, the lease area shall not take the parent tract below the minimum lot requirement for the zone in which it located.

(n) Prior to construction and/or location of a cellular antenna or tower, whether on an existing structure or on ground level, any applicable permits must be obtained from the Division of Building Inspection.

25-6 MITIGATING DESIGN STANDARDS FOR CELLULAR ANTENNA TOWERS IN RESIDENTIAL OR AGRICULTURAL ZONES - When no adequate alternate site for a cellular antenna tower is available, a site in a residential or agricultural zone may be permitted. The Planning Commission shall consider the following mitigating design standards and may reduce or modify these standards in cases where it can be demonstrated that there is extreme hardship:

(a) The Planning Commission shall have the power to impose additional landscaping requirements, which may include plantings, trees, and fencing designed to complement the character of the landscaping in the surrounding residential area.

(b) Design and materials to be used in the accessory building or buildings may be required to be submitted to the Planning Commission for review and approval.

(c) Asphalt or other hard-surface paving shall be provided for driveways and parking.

(d) A 1:1 height-to-yard ratio shall be required. A reduction in the height-to-yard ratio may be permitted if no other location for the tower can be found.

(e) Monopole or alternative tower design shall be used in any residential zone; and paint colors, such as light gray or light blue, shall be used to minimize any negative visual impact the tower or antenna may have on adjoining properties. The tower must be maintained on a regular basis by the owner of the facility in order to ensure that it continues to have a minimal visual impact on the surrounding area.

25-7 TEMPORARY CELLULAR ANTENNA TOWERS - Temporary cellular antenna towers, which shall be subject to approval by the Planning Commission, shall be limited to a time period of no more than six (6) months; renewable upon application for an additional six (6) months, not to exceed one (1) year, from the date the locational permit is issued by the Division of Building Inspection; shall be subject to the same screening requirements (other than plant material) as a permanent tower; and shall be limited to a height of seventy (70) feet. Removal of the security fence when the tower and any associated accessory structures are dismantled or
removed from the site shall be the responsibility of the owner of the tower and shall be accomplished within ninety (90) days of its removal. Temporary transmitting facilities shall be permitted by right where permanent cellular towers and/or antennae have been approved for the same applicant and on the same property, until permanent construction is completed. The Planning Commission shall have the power to require a bond or other appropriate alternative surety in order to ensure the safe removal of the tower and any accessory structures. If required by the Planning Commission, this surety shall be equal to an amount, as determined by current industry standards, required for tower and equipment removal.

25-8 UNIFORM APPLICATION FOR A CELLULAR ANTENNA TOWER - Any applicant that proposes to construct a cellular antenna tower for cellular telecommunication services or personal communication services within Lexington-Fayette County, whether rooftop or ground construction, must submit a completed Uniform Application to the Planning Commission, as mandated by KRS 100.9865. A copy of the requirements for submission of a Uniform Application are on file and may be obtained from the Division of Planning office. Unless waived by the applicant, all information contained in the Uniform Application and any updates, except for information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary. In accordance with KRS 100.987, the Planning Commission may not approve public requests for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction or when the applicant has provided a written waiver of confidentiality. In addition, the applicant shall submit the following information:

(a) Efforts of the applicant to locate on an existing structure by identifying:

(1) The location of towers or other structures (including buildings) located within the search ring for the subject facility and which are capable of its support.

(2) Reasons why the co-location was unsuccessful in each instance. Such reasons shall be supported by documentation and shall relate to the following criteria:

(i) The existing towers or facilities are not of sufficient height to meet the applicant’s engineering standards.

(ii) The existing towers or facilities do not have sufficient structural strength to support the applicant’s proposed antenna or related equipment.

(iii) The physical constraints of the site preclude co-location.

(iv) The applicant’s proposed equipment would cause frequency interference with other existing or proposed equipment on the tower or facility; or the existing or proposed equipment on the tower or facility would cause frequency interference with the applicant’s planned equipment, which cannot reasonably be prevented.

(v) The owner of the existing tower or facility is unwilling to entertain a co-location proposal.

(b) A statement of the relationship of the cellular antenna tower location to the adopted Comprehensive Plan of Lexington-Fayette Urban County.

Completion of a Uniform Application shall not be required for temporary cellular antennae that are deployed during construction of permanent facilities on the same property and by the same applicant; used in the event of emergency situations where infrastructure has been damaged; or in connection with temporary high usage situations, such as sporting events.

25-9 PLANNING COMMISSION PROCEDURE - Upon filing of the Uniform Application, the Planning Commission shall charge the applicant a fee as established by the Urban County Council. The Commission shall have sixty (60) days to complete its review of the request for a cellular antenna tower and act on the request. If an application does not contain all of the information as required by KRS 100.9865, it will be considered incomplete and shall not be accepted as “filed.” The 60-day time limit for review will not begin until the application has been completed and filed in accordance with the requirements of the Uniform Application. In situations where it can be demonstrated by the applicant that some portions of the Uniform Application are unreasonable for the location and construction of a cellular antenna tower, the Planning staff (or other authorized representative of the Planning Commission) may waive such requirements, and the application shall be considered complete. However, the applicant must first provide a written request, including a justification of the waiver, before it can be considered by the staff. Once it has been determined that portions of the Uniform Application may be waived, the application shall be considered complete as of the date that determination is made. The requisite 60-day time period for review and/or final action on the application will begin at that time.

25-9(a) NOTICE - The Planning Commission shall give notice of the time, date and place of the public meeting by one publication in the newspaper of highest circulation in Fayette County, not earlier than 21 days, nor later than 7 days before the public hearing. In addition, notice of the hearing shall be given by the posting of a sign on the
proposed site by the applicant. The sign shall be constructed of durable material; shall not be less than two (2) feet by four (4) feet; shall state “Cellular Antenna Tower” in bold letters not less than three (3) inches in height; shall state the time, place and location of the public meeting and the phone number of the Division of Planning in letters at least one (1) inch in height. The sign shall be posted on the property at a location visible from the highest traffic volume roadway abutting the property not more than three days after the filing of the application and shall be maintained until the meeting date. The applicant shall provide an affidavit to the Planning Commission at the hearing, stating that the sign was posted as required and has been maintained on the property during the notice period to the best of the applicant’s knowledge and ability.

In addition, for any cellular tower or antenna that requires Planning Commission review, the applicant shall provide notice of the public hearing by first-class letter at least twenty-one (21) days in advance to owners of all property within a 500-foot radius of the subject property.

In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 500-foot radius of the subject property, but to the next two properties beyond those included in the 500-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property for a cellular tower or antenna request. If the tower or antenna is located on a portion of a larger property in any agricultural (A-U, A-R, A-N or A-B) zone, notice may be required for the 500-foot radius, as well as any required supplemental area, around the lease area, rather than around the entire property.

25-9(b) PUBLIC MEETING ON REQUEST FOR CELLULAR ANTENNA TOWER - After giving notice as provided herein, the Planning Commission shall hold a public meeting and vote to approve, conditionally approve or disapprove the proposed cellular antenna tower. At the public meeting, the Planning Commission shall receive the report of the staff, orally and/or in writing, and shall hear testimony of the staff members as it sees fit. The Commission shall allow the applicant, protesters, and other interested citizens to testify and rebut the evidence presented by other parties. The Chairman shall have the power to limit repetitive testimony and shall exclude irrelevant testimony and evidence. It should be noted that testimony regarding the environmental effects of radio frequency emissions is considered irrelevant and shall not be permitted.

25-9(c) CELLULAR TOWER REVIEW - The Planning Commission shall have the authority to hear and decide requests by an applicant for a cellular antenna tower. The Commission may approve, conditionally approve, disapprove, or take no action on the request for a cellular antenna tower. The burden shall be on the applicant to establish the following by a clear preponderance of the evidence:

(1) The application meets all requirements of the Zoning Ordinance;
(2) The application is in agreement with the Comprehensive Plan;
(3) That the location of the tower will not cause interference (a “dead area”) with public safety radio systems;
(4) Reasons why the site is appropriate for a cellular antenna tower and why it will not have an adverse effect on the health, safety and welfare of the adjoining area;
(5) Reasons why the tower will not alter the essential character of the surrounding area;
(6) Reasons why the applicant has been unsuccessful in its attempts to co-locate on towers designed to host multiple wireless service providers’ facilities or other existing structures, such as a telecommunication tower or another suitable structure capable of supporting the applicant’s facilities.

25-9(d) ACTION OF THE PLANNING COMMISSION - Action by the Planning Commission to either approve, conditionally approve, postpone or disapprove an application for a cellular antenna tower must occur within sixty (60) days of the receipt of a completed Uniform Application. No action on the part of the Planning Commission means that the Commission has not taken definitive final action on the application within the requisite time period. The following actions by the Planning Commission shall have the meanings so stated:

(1) APPROVAL means the application meets the requirements of the Zoning Ordinance and is in agreement with the Comprehensive Plan. Once it is determined that the application meets these requirements, the Planning Commission may then act to approve the application.

(2) CONDITIONAL APPROVAL means that the Planning Commission has imposed certain reasonable conditions and/or has required modifications to the application, to ensure the health, safety, and welfare of the community and to protect the essential character of the surrounding area. Such conditions may include, but are not limited to, relocating the tower or the accessory building to a different location on the site; installation of landscaping or screening; modification of the tower design; or modification of the antenna design. Conditions imposed by the Planning Commission shall
be binding upon any tower constructed on the proposed site, including co-locators.

3 POSTPONEMENT means the Planning Commission has delayed action on the application to a future Planning Commission meeting for definite reasons, which shall be noted by the Commission, in order that certain clarifications can be made.

4 DISAPPROVAL means the application does not meet the requirements of the Zoning Ordinance and/or is in disagreement with the Comprehensive Plan. In these cases, the Planning Commission may then act to disapprove the application. The specific findings and reasons for the disapproval shall be stated in the Planning Commission’s action and shall be recorded in the minutes of the meeting and made available to the applicant and to the public. A tie vote by the Planning Commission shall be a disapproval by operation of law.

5 NO ACTION means that if the Planning Commission has not taken final action on an application within the requisite time period, unless there is a written agreement between the applicant and the Planning Commission which specifies a date by which the decision will be rendered, the application is deemed approved by operation of law.

25-10 FORWARDING THE COMMISSION’S ACTION TO THE PUBLIC SERVICE COMMISSION - If the application is approved, the applicant shall inform the Public Service Commission of the Planning Commission’s action within ten (10) working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved Uniform Application with the Public Service Commission, the applicant shall be prohibited from obtaining a permit for construction of the cellular antenna tower until such notice has been made.

25-11 EXISTING FACILITIES - Any existing cellular antenna towers that were constructed prior to the adoption of these regulations shall be considered permitted uses and shall be subject to these regulations in the event the cellular tower is to be removed. These regulations shall also apply to existing facilities if a tower or antenna is replaced and/or augmented to increase the height more than 50%. Replacement towers for lattice or guyed towers located in residential zones shall be monopoles or alternative tower design unless, in the review of the application, the Planning Commission finds that the replacement with a lattice or guyed tower would improve the opportunities for co-location. In its review of such an application, the Commission shall consider the impact of the proposed tower on the immediate neighborhood and the surrounding neighborhoods, and may attach appropriate and reasonable conditions to the approval of the tower to mitigate such impacts.

25-12 ACTION REQUIRED IN THE EVENT OF ABANDONMENT OF CELLULAR TOWER - The owner of a cellular tower or antenna shall file annually with the Division of Planning a declaration of intent for continued operation and use of the tower or antenna. In the event that the tower or antenna is abandoned, it must be removed within six (6) months of ceasing operation at the owner’s expense. Prior to issuance of a building permit for construction of a tower or antenna, a bond or other appropriate surety shall be filed with the Division of Building Inspection (equal to an amount determined by current industry standards, or $25,000, whichever is greater) in order to ensure the successful dismantling and removal of the tower or antenna and any associated accessory structure.

25-13 STAFF REVIEW PROPOSALS BY THE APPLICANT - When an applicant seeks to place antennae on an existing structure, provided the antenna(e) will not be greater than 15 feet in height (or up to 20 feet, with a 1:1 height-to-yard ratio); or in the event an applicant proposes to augment the height of an existing tower, provided the height of the tower will not be increased over 50%, and the height will not result in additional lighting requirements pursuant to Federal Aviation Administration rules; and provided a “dead area” will not be created for emergency radio communication systems, the application may then be reviewed and acted on by the staff.

25-14 APPEALS - Any party claiming to be aggrieved by a final action of the Planning Commission under the provisions of KRS 100.985 to 100.987 may bring an action for review in Fayette Circuit Court.

All orders of the Planning Commission which have not been appealed within thirty (30) days shall become final; however, there shall be no stay of any action on the subject property until such time as an appeal has been filed.
ARTICLE 26

TREE PROTECTION STANDARDS

26-1 PURPOSE - The Urban County Government recognizes the importance of trees as a vital component in counterbalancing the effects of an urban setting by providing cooling shade; by reducing noise and glare; by significant contribution to urban aesthetics; by improving air quality through carbon dioxide reduction and replenishing oxygen to the atmosphere; by improving surface drainage and reducing the effects of storm drainage flooding; by filtering non-point source pollution from area streams; by stabilizing soil, thereby minimizing erosion; and providing habitat for wildlife. The purpose of this Article is to establish standards and procedures for county-wide tree protection and planting in new developments and redevelopments subject to review by the Planning Commission.

26-2 INTERPRETATION AND DEFINITIONS - The provisions of this Article shall be construed so as to liberally carry out its purpose in the creation and enhancement of an urban forest in Lexington-Fayette County. Words used in this Article shall be construed as having their common meaning or, when specified, as defined in other Articles in this Zoning Ordinance; except as they may be defined herein below:

BEST MANAGEMENT PRACTICES - A practice or usually a combination of practices that are determined by the Division of Engineering regulations to be the most effective and practicable means of controlling point and non-point source pollutants at levels compatible with environmental quality goals.

BOLE - The main stem of the tree structure, also considered the trunk of the tree, up to where main branches begin to stem.

BUFFER - A vegetation strip or management zone of varying size, shape, and character maintained along a stream, wetland, lake, road, recreation site, boundary, or different vegetative zone to mitigate the impacts of actions on adjacent lands; to enhance aesthetic effects; or use as a best management practice.

CRITICAL ROOT ZONE - A circular area surrounding a tree of which the center is the center of the bole of the tree and the radial measurement is one (1) foot per inch up to twenty-four (24) inches DBH and 1.5 feet per inch of trees over twenty-four (24) inches DBH.

DBH (Diameter at Breast Height) - The total cross sectional diameter in inches of a tree measured at a height of four and one-half (4½) feet.

DEVELOPABLE AREA - Net acreage as defined at the time of preliminary subdivision plat, and which may count any and all treed portions of designated Scenic Resource or Special Design Areas toward the tree canopy requirements herein.

DISTRESSED TREE - A tree that has been weakened from disease, insect infestation, lightning or wind storm injury, mechanical injury, or rotted wood; and the prospect for long time survival is diminished. The distressed condition could be either visible or not visible, as ascertained by the Urban Forester or documented in writing by an ISA certified arborist.

GREENWAY - A lineal open space system, as shown on the Comprehensive Plan Land Use Map, that is designed to conserve floodplains, abandoned railroads, and other linkage opportunities for use as stormwater management, natural resource protection, alternative transportation, recreation, and similar uses.

GRABBING - The effective removal of understory vegetation from the site.

HEALTHY TREE - A tree that is relatively free from disease, insect infestation, lightning or wind storm injury, or rotted wood; and that has prospects for long time survival.

PERIMETER TREE - Any tree bole located within five (5) feet of the outer property line of a parcel to be developed.

PLANTING MANUAL - The listing of acceptable plant materials and their planting specifications as referenced in Article 18 of this Zoning Ordinance.

REMOVE OR REMOVAL - The actual removal of a tree by digging up, cutting down, knocking down; or causing mortality by chemical or other artificial means, or through damaging by girdling, nicking, topping, root cutting, trenching, grading within the critical root zone, filling, soil compaction, or any other means which lead to a weakened or mortal state.

RESIDUAL TREE - A tree retained in its original state and left on site after development.

RIPARIAN BUFFER - The vegetative strip of land influenced by and surrounding a water body or wetland composed of overstory and understory vegetation, which serves to maintain the integrity of the water system through
shading, sediment filtration, aquatic habitat enhancement, erosion control, and groundwater flow regulation.

RIPARIAN SPECIES - That vegetative species of trees and understory, which have adapted to conditions that constitute root systems surviving where there are shallow water tables; and can exist adjacent to streams, creeks, rivers, lakes, and in wetlands or other saturated soil conditions. Some examples of riparian species are Green Ash, Willow, Sycamore, Box Elder, and Cypress.

SIGNIFICANT TREE - A healthy tree that qualifies under one or more of the following criteria:

a) The tree is an American Elm, Bur Oak, Blue Ash, Buckeye, Chinkapin Oak, Kentucky Coffeetree, Shellbark Hickory, Shumard Oak, or Yellowwood;
b) The tree has a minimum DBH of thirty-six (36) inches;
c) The tree is one of the following genera (closely related species) with a minimum DBH of twelve (12) inches: Carpinus (Hornbeam), Carya (Hickory), Fraxinus (Ash), Ostrya (Hophornbeam), Quercus (Oak), or Ulmus (Elm);
d) The tree is listed as a State or National Champion; or
e) The tree is investigated and determined by the Urban Forester or other appropriate state or federal governmental official to provide unique habitat for any endangered or threatened wildlife species protected by law.

SILVICULTURE - The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands to meet the diverse needs and values of landowners and society on a sustainable basis.

STOCKING LEVEL - The number or density of vegetative plants, either in numerical terms or percentage levels of area, which are located on site or planted. Tree canopy coverage can be used as an indicator of a stocking level.

TREE - Any upright woody plant with one main stem and a minimum DBH of four (4) inches.

TREE CANOPY - The effective radial circumference area of a mature tree's vegetative cover, including all branches and leaves. The canopy can be conveyed in values of percentage area of total land space being assessed or by numerical measurement.

TREE CANOPY COVERAGE - The proportion of area on the ground or water covered by the spread of the outermost perimeter of foliage and commonly expressed in square feet or a percentage of the total ground area of the site.

TREE PROTECTION AREA (TPA) - Generally, a circular area surrounding a tree of which the center is the center of the bole of the tree and the radial measurement is one (1) foot per inch up to twenty-four (24) inches DBH and 1.5 feet per inch of trees over twenty-four (24) inches DBH or a lesser distance, provided it will not adversely affect the health of protected tree(s) as determined by the Urban Forester.

TREE PRESERVATION PLAN (TPP) - A plan, which may be in either written and/or graphic format, describing and identifying existing trees, tree stands, and TPAs. The TPP will outline, with description and/or maps, the natural condition of the proposed development, proposed alteration of the wooded area with justification for said removal, protection measures for remaining trees, environmentally sensitive and any riparian areas, before, during, and after construction. The TPP will also contain replanting plans with locations.

TREE STAND - A grouping of at least 15 trees with continuing canopy coverage, or any other grouping of less than 15 trees as determined by the Urban Forester to be ecologically interdependent.

URBAN FORESTER - The individual or authorized agent employed and directed by the Lexington-Fayette Urban County Government to be responsible for carrying out the duties described in this ordinance and for administration, implementation, and overseeing of the various urban forestry and/or related duties.

WETLAND - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas and are of a minimum size area as determined by Federal regulations.

26-3 APPLICABILITY OF STANDARDS - The standards in this Article shall be applied to all major subdivision and development plans. All developments shall be required to demonstrate compliance with these standards through either preservation of healthy trees present on the site or, if sufficient existing trees to be preserved do not meet these standards, through planting of new trees in accordance with this Article. No development plan or subdivision plan shall be approved unless it is in compliance with the standards herein (see Article 26-5[c], Agricultural Standard Exemptions). Any areas that qualify as Environmentally Sensitive Areas under Article 6-10 of the Subdivision Regulations will be subject to the more restrictive regulations under that section.

26-4 PROCEDURES - The following procedures are required as an adjunct to review of proposals for development.

26-4(a) ON-SITE MEETING - Prior to the submission of an initial planning application (i.e., development plan or subdivision plan), the owner/developer shall contact the Urban Forester, who will determine if an on-site meeting
with the developer’s design professional and/or pertinent LFUCG staff is necessary.

26-4(b) PRELIMINARY DEVELOPMENT PLAN REQUIREMENTS - A Tree Inventory Map (TIM), in a number of copies specified by the Division of Planning, shall be required to be filed as a part of any initial application for approval of a preliminary development plan. If a TIM is not provided at the time of filing in a full and complete form, the plan application shall not be considered as properly filed and may be rejected for submittal by the Division of Planning. This map shall be provided at the same scale as the preliminary development plan and shall contain the following information, at a minimum:

1. The locations of any tree clusters or stands, including perimeter fence line trees, fences, and any significant trees (showing the full canopy[ies] on both sides of a property line in accordance with Article 26-6[d], Perimeter Trees).
2. The species of trees noted above. This information can be generalized as a single note calling out any significant trees (4" + DBH, trees’ genus, sizes, etc.).
3. Existing canopy coverage (location and extent expressed as a percentage of the property) to be included in the site statistics on the subdivision or development plan.
4. Location of blue-line or first-order streams and other water bodies.
5. Soil type and location.
6. Existing topographic contours in at least 5-foot intervals.
7. Location of Environmentally Sensitive Areas and features, such as sinkholes; slopes greater than 15%; floodplains; springs; wetlands; or other Environmentally Sensitive Areas (ESAs), as defined under the Land Subdivision Regulations.
8. Existing easements for utilities and other purposes.

26-4(c) FINAL DEVELOPMENT PLAN AND PRELIMINARY SUBDIVISION PLAN REQUIREMENTS - A Tree Preservation Plan (TPP) shall be required to be filed as a part of any initial application for approval of a preliminary subdivision or final development plan. If the TPP is not provided at the time of filing in a full and complete form, the plan application shall not be considered as properly filed and may be rejected for submittal by the Division of Planning. This report shall contain the following map and text information, at a minimum:

1. The information contained in the Tree Inventory Map, in a final form based upon field review information obtained since the preliminary development plan.
2. Proposed tree protection areas, including required buffers.
3. Proposed tree removal areas, including justification for removal and any mitigation measures to be taken.
4. Generalized planting plan and location for new trees as required in this Article (including trees required to satisfy other LFUCG landscaping requirements – see Articles 26-5[a] and 26-7). Sites not required to provide a landscape plan per Article 18 of the Zoning Ordinance shall show planting requirements per the LFUCG Planting Manual and/or the LFUCG Stormwater Manual for riparian planting areas.
5. Sufficient information on proposed limits of grading, cut and fill areas, equipment storage areas, retaining walls, and, where appropriate, proposed detention areas, lot locations and similar activities, so that the impact on tree areas can be assessed.
6. Existing and preliminary easement locations for utilities and other purposes including type; i.e., above or underground.
7. Post-development canopy coverage and the methodology used under Article 26-5(d).

26-4(d) REVIEW OF DEVELOPMENT DESIGN - The basis for review of a TPP shall be the design of a development so as to protect and preserve the greatest number of trees as is reasonable and practical. Individual trees should be removed only as necessary to carry out permitted development under the approved zoning of the site and/or to achieve the objectives of the Comprehensive Plan such as to provide continuity in the design of collector streets, stormwater facilities, or similar infrastructure elements; and provided that the design of the development has maximized the preservation of tree stands and significant individual trees. Consideration should be given by the Planning Commission to alternative street cross-sections, street geometrics, or site design in accordance with Article 1-5, Variances, of the Subdivision Regulations, where the developer has established that trees will be properly preserved as a result of such alternative designs and/or techniques. The Planning Commission may approve waivers of street layout and grade requirements based on a thorough examination of alternative site concepts and a finding that the proposed waiver is the minimum necessary in achieving a safe and reasonable design.

26-5 TREE CANOPY STANDARDS - It is a part of the intent of this Article to establish the minimum tree canopy to be achieved during development for different categories of land use. The following are those standards, expressed as a minimum percentage of the total developable area of a parcel of land:

- All residential and non-residential uses in agricultural zones -- 30% of existing only*
- All residential zones, including PUD-1, M-1P -- 30%
- B-2, B-2A and B-2B zones -- 0%
- P-1, P-2, B-1, B-3, B-5P, B-6P & CC zones -- 20%
- B-4, I-1, I-2 & ED zones -- 10%
- All Mixed Use zones -- 10%
26-5(a) SITES WITH INSUFFICIENT TREES - It is recognized that some sites do not have a sufficient number of trees to meet the tree canopy standards established above. In those situations, the existing trees on the site are to be retained to the maximum extent feasible, and additional trees are to be planted to meet the minimum canopy requirements. Any trees required to be planted and maintained by any other Article of the Zoning Ordinance and Land Subdivision Regulations shall be counted in determining compliance with the provisions of this section. Street trees required by the Subdivision Regulations, trees required by Article 18 of this Zoning Ordinance, and other trees planted on the property may be counted toward the canopy coverage requirements with the credit to be as provided in Section 26-5(d), as well as trees planted in and adjoining retention basins, when done in accordance with the LFUCG Stormwater Manual. Floodplain reforestation, when done in accordance with said Stormwater Manual, may be fully counted as the actual square footage of the land area to be reforested.

26-5(b) SITES THAT EXCEED THE STANDARD - It is further recognized that, in some situations, the site may have a tree canopy in excess of the minimum tree canopy established above. In those instances the development must ensure that the total canopy coverage shall not be reduced below the standards provided above. If existing trees are removed below that standard, new trees per Article 26-5(e) must supplement the loss to achieve the required canopy.

26-5(c) AGRICULTURE STANDARD EXCEPTIONS - The standards contained for the agricultural zones are intended to be applied only to existing tree canopies to be retained where the site is below the minimum canopy requirements on new development sites. New trees must be planted per Article 26-5(d) to replace any loss in the existing canopy in such cases. The standard shall not be considered as applicable to bona-fide agricultural and silvicultural uses exempted from zoning restrictions by state statute.

26-5(d) FENCING ALONG AGRICULTURAL LAND - The location of any required boundary fencing per Article 6-3 of the Land Subdivision Regulations may be located off the property line to protect designated trees in an approved TPP.

26-5(e) CALCULATION OF TREE CANOPY COVER - Tree canopy coverage may be determined by one of the following:

1. Existing Canopy Area:
   a. By calculating the percent of cover in relation to developable area using aerial photography interpretation.

b. By field measurement of the square footage of the existing tree canopy using the following formula:

\[
C = \pi R^2 \text{, where} \\
C = \text{canopy area in square feet, and} \\
R = \text{the radius of the canopy measured in feet}
\]

2. New Canopy Credit:
In areas where the predevelopment canopy is less than the canopy required by Article 26-5, a landscape credit shall be used to determine post development canopy for trees that are to be planted. Trees shall be planted in accordance with the landscaping requirements set forth in Article 18-4(c), Plants, of the Zoning Ordinance and the LFUCG Planting Manual for the following sizes of the trees. Landscape credit is given for planted trees only. The following credits represent categories of trees only, not installation sizes:

- Each Small Tree = 100 square feet
- Each Medium Tree = 400 square feet
- Each Large Tree = 750 square feet

Mass or grouped plantings of trees are encouraged in all cases. In the case of single family detached residential or similar fee simple lot development, the total number of required tree credits shall be reduced ten (10) percent of the portion of new tree credits planted in a common or public area.

26-5(f) WAIVER OF STANDARDS - Permission to waive the required canopy from the standards of Article 26-5 shall reside solely with the Planning Commission as a part of the plan approval process. Such waiver shall only be made by the Commission upon finding of one or more of the following:

1) The full application of the standards would constitute an undue hardship on the property by not allowing a reasonable use of the property. Restriction of some use of the property in order to preserve the trees shall not be deemed to be an undue hardship on the property.
2) The full application of the standards would constitute a safety hazard or other danger to the public welfare.
3) The full application of the standards would preclude necessary public facilities and that no other reasonable alternative exists.

26-5(g) TREATMENT OF DISTRESSED TREES - Any tree meeting the definition of a distressed tree shall not be permitted to be utilized for the purposes of meeting the requirements of this Article.

26-6 REQUIREMENTS FOR TREES IN SPECIAL LOCATIONS - The provisions of the following sections are designed to provide special conditions for trees intended to meet the overall site requirements of Article 26-5 above. The following
are listed in their order of priority based on the intent to maximize environmental integrity.

26-6(a) RIPARIAN TREES - It is recognized that riparian areas constitute unique habitat that require special treatment to protect and not impair the stream and its associated buffer. It is the intent of this Article to promote the conservation of riparian buffers. Due to their special benefits in managing flooding; enhancing water quality; filtering point and non-point source pollutants; cooling water by shading; providing habitat; and providing important aesthetic and recreational benefits, existing riparian trees shall be afforded the highest preservation and protection priority. The designation, size, and design of riparian buffers shall be in accordance with the provisions of the LFUCG Stormwater Manual. Construction and/or disturbance will not be permitted in the designated riparian buffer, except for the following activities, and only when deemed necessary and contained within an approved TPP:

1. Roadways and utilities;
2. Sanitary sewer, sewer manholes, and other utility access facilities;
3. Storm sewer pipe outlets;
4. Flood control basins and related practices or facilities;
5. Water quality practices that do not disturb below the normal top of the bank of the stream;
6. Pedestrian and bicycle paths and crossings.

The TPP shall provide written justification for removal of any existing trees or tree stands in a riparian buffer area designated on the TPP. Unless permitted for the above listed exceptions, grubbing is not permitted in any riparian area unless contained in an approved TPP. Water retention/detention areas already containing trees may be applied towards fulfilling the applicable canopy coverage requirements, provided drainage conditions will not be significantly altered and the trees are riparian species. In developments where a stream area exists and the overall residual canopy is less than the required amounts, plantings in the riparian buffer may be used to meet the canopy requirements. Any proposed reforestation shall be annotated in the TPP and carried out in accordance with LFUCG reforestation procedures and under the direction of the Urban Forester. Riparian buffer areas that are made available to the LFUCG for tree planting shall have appropriate notes and/or easements for that purpose added to the applicable subdivision and development plans and shall count the designated ground area toward canopy coverage requirements.

26-6(b) TREES IN STEEP SLOPE AREAS OR SINKHOLES - The next highest priority for preservation shall be trees located in areas of steep slope or within sinkholes where the sinkhole is to be left as open space. No trees shall be removed from any area with a slope exceeding 15% or a sinkhole without the prior approval of the Urban Forester.

26-6(c) GREENWAY TREES - No tree in an existing or planned greenway shall be removed without the prior approval of the Urban Forester. Trees shall be removed only if dead or distressed, or as necessary to achieve required sight distance for streets or similar safety related reasons.

26-6(d) PERIMETER TREES - Perimeter trees shall be eligible for inclusion in the calculation of required canopy only where a developer can demonstrate ownership of such trees and the ability to protect them during construction. The existing tree canopy of perimeter trees shall be retained. The actual tree canopy area covered shall count toward the requirements for the post-development canopy retention, even though portions of the canopy may lie outside the property boundary, provided that a private easement or similar instrument can be executed assuring the natural life of any off-site tree canopy(s) counted for the requirements here. If the development plan and the TPP indicate that disturbance near the perimeter trees is proposed, the canopy of the perimeter trees shall not be counted toward the requirements of Section 26-5 unless the disturbance will be located at or beyond the Tree Protection Area.

26-7 TREES ADJOINING DESIGNATED HISTORIC TURNPIKES - There are roads and road segments in the Rural Service Area that have been designated as “historic turnpikes” in the adopted Rural Service Area Land Management Plan (1999). For any such road or designated segment, no tree located within twenty (20) feet of the edge of pavement shall be removed without the following approvals:

Trees shall be removed only if dead or distressed as determined by the Urban Forester, or as necessary to achieve required sight distance for driveways or similar safety related reasons, as determined by the Urban County Engineer or designee.

26-8 APPROVAL OF TREE PROTECTION PLAN (TPP) - The proposed TPP shall be reviewed by the Urban Forester and his recommendation sent to the Planning Commission prior to their action of the related major Subdivision or Final Development Plan and any requested waivers in connection with Article 26. No grading, filling, or other construction activity shall commence on the property until the TPP has been approved by the Planning Commission. The following note shall be shown on all final plats: “In accordance with plans approved by the Lexington-Fayette Urban County Government, ‘x number’ of trees or tree canopy (whichever is more applicable) is/are required to be planted on this property per the approved tree protection plan specifications.”

26-8(a) LANDSCAPE PLANS - Where landscape plans under Article 18 of the Zoning Ordinance are required for a site with an approved TPP, the TPP requirements and specifications shall be incorporated into the required Landscape Plan and under the supervision of the Division of
Building Inspection, and shall thereby be subject to all provisions and requirements under Article 18.

26-8(b) NO LANDSCAPE PLANS - Where TPPs do not involve a required landscape plan, the TPP shall be the controlling document for the location of TPAs, tree installations, and specifications contained therein. The same Planning Commission review and approval procedure shall apply to any proposed amendments of an approved TPP not involving a required landscape plan under Article 18.

26-9 TPP FIELD ADJUSTMENTS - The Urban Forester may permit removal of up to five (5) percent of the total canopy coverage required under an approved TPP, provided that there are unique physical features such as environmentally sensitive areas, stream crossing limitations, rock outcroppings, or historically significant sites that were not anticipated in the TPP approval process. Written documentation of the Urban Forester’s approval is required. Any removal in excess of 5% shall require a waiver under Article 26-5(e).

26-10 UTILITIES - All utilities or infrastructure, including the location of storm drainage and sanitary sewer systems, shall be designed so as to minimize disturbance of any Tree Protection Area, especially those associated with riparian areas. Where required, the reasonable removal of existing trees and/or location of new trees shall accommodate the placement and installation of such utilities. Where such utilities are located within the Tree Protection Area of such tree stands that their existence is threatened, such trees shall not count for compliance to the provisions of Article 26-5 above.

26-11 TREE PROTECTION DURING CONSTRUCTION - All areas designated for existing tree preservation on the Tree Preservation Plan shall be protected during construction activity. The boundary of the TPA shall be designed to protect each tree, tree stand, and riparian zone before and during construction. The landowner is responsible for ensuring the physical layout of the TPAs shown in the TPP are installed as approved. TPAs shall be added to all applicable plan drawings and amendments, including construction drawings submitted to the Division of Engineering. A TPA may vary widely in shape, but must extend a minimum of ten (10) feet beyond the existing tree canopy along the outer edge of the tree stand. The TPA shall provide for the following protection measures:

1) Fencing at least three (3) feet tall, clearly visible with signage posted every one hundred (100) feet, and lettered with 3-inch high letters clearly identifying the TPA shall be used to surround all tree protection areas. The tree protection fencing will be placed at a distance equal to or greater than the critical root zone of the tree(s) to be protected. Any proposed TPA areas less than the minimal standards can only be delineated by approval of the Urban Forester. Written approval by the Urban Forester that the TPA requirements have been installed shall be provided to the Division of Engineering prior to approval of an erosion control plan and/or the issuance of any land disturbance permit or other construction activity. The fencing shall be maintained and remain standing until issuance of the Certificate of Occupancy or until the Urban Forester has determined that construction activity has ceased to the point that the fencing may be removed or that the fence may be relocated to permit final grading, provided the activity will not adversely affect the health of protected tree(s).

2) No vehicles, construction materials, equipment, fuel, or temporary or permanent earth fill shall be placed within a TPA. There shall not be any movement of any vehicles into, or within, a TPA. No nails, rope, cable, signs, or fencing is to be attached to a tree within a TPA.

3) Where construction activity is permitted within a TPA, the Urban Forester shall be notified before the starting date of the work so that the Division of Planning may be present to ensure minimal disturbance and compliance with provisions of the Tree Protection Plan.

4) Alternative protection methods may be used if determined by the Urban Forester to provide equal or greater tree protection.

26-12 PENALTIES - Penalties are set forth under Article 5-8, Penalties for Violations, of the Zoning Ordinance. Each act or each healthy tree removed or damaged, except as described in the approved TPP, shall constitute a separate violation.
COURTHOUSE AREA DESIGN OVERLAY ZONE

27-1  INTENT - The intent of the Courthouse Area Design Overlay Zone is to encourage growth and redevelopment in the downtown area, while preserving and protecting the unique features and characteristics of the area in conformity with the Comprehensive Plan and the design guidelines for the Court House Area adopted by the Lexington-Fayette Urban County Council.

27-2  APPLICATION OF REGULATIONS - The classifications and regulations hereunder shall be established in addition to the zone classifications and regulations as shown on the zoning map atlas for the subject areas. Except as provided herein below, the use, dimensions and other requirements for said zones, as provided in the Zoning Ordinance, shall apply. Where there are conflicts between the procedures and regulations within the Zoning Ordinance, the more restrictive shall apply.

27-3  DEFINITIONS - As used in this Article, the following terms shall mean:

AUTHORIZATION PERMIT - A document which certifies the findings of the Board or the Design Review Officer that the work proposed by the applicant is appropriate. The Authorization shall also delineate any conditions imposed by the Board or Officer in approving the request. In order to grant an Authorization, the Board or Officer shall consider all circumstances related to the proposal, and may grant the Authorization if it finds that the proposed changes are consistent with the adopted Courthouse Area Design Guidelines.

BOARD - The Courthouse Area Design Review Board of the Lexington-Fayette Urban County Government.

DEMOLITION - Any act that destroys, in whole or in part, a building or structure; or which results in the moving of any building or structure.

DESIGN REVIEW OFFICER - The employee of the Lexington-Fayette Urban County Government assigned by the Chief Administrative Officer to carry out the duties and functions of the officer as defined herein. This individual shall demonstrate expertise and/or have a professional degree in architecture, design, or a similar field so as to be qualified to carry out such duties. The term “officer” when used in this Article refers to the Design Review Officer.

EXTERIOR CHANGE - Rehabilitation or replacement which is not ordinary maintenance and repair. New construction of any building element, addition, building or structure is an exterior change. Demolition of any building element, addition, building or structure is an exterior change.

(1) EXTERIOR CHANGE includes, but is not limited to:

(a) MAJOR REHABILITATION, REPLACEMENT AND INSTALLATION OF BUILDING ELEMENTS.

(1) Rehabilitating large amounts of existing building elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Rehabilitating/replacing existing building elements when changes are made in materials, style or configuration;

(3) Installing new building elements;

(4) Replacing missing building elements and/or materials;

(5) Painting a structure or material not previously painted;

(6) Removing paint from a material previously painted.

(b) MAJOR REHABILITATION, REPLACEMENT AND INSTALLATION OF SITE ELEMENTS

(1) Rehabilitating large amounts of existing site elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Rehabilitating or replacing existing site elements when changes are made in
materials, style or configuration;

(3) Installing new site elements;

(4) Replacing missing site elements or materials;

(5) Painting a site element not previously painted;

(6) Removing paint from a site element which has been painted;

(7) Removing trees with trunks more than 10" in diameter;

(8) Major landscaping projects, including installation, relocation or redesign of new or existing site elements;

(9) Disturbing fields, archaeological and other land features by demolition or new construction on sites;

ORDINARY MAINTENANCE AND REPAIR - The correction of minor deterioration to site and building elements and structures when changes are made with the same materials with the same size, shape, configuration, style, texture and material color.

(1) ORDINARY MAINTENANCE AND REPAIR includes the following activities:

(a) ROUTINE MAINTENANCE AND REPAIR OF BUILDING ELEMENTS

(1) Repairing small amounts of existing building materials and elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Painting a structure or material that is already painted;

(3) Caulking and weather stripping windows and doors.

(b) ROUTINE MAINTENANCE, REPAIR AND INSTALLATION OF SITE ELEMENTS

(1) Repairing site elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Pruning trees and shrubbery and removal of trees less than 10" in diameter;

(3) Planting vegetable and flower gardens, except as part of a major landscaping plan;

(4) Planting shrubs and trees, except as part of a major landscaping plan;

(5) Installing temporary signs (real estate, political, etc.);

(6) Installing building numbers and mailboxes.

27-4 COURT HOUSE AREA DESIGN REVIEW BOARD

27-4(a) ESTABLISHMENT - The Court House Area Design Review Commission is established to review and decide applications in compliance with the provisions of this Article.

27-4(b) MEMBERSHIP - The Court House Area Design Review Board shall consist of five (5) voting members, including the chairman. All members must be residents of Fayette County. At least two (2) of the five (5) members shall be design or preservation-related professionals. These include the professions of architecture, history, archaeology, architectural history, historic preservation, urban design or related disciplines such as urban planning or landscape architecture. One (1) member shall be an employee of the Lexington-Fayette Urban County Government who is not the Design Review Officer; one (1) member shall be a representative of the banking or financial community; and one (1) member shall be a property or business owner within the Court House Area Overlay Zoning District. When the Court House Area Design Review Board reviews an issue, and that field is not represented on the Court House Area Design Review Board, the Court House Area Design Review Board shall seek expert advice before rendering its decision.

27-4(c) ETHICS - The Court House Area Design Review Board shall prepare and keep on file, available for public inspection, the members' qualifications. Article 16, the Code of Ethics of the Lexington-Fayette Urban County Government Charter, shall apply to members of the Court House Area Design Review
27-4(d) **OFFICERS** - The Court House Area Design Review Board shall annually elect one (1) of its members to be Chairman and one (1) of its members to be Vice-Chairman. The Secretary of the Court House Area Design Review Board shall be the Design Review Officer, who shall also serve as a non-voting member of the Court House Area Design Review Board.

27-4(e) **LENGTH OF TERM** - The terms of Court House Area Design Review Board members shall be as follows:

1. Members shall serve a term of four (4) years, except that the membership of those representing particular organizations or offices shall be deemed to have terminated upon their leaving their respective memberships or positions.

2. Terms shall be staggered in such manner to allow the appointment or re-appointment of at least one half of the membership every two (2) years.

3. Term of membership shall extend from July 1 of one (1) year through and until June 30 of the designated year.

4. Vacancies, when they occur during a term of office, shall be filled for the unexpired term in the manner prescribed for original appointment.

5. Members may serve consecutive terms but must go through the reappointment process to do so. The maximum length of membership shall be two terms or eight years, whichever is longer.

6. Any member may be removed from office by a majority of the Council of the Lexington-Fayette Urban County Government.

27-4(f) **COMPENSATION** - The members shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties, subject to sufficient funds being appropriated by the Lexington-Fayette Urban County Council for this purpose.

27-4(g) **BYLAWS** - The Court House Area Design Review Board shall adopt bylaws for the transaction of its business and the transactions of the business of all of its sub-committees. Regular meetings shall be held and special meetings may be held as specified in the bylaws. Minutes of all meetings and records of all proceedings, including the number of votes for and against each question and the record of the vote of each member, shall be kept and made available for public inspection. The Court House Area Design Review Board shall prepare a written annual report, which shall be kept and made available for public inspection. A simple majority of the total membership of the Court House Area Design Review Board shall constitute a quorum for the transaction of business. The Chairman votes only in the case of a tie. Each member shall be required to attend meetings regularly as defined in the bylaws. Failure to do so may result in removal from the Court House Area Design Review Board. The Court House Area Design Review Board shall have the power to establish sub-committees as it deems necessary, from both within and without its membership, and to receive assistance in its work from outside individuals, groups and organizations. The Court House Area Design Review Board may give special recognition to outside individuals, groups and organizations.

27-4(h) **JURISDICTION** - The jurisdiction of the Court House Area Design Review Board shall include all necessary and implied powers as shall be described herein with respect to the regulation of the Court House Area Overlay Zone.

27-4(i) **POWERS AND DUTIES** - In addition to such other powers, duties and authorities as are set forth in this Article, the Court House Area Design Review Board shall, in order to accomplish the purpose of this Article, perform duties that include, but are not limited to, the following:

1. Present to the Lexington-Fayette Urban County Council and the Planning Commission annually a report containing (i) a statement of goals and objectives for the county for the next ensuing five-year period; (ii) any financial records pertaining to the Court House Area Design Review Board's operation.

2. Cooperate with and advise the Lexington-Fayette Urban County Council and other government agencies, departments, commissions and offices with regard to such matters as may be appropriate with respect to the Court House Area.
(3) Form sub-committees as necessary.

(4) Establish criteria for which applications may be acted upon by the Design Review Officer, and which cases require both a preliminary and final review by the Board.

(5) Review and decide applications for Authorization Permits as provided herein below.

(6) Periodically review the adopted design guidelines and make recommendations to the Urban County Council for changes to design guidelines.

27-5 DESIGNATION OF THE COURT HOUSE AREA DESIGN ZONE (CA) - To further the goals and purposes of this Article and the preservation, protection, perpetuation and use of the Court House Area, the Urban County Council shall have the authority to designate properties protected by a zoning overlay district to be known as the CA zone. The procedures to establish such zoning shall comply with all applicable state statutes and requirements contained in this Zoning Ordinance for the creation of a zoning district as a zoning map amendment.

27-6 AUTHORIZATION PERMITS - An Authorization Permit shall be required before a person may undertake any exterior changes on a property or structure within a zone protected by a CA overlay. Ordinary maintenance and repair as defined under Article 27-3(f) may be undertaken without an Authorization Permit, provided that the work involves repairs to existing features of a building or the replacement of elements of a building with identical pieces, and provided that the work does not change the exterior appearance of the building.

27-6(a) WHERE REQUIRED - An Authorization Permit shall be required prior to the initiation of any new construction on; any exterior change to; or the demolition of all, or any part of, any building, structure or sign on any premises in a zone protected by a CA overlay.

In no case shall an Authorization Permit be required to change the paint color of a previously painted surface.

27-6(b) PROCEDURES FOR ISSUANCE OF AN AUTHORIZATION PERMIT FOR EXTERIOR CHANGES AND NEW CONSTRUCTION - Authorization Permits specified herein below.

27-6(b)(1) AUTHORIZATION PERMITS ISSUED BY THE BOARD - All applications for Authorization Permits shall be reviewed by the Board at a public hearing, except those applications for work which have been specifically delegated to the Design Review Officer under 27-6(b)(2).

In addition, the Board shall review all applications for Authorizations referred by the Design Review Officer or those requested for public hearing by the applicant.

(a) PRE-FILING CONFERENCE - Prior to formal filing, the applicant shall meet with the Design Review Officer to discuss preliminary design concepts, applicable procedures and similar matters. The Officer shall determine whether the matter can be approved by the Officer as specified under 27-6(b)(2). If the Officer determines that full Board approval is necessary, the Officer shall further determine if preliminary Board review is required, or if the applicant may proceed directly to final action by the Board.

(b) PRELIMINARY BOARD REVIEW - Where determined to be necessary by the Officer, the Board shall first consider the application at a preliminary review meeting. This meeting shall not be considered a hearing, and notice shall not be required. The extent of the review shall be concept plans on building mass and scale. The Board will provide comments to the applicant for the applicant to consider for final Board review.

(c) FINAL BOARD REVIEW - Final Board review shall be considered a public hearing as specified under Article 27-6(b)(1)(f) and will be subject to the notice requirements of Article 27-6 (b)(1)(e). Authorization permits may only be issued by the Board after action at a hearing.

(d) FILING MATERIALS - The Board, where it deems necessary in order to review a particular application, may require the submission of any or all of the following items: architectural plans, plot plans, landscaping plans, plans for off-street parking, elevations of all portions of proposed additions to structures, photographs, elevations, or perspective drawings showing the proposed structure and existing structures that are within one hundred (100) feet or are substantially related to it visually.
or by reason of function, traffic generation
or other characteristics.

(e) **NOTICE** - Notice of the time, place and reason for holding a public hearing shall be given by first class letter at least fourteen (14) days in advance of the public hearing to owners of all properties located within two hundred (200) feet of the subject property. It shall be the obligation of the Design Review Officer to prepare, certify and mail all notice as required herein.

Further, the Board shall give notice of the time, place and reason for holding a public hearing by publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.

(f) **BOARD PUBLIC HEARING** - After notice, the Board shall consider the request for an Authorization Permit at a public hearing. At the hearing, the Board shall receive the report of the Officer, orally and/or in writing, and shall allow the applicant, protestors and other interested citizens to testify and rebut evidence presented by others, provided the Chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence.

In its review of material submitted, the Board shall examine the architectural design and the exterior surface treatment of the proposed construction on the site in question and its relationship to other structures within the area, the relationship of the proposed construction to the design of the building, and other pertinent factors affecting the appearance and efficient functioning of the structure.

The Board shall not consider any interior arrangement. The Board shall make no requirements except for the purpose of preventing development incongruous in scale, design or materials to the district.

In reviewing proposals, the Board shall utilize the design guidelines and criteria adopted by the Court House Area Design Review Board. These guidelines shall form the basis of any action by the Board.

The Board shall vote to approve all or part of the application or disapprove all or part of the application within sixty (60) days after the completed application is filed. The Board shall be required to make findings to support any action of approval/disapproval, indicating the specific provisions of the adopted guidelines that support the action.

(g) **AUTHORIZATION PERMIT ISSUANCE** - The Design Review Officer shall promptly issue the Authorization Permit in accordance with the action of the Board. Copies of the Authorization and the application materials shall be forwarded to the Division of Building Inspection and/or the Division of Housing Maintenance, as appropriate.

27-6(b)(2) **AUTHORIZATIONS ISSUED BY THE DESIGN REVIEW OFFICER** - An Authorization issued by the Design Review Officer is intended to expedite approval of routine applications for exterior changes without full hearing and action by the Board.

The Board may review and delegate items to the responsibility of the Design Review Officer for review and issuance of Authorization Permits. The delegation of these items shall be reviewed by the Board at a public hearing and recorded in the minutes of the Board.

27-6(b)(2)(a) **PROCEDURES FOR ISSUANCE OF AN AUTHORIZATION BY THE DESIGN REVIEW OFFICER**

(1) **FILING** - The applicant shall file sufficient information as to accurately depict the location, design and scope of the work to be done. The Officer shall review the information and promptly notify the applicant if the material is not adequate for review and advise the applicant what specific information will be required.

(2) **REVIEW** - The Officer shall review the application for compliance with the adopted guidelines and consult with other Divisions, as appropriate, to ensure proper review. Upon determination that all requirements of the guidelines have been met and that the application complies with the requirements
of the Board, the Design Review Officer shall approve the application and issue the Authorization Permit. If any question arises as to compliance, or if the Design Review Officer or applicant feels that the application raises issues deserving review by the full Board, the request shall be referred to the Board for action.

(3) **AUTHORIZATION PERMIT ISSUANCE** - Upon approval by the Design Review Officer, the Officer shall issue the Authorization Permit and notify the applicant. In addition, the Officer shall forward a copy of the Authorization and application materials to the Division of Building Inspection.

**27-6(c) AUTHORIZATION PERMITS FOR DEMOLITION** - The Division of Building Inspection shall issue no permit which would result in the demolition of all or any part of a structure within a zone protected by a CA overlay unless and until an Authorization Permit has been approved by the Board.

**27-6(c)(1) PROCEDURES** - The procedure for review of an Authorization Permit for demolition shall be as set forth in Article 27-6(b)(1) above. The Board shall hear evidence concerning the application at its public hearing and may approve an Authorization only if one of the following conditions is determined to exist:

(a) The application is for demolition of an addition, for a portion of a building or for an accessory structure which is not significant to the principal structure, site, or district; and the approval of the application would not adversely affect those parts of a building or district which are significant.

(b) The application is for the demolition or moving of a building, or portion of a building, which does not contribute to the character of, and will not adversely affect the character of the property in a zone protected by a CA overlay.

(c) No reasonable economic return can be realized from the property, and the denial of the application would result in the taking of the property without just compensation.

If the owner wishes to make a claim that the denial of the permit would amount to a taking of the property without just compensation, the owner shall submit to the Board, not less than twenty (20) days prior to the public hearing, the following information:

1. **For all property:**
   
   (a) The amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;
   
   (b) The assessed value of the land and improvements thereon, according to the two (2) most recent assessments recorded in the office of the Property Valuation Administrator;
   
   (c) The two most recent real estate tax bills;
   
   (d) Annual debt service for the previous two (2) years recorded by the lending agency;
   
   (e) All appraisals obtained within the previous two (2) years by the owner in connection with his purchases, financing or ownership of the property;
   
   (f) Listings of the property for sale or rent, price asked and offers received, if any;
   
   (g) Any consideration by the owner as to profitable adaptive uses for the property.

2. **For income-producing property:**

   (a) Annual gross income from the property for the previous two (2) years;
   
   (b) Itemized operating and maintenance expenses for the previous two (2) years.
(c) Annual cash flow for the previous two (2) years.

3. The Board may require that the property owner furnish such additional information as the Board believes is relevant to its determination of taking without just compensation and may provide, in appropriate instances, that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information that cannot be obtained, and shall describe the reasons why such information cannot be obtained.

Should the Board find that the material submitted is not adequate for the proper review of the proposal, the Board shall promptly notify the applicant and state specifically the information that the Board requires.

27-6(c)(2) ACTION - Notwithstanding any other provision of this Article, the Board, after hearing evidence at its public hearing, may vote to postpone action to approve or deny an appeal for a reasonable period of time not to exceed one (1) year from the filing date of application in order to conduct studies, surveys and/or gather information concerning the following:

(a) Alternatives which may be or may become available, including restoration, rehabilitation, adaptive reuse, or other alternatives to demolition; and

(b) Study the question of economic hardship for the applicant, including whether the structure can be put to reasonable beneficial use without the approval of the demolition; and whether the applicant can obtain a reasonable return from his/her existing building. If economic hardship or the lack of a reasonable return is not proved, the Board shall deny the demolition application, giving the facts and reasons for its decision.

27-6(d) EFFECT OF AUTHORIZATION PERMIT - Upon receipt of the Authorization Permit from the Design Review Officer, the Division of Building Inspection shall issue a building or wrecking permit, as appropriate, in accord with the Authorization Permit, provided the application meets all other requirements of law.

The Division of Building Inspection shall enforce all provisions of the Authorization, including any conditions thereof, and shall inspect the property at regular intervals to insure strict compliance. The Building Inspector who inspects the site shall be governed by the design guidelines adopted by the Court House Area Design Review Board and shall receive technical assistance from the Officer in this inspection.

The property owner shall obtain permits, when required, and commence work on all work authorized by the Authorization Permit within one (1) year from the issuance of the Authorization.

27-6(e) FAILURE OF BOARD TO ACT - Upon failure of the Board to take final action upon any application within sixty (60) days after the completed application has been filed, and unless a mutual written agreement between the Board and the applicant has been made for an extension of time, the application shall be deemed to be approved and an Authorization Permit shall be issued to the applicant, and a copy of said Authorization transmitted to the Division of Building Inspection.

27-7 APPEALS - Any person or entity claiming to be injured or aggrieved by any decision of the Board to approve or deny any request for an Authorization Permit may appeal such decision to the Planning Commission within thirty (30) days of the Board's action. Such appeal shall be in writing and shall fully state the grounds upon which the appeal is sought. Upon receipt of the appeal, the Secretary to the Planning Commission shall notify the Design Review Officer, who shall promptly transmit the entire record of the Board, including tapes and transcripts, if any. In addition, within five (5) days of the filing of the appeal, the Secretary to the Planning Commission shall, by certified mail, notify the applicant of the appeal, if the applicant is not the appellant. The Commission shall then hold a de novo hearing on the appeal and render a decision within ninety (90) days of the date of filing the appeal.

27-7(a) PROCEDURE FOR THE DE NOVO PUBLIC HEARING

27-7(a)(1) NOTICE - All parties to the appeal,
including the Board, shall be notified of the time, place and reason for the public hearing by first class letter at least fourteen (14) days in advance. In addition, notice of the appeal shall be given by one publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days nor later than seven (7) days before the public hearing.

27-7(a)(2) ACTION BY THE PLANNING COMMISSION - After notice, as required above, the Commission shall conduct a public hearing and vote to approve or deny the appeal. At the hearing, the Planning Commission shall allow its staff, Design Review Officer, the Board members, the appellant, protestors, and other interested citizens to testify and rebut the evidence presented, provided that the Chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence. In its deliberations, the Planning Commission shall give due consideration to the decision of the Board and the finding and conclusions reflected in the Board's record and shall apply the adopted design guidelines.

27-7(b) APPEAL TO THE FAYETTE CIRCUIT COURT - Any person or entity claiming to be injured or aggrieved by any order of the Planning Commission to affirm, modify or set aside the Authorization Permit and/or final decision of the Board may appeal from the Planning Commission's action to the Fayette Circuit Court within thirty (30) days of that order in the manner as established in KRS 100.347.

All orders of the Planning Commission which have not been appealed within thirty (30) days shall become final; however, there shall be no stay of any action on the subject property until such time as an appeal has been filed with the Fayette Circuit Court.

27-7(c) CONSIDERATION BY THE BOARD OF PREVIOUSLY DENIED APPEALS - In the event the appeal of an applicant is denied by the Planning Commission, the building, or any portion thereof, which was the subject of the applicant's application, shall not be included in a subsequent application to the Board for an Authorization Permit and/or final decision until the expiration of one (1) year from the date of the order of the Planning Commission.

However, before the expiration of one (1) year, the Board may allow the filing of an application for an Authorization Permit and/or final decision if the Board finds that there are new facts or conditions not considered previously, or that there has been a change in the adopted guidelines which has substantially altered the character of the request. In such cases, after the evidence is presented by the applicant, the Board shall vote to approve or deny such a request for a new hearing. The Board's reconsideration of the application shall take into consideration the new evidence presented. The Board's decision need not be restricted to the new evidence. If the new evidence is withdrawn at any time during the reconsideration by the applicant, the Board shall have no authority to reconsider the application.

27-8 COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS - In order to prevent purposeful neglect of structures within zones protected by CA overlays, all properties shall comply with the BOCA, adopted Basic Property Maintenance Code, as well as all other applicable codes, statutes, and regulations. To accomplish this, the Design Review Officer shall quarterly consult with appropriate enforcement officials and compile and forward to the Board and the Court House Area Design Review Board a list of those properties in zones with CA overlays which have been found to be in violation of the BOCA Basic Property Maintenance Code.
MIXED USE ZONING CATEGORIES

28-1 INTENT - The intent of this Article is to permit the development of zoning categories that promote the proper locations and regulation of development, which inherently permits the mixing of residential and non-residential uses. Such mixing of uses in appropriate locations and subject to appropriate restrictions can create a combination of functions compatible with abutting residential neighborhoods. This Article is intended to provide neighborhood-based employment opportunities; provide support services that enhance livability of neighborhoods; enhance the use of public transit and alternative modes of transportation; revitalize established neighborhood commercial centers; and promote quality infill and redevelopment potential in accordance with the adopted Comprehensive Plan.

28-2 CREATION OF ZONES - This Article hereby creates zoning categories Mixed-Use 1 (MU-1), Mixed-Use 2 (MU-2) and Mixed-Use 3 (MU-3), as specifically regulated herein below.

28-3 MIXED-USE 1: “NEIGHBORHOOD NODE ZONE” (MU-1) - Is hereby created and regulated as follows:

28-3(a) Location Criteria - MU-1 shall only be permitted on parcels which meet all of the following criteria:

(1) The parcel must contain a combined total frontage of at least 100 feet of the intersection of two streets, one of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.

(2) The parcel must contain at least 5,000 square feet and may not exceed a maximum of 0.5 acres.

(3) The parcel must be designated in a Medium, High, Very High Density Residential or Commercial land use category in the Comprehensive Plan or currently zoned for commercial use.

28-3(b) Principal Permitted Uses - The following shall be principal permitted uses in the MU-1 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited herein below.

28-3(c) Accessory Uses - The following shall be considered accessory uses in the MU-1 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.

28-3(d) Conditional Uses - None.

28-3(e) Prohibited Uses - The following uses shall be prohibited in the MU-1 zone:

1. The following principal uses in the B-1 zone: automobile service stations; parking lots and structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis; indoor theaters; arcades, including pinball and electronic games; pawnshops.

2. The following accessory uses in the B-1 zone: drive-through facilities; the rental of trucks (single rear axle - 28’ maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone.

3. All B-1 conditional uses.

4. All uses listed as prohibited in the B-1 zone.

28-3(f) Lot, Yard and Height Requirements - shall be as follows:

(1) Floor Area Ratio - Maximum 1.0.
(2) Maximum Building Height - 35 feet.
(3) Front Yard - No limitation for first or second story; any third floor shall be set back at least fifteen (15) feet; also see Section 28-3(b)(5) below.
(4) Each Side Yard - For 1- and 2-story structures, 10 feet; for 3-story structures, 20 feet.
(5) Rear Yard - 10 feet or 30% of lot depth, whichever is greater.
Open Space - 10 percent.

Lot Coverage - No limitation.

**28-3(g) Parking Requirements** - Parking shall be required at the rate of 0.5 space per dwelling unit for residential uses and one (1) space per 400 square feet for non-residential uses; except for restaurants, which shall provide the greater of one (1) space per 200 square feet or one (1) space per every four (4) indoor seats. Parking provided shall not exceed the minimum required number of spaces, plus 50% of the minimum.

**28-3(h) Special Provisions:**

1. No less than 15%, nor more than 85%, of the floor area of any structure shall be required to be residential uses.
2. Only one principal structure shall be permitted per MU-1 site.
3. All residential uses shall be required to be in the same structure as non-residential uses.
4. When MU-1 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be permitted to remain.
5. Within the Infill & Redevelopment Area, at least 60% of the front building wall shall be required to be built at the 0-foot setback line. When the Planning Commission requires additional sidewalk or pedestrian areas, the edge of the pedestrian area shall be construed as the 0-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the 0-foot setback; and for buildings facing on two streets, only the longest front building face shall be subject to this requirement.
6. Signage shall be as permitted and restricted under Article 17-7(e) for a P-1 zone.
28-4 MIXED-USE 2: “NEIGHBORHOOD CORRIDOR ZONE” (MU-2) - Is hereby created and regulated as follows:

28-4(a) Location Criteria - MU-2 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Boundary and have at least 160 feet of frontage on one of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street/Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man o’ War Boulevard; Citation Boulevard or North Limestone Street.

2. The parcel must contain at least 0.5 acres and may not exceed a maximum area of four (4) acres.

3. The parcel must be designated in a Medium, High or Very High Density Residential or Commercial land use category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial/Residential Mixed Use, Industrial Mixed Use or Retail Trade/High Density land use category, the parcel does not have to meet the street frontage criteria listed in number 1 above.

28-4(b) Principal Permitted Uses - The following shall be principal permitted uses in the MU-2 zone:

1. Dwelling Units.
2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited herein below.

28-4(c) Accessory Uses - The following shall be accessory uses in the MU-2 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.

28-4(d) Conditional Uses - The following shall be conditional uses in the MU-2 zone:

1. Drive-through facilities as an adjunct to a permitted use.

28-4(e) Prohibited Uses - Shall be as for the MU-1 zone, except for drive-through facilities, which are permitted as a conditional use.

28-4(f) Lot, Yard and Height Requirements - shall be as follows:

1. Floor Area Ratio - Maximum 2.0.
2. Maximum Building Height - 55 feet.
3. Front Yard - No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way 50 feet or less in width; also see Section 28-4(h)(3) below.
4. Each Side Yard - For 1- and 2-story structures, 10 feet; for 3-story structures and higher, 10 feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard - 10 feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
6. Open Space - 10 percent.
7. Lot Coverage - Maximum 75 percent.

28-4(g) Parking Requirements - Off-street parking shall be required at the rate of three (3) spaces for every two dwelling units, or 0.9 spaces per bedroom (whichever is greater) for residential uses; zero (0) spaces per mixed-income housing unit; one (1) space per 300 square feet for other non-residential uses. Fifty percent (50%) of the parking provided for non-residential uses may be counted to satisfy residential parking requirements. Parking provided shall not exceed the minimum required number of spaces, plus 50% of the minimum.

28-4(h) Special Provisions:

1. No less than 15%, nor more than 85%, of the floor area of any structure shall be required to be residential uses, except
where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the 15% minimum mix of residential to non-residential uses has been achieved in multiple-use structures. Once the MU-2 project has reached 10,000 square feet of commercial use, additional commercial square footage will not be required.

(2) For any MU-2 project located on a site recommended for “Professional Services” in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least 75% of the non-residential floor area of the project. For any MU-2 project located on a site recommended for MD, HD or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density; and the maximum amount of commercial floor area shall be limited to a maximum of 50% instead of 85%, as listed in number 1 above.

(3) Within the Infill & Redevelopment Area, at least 40% of the front building wall(s) shall be required to be built at the 0-foot setback line. Where the Planning Commission requires additional sidewalk or pedestrian areas, the edge of the pedestrian area shall be construed as the 0-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the 0-foot setback; and for buildings facing on two streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the 0-foot setback line where it makes a finding that the strict application of the 0-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.

(4) When MU-2 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be permitted to remain.

(5) Signage within the MU-2 zone shall be as permitted and restricted under Article 17-7(o) of the Zoning Ordinance.
28-5 MIXED-USE 3: “MIXED-USE COMMUNITY ZONE” (MU-3) - Is hereby created and regulated as follows:

28-5(a) Location Criteria - MU-3 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Area and have at least 160 feet of frontage on one of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street/Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; South Upper Street; Vine Street; Bolivar Street; Red Mile Road; North Broadway; Man o’ War Boulevard; Citation Boulevard or North Limestone Street.

2. The parcel must contain at least three (3) acres.

3. The parcel must be designated in a Medium, High or Very High Density Residential or Commercial land use category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial/Residential Mixed Use or Retail Trade/High Density land use category, the parcel does not have to meet the street frontage criteria listed in number 1 above.

28-5(b) Principal Permitted Uses - The following shall be principal permitted uses in the MU-3 zone:

1. Dwelling Units.

2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited herein below.

28-5(c) Accessory Uses - The following shall be accessory uses in the MU-3 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Section 28-5(e) below.

28-5(d) Conditional Uses - The conditional uses in the B-1 zone, except as prohibited under Section 28-5(e) below.

28-5(e) Prohibited Uses - The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: parking lots; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.

2. The following accessory uses in the B-1 zone: the rental of trucks (single rear axle - 28’ maximum overall length), trailers, and related items in conjunction with the operation of an automobile service station, provided the service station abuts a residential zone.

3. The following B-1 conditional uses: self-service car washes; animal hospitals or clinics; the rental of trucks (single rear axle - 28’ maximum overall length), trailers and related items in conjunction with the operation of an automobile service station; gasoline pumps available to the public without an employee on site.

4. All uses listed as prohibited in the B-1 zone, except as permitted herein.

28-5(f) Lot, Yard and Height Requirements - shall be as follows:

1. Floor Area Ratio - Maximum 2.0.

2. Maximum Building Height - 80 feet if a building is located at the intersection of a street classified as an arterial with another arterial or collector street; 70 feet for all other buildings.

3. Front Yard - No limitation for first or second story; any third and additional floors shall be set back at least 15 feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way 50 feet or less in width; see also Section 28-5(h)(3) below.

4. Each Side Yard - For 1- and 2-story structures, 10 feet; for 3-story structures and higher, 10 feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.

5. Rear Yard - 10 feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
28-5(g) Parking Requirements - Off-street parking shall be required at the rate of three (3) spaces for every two dwellings, or 0.9 spaces per bedroom (whichever is greater) for residential uses; zero (0) parking spaces per mixed-income housing unit; one (1) space per 300 square feet for other non-residential uses. Fifty percent (50%) of the parking provided for non-residential uses may be counted to satisfy residential parking requirements. Parking provided shall not exceed the minimum required number of spaces, plus 50% of the minimum.

28-5(h) Special Provisions - shall be as follows:

(1) No less than 15%, nor more than 85%, of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the 15% minimum mix of residential to non-residential uses has been achieved in multiple-use structures. Once the MU-3 project has reached 15,000 square feet of commercial use, additional commercial square footage will not be required.

(2) For any MU-3 project located on a site recommended for “Professional Services” in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least 75% of the non-residential floor area of the project. For any MU-3 project located on a site recommended for MD, HD or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density; and the maximum amount of commercial floor area shall be limited to a maximum of 50% instead of 85%, as listed in number 1 above.

(3) Within the Infill & Redevelopment Area, at least 40% of the front building wall(s) shall be required to be built at the 0-foot setback line. Where the Planning Commission requires additional sidewalk or pedestrian areas, the edge of the pedestrian area shall be construed as the 0-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the 0-foot setback; and for buildings facing on two streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the 0-foot setback line where it makes a finding that the strict application of the 0-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.

(4) When the MU-3 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be permitted to remain.

(5) Signage within the MU-3 zone shall be as permitted and restricted under Article 17-7(p) of the Zoning Ordinance.

(6) An Entertainment Mixed-Use Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, and recommended by the adopted Comprehensive Plan for mixed use or a non-residential land use, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:

(a) Subdivision of land in an Entertainment Mixed-Use Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.

2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

(b) At least 25% of the combined floor
area of all buildings constructed within an Entertainment Mixed-Use Project shall be located on the second or higher floor.

(c) Where multiple principal structures are proposed within an Entertainment Mixed-Use Project:
1. Mixing within a single structure shall not be required within the first 40% of floor area for commercial use, or after the 15% minimum mix of residential to non-residential uses has been achieved in multiple-use structures. Once the project has reached 15,000 square feet of commercial use, additional commercial square footage will not be required.
2. The front building wall of at least 15% of all buildings shall be required to be built at the 0-foot setback line.

(d) Buildings within an Entertainment Mixed-Use Project may be a maximum of 80’ in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.

(e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed-Use Project:
1. As Principal Permitted uses:
   a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing and/or sale of malt beverages, wine or alcoholic beverages.
   b. Motels, hotels and extended-stay hotels.
   c. Indoor amusements, such as billiard or pool halls, skating rinks, theaters or bowling alleys.
   d. Athletic club facilities.
   e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
   f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
   g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities; accessory restaurants and/or the serving of alcoholic beverages, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
2. As Accessory (clearly incidental and subordinate) uses:
   a. Outdoor patios, when accessory to any permitted restaurant.
   b. Conference centers, banquet facilities and convention facilities, when accessory to a hotel or motel.
3. As Conditional uses:
   a. Self-service car washes.
   b. Gasoline pumps available to the public without an employee on site.
4. Off-Street Parking shall be provided for the uses listed below:

Cocktail Lounges, Night Clubs, Conference Facilities, Banquet Facilities, Convention Facilities or Restaurants with live entertainment or dancing - One (1) space for every one hundred fifty (150) square feet of floor area.

Drive-In Restaurants, with or without fixed seats - One (1) space for every three hundred (300) square feet of floor area; or one space for every four (4) fixed seats, whichever is greater.

Extended-Stay Hotels - One (1) space for every dwelling unit.

Grandstands for Horse Race Tracks - One (1) space per five (5) seats.

Hotels and Motels - One (1) space per guest suite.
Conditional Uses - The Board of Adjustment may establish additional requirements as needed.
28-6 PROVISIONS APPLICABLE TO ALL MIXED-USE ZONES

28-6(a) DEVELOPMENT PLAN REQUIRED - All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the Planning Commission shall consider the following plan features in its review. Approval of a development plan for any mixed use zone shall require a finding that the development plan complies with the provisions of Sections 28-6(b) through (g) below.

28-6(b) PEDESTRIAN ACCOMMODATION - shall be as follows:

(1) At least one primary street level entrance to a building that faces any public street shall be oriented toward the public street.

(2) For at least one location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.

(3) Where two or more buildings are proposed, they shall be arranged in a manner that provides an open space area, such as a plaza, courtyard or similar feature.

(4) Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas.

(5) A 6-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.

(6) For any development within the Downtown Streetscape Master Plan area, the development shall adhere to the provisions of that plan.

28-6(c) BUILDING FEATURES - shall be as follows:

(1) For every primary wall plane, a change of at least five (5) feet in depth and eight (8) feet in length shall be made for every 80 feet of length or fraction thereof.

(2) For every side or rear wall plane, a change of at least eight (8) feet in length and five (5) feet in depth shall be made for every 100 feet in length.

(3) The primary wall plane shall provide at least one of the following features at ground level:
   a. A balcony at least 4’ x 5’.
   b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.
   c. A covered entrance at least 3’ x 3’.
   d. A porch at least 4’ x 6’, with a floor at least twelve (12) inches above grade.

(4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.

28-6(d) LOCATION AND ASSIGNMENT OF REQUIRED OFF-STREET PARKING - At least fifty percent (50%) of parking spaces shall be located so as to not project between any front building face and any adjoining street, except an alley. The Planning Commission may require designation of certain spaces for use of residents only on the development plan.

28-6(e) ACCESSORY STRUCTURES - shall be regulated as follows:

(1) The sides of any parking structure shall include one or more of the following features:
   a. First floor retail or office uses.
   b. Murals or public art on at least fifteen percent (15%) of the building face.
   c. Display cases on at least ten percent (10%) of the building face.
   d. Landscaping in an area of at least five (5) feet in width, with plantings as specified in Article 18 for edges of vehicular use areas.

(2) Any garage doors shall meet one of the following criteria:
   a. The garage door shall face perpendicular to or away from any adjoining street.
   b. The garage door shall be offset at least four (4) feet behind the
primary wall plane.
c. If flush with the primary wall plane, the garage door shall not cover more than thirty percent (30%) of the surface area of the wall plane.

28-6(f) PARKING FOR BICYCLES - For projects with three or more dwelling units, four bicycle rack spaces shall be provided per every three units, with a maximum requirement of twelve (12) spaces.

28-6(g) SITE LIGHTING - shall be restricted as follows:

(1) Wall mounted lamps that use the equivalent of 1,200 lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.

(2) Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.

(3) Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.

(4) Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height, unless specifically used to light an outdoor recreation facility, such as a tennis court, ball field, or similar use.

(5) Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, and shall be shielded or equipped with cutoffs so as to prevent undue light spill onto adjoining properties.

28-6(h) INCREASED SETBACK FOR BUILDING HEIGHT DIFFERENCES - In cases where the proposed mixed-use structure(s) have a height differential of greater than ten (10) feet from immediately adjoining residential structures, the Commission may require the establishment of a 1:1 height-to-yard ratio for side yards, additional screening, or other mitigating measures as deemed appropriate to address compatibility of mixed-use structures to the surrounding residential structures.

28-6(i) ON-STREET PARKING - The number of on-street parking spaces, calculated at one (1) space for every twenty-two (22) feet of curb length or the number of marked spaces, may reduce the number of off-street parking spaces required, as long as the reduction otherwise complies with Article 16-10 of the Zoning Ordinance.

28-7 EFFECT OF HISTORIC ZONING - In the event any Mixed Use zone is created within an Historic (H-1) District, the Board of Architectural Review shall perform its normal duties in the approval of a Certificate of Appropriateness. This shall include approval of specific details designed to accommodate the requirements of Sections 28-6(b), 28-6(c), 28-6(e) and 28-6(g) above.
NEIGHBORHOOD DESIGN CHARACTER
OVERLAY (ND-1) ZONE

29-1 INTENT - In order to promote the economic and general welfare of the people of Fayette County and of the general public; and to ensure the complementary, orderly and efficient growth and development of Fayette County, it is deemed essential by the Lexington-Fayette Urban County Council that the qualities relating to the visual characteristics that give a distinct identity to an area and a harmonious appearance of structures that stabilize the area (including residential neighborhoods and non-residential or mixed use areas) and/or maintain their character, be protected, conserved and preserved.

29-1(a) PURPOSE - It is the purpose of this Article to permit the Lexington-Fayette Urban County Government, residential neighborhoods or non-residential areas the opportunity to request additional regulatory requirements in order to help conserve or promote certain visual characteristics. It is the finding of the Lexington-Fayette Urban County Council that the individual nature and character of this county cannot be properly maintained or enhanced unless its distinctive neighborhoods and non-residential/commercial areas are protected, conserved and preserved.

29-1(b) POLICIES - The Lexington-Fayette Urban County Council hereby declares that it is necessary as a matter of public policy, to preserve, protect and conserve the beauty and heritage of the county; to improve the quality of its environment through identification, conservation and maintenance of neighborhoods, non-residential areas, or places that constitute or reflect distinctive features of the architectural or cultural traditions of the city. The protection of these areas is essential in promoting the public welfare by making the city a more attractive and desirable place in which to live and work.

29-1(c) GOALS - The goal of this Article is to effect the purpose and policy, as set forth in the above findings; and specifically, but not exclusively, to:

(1) Give such designations and enact such regulations as are needed to protect against destruction, degradation, or encroachment upon neighborhoods, areas or places having a special, unique or distinctive character of aesthetic, architectural or cultural significance that serves as the identity of either a residential neighborhood or a non-residential area.

(2) Encourage the use of existing buildings through adaptive rehabilitation so as to enhance the diversity and interest of the county. Such encouragement shall not imply a particular zoning designation.

(3) Encourage construction that will lead to continuation, conservation and improvement in a manner appropriate to the scale and physical character of the original buildings. Assure that new construction is in harmony with the scale and physical character of the original buildings of the neighborhood through the use of design standards.

(4) Prevent the creation of environmental influences adverse to such purposes.

(5) Foster civic pride in the value of accomplishments of the past.

(6) Promote the educational, cultural, economic and general welfare of the people; or

(7) Create new character in an area that has been designated for redevelopment.

29-2 APPLICATION REGULATIONS - The classifications and regulations hereunder shall be established in addition to the zone classifications and regulations as shown on the zoning map atlas for the subject areas. These regulations are intended to preserve, protect and conserve neighborhoods and areas. The uses, dimensions and other requirements for said zones, as provided in the Zoning Ordinance, shall apply, except where modified as conditional zoning restrictions determined under these regulations. The rezoning of an underlying zone does not automatically remove ND-1 standards, and the applicant would need to request that the overlay restrictions either be removed or revised as conditions appropriate to the use. Where there are conflicts between the procedures and regulations within the Zoning Ordinance, the more restrictive shall apply.
29-3 OVERLAY DISTRICT DESIGNATION CRITERIA – An area, neighborhood or place meeting one or more of the following criteria shall be eligible for designation as a Neighborhood Design Character (ND-1) District:

   (1) It is an older area that, if placed under an ND-1 classification, may result in sufficient improvement to qualify it as an H-1 District in the future. H-1 District properties and designated National Register Historic Districts are not eligible for ND-1 designation;

   (2) It is a newer area that does not have historic significance. In such case, if residential, the overall character of the surrounding neighborhood(s) would be maintained; and if non-residential, the overall character would be determined by an urban or other design study that creates a unified design;

   (3) There is a need to protect the visual characteristics that give a neighborhood or area its distinct identity;

   (4) The existing neighborhood or area is characterized by a variety of building types that establish a significant and distinguishable identity;

   (5) It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials;

   (6) It has character as a geographically definable area possessing a significant concentration of buildings or structures united by past events or by its plan or physical development; or

   (7) It has character as an established and geographically definable residential neighborhood, agricultural area or business district, united by culture, architectural style or physical plan and development.

29-4 DESIGNATION OF ZONES PROTECTED BY NEIGHBORHOOD DESIGN CHARACTER OVERLAYS - To further the goals and purposes of this Article and the preservation, protection, conservation and use of neighborhood design character districts, the Urban County Council shall have the authority to designate zones protected by a neighborhood design character overlay, whether residential or non-residential in nature.

29-4(a) PROCEDURE – The procedure for application and designation are as follows herein:

   (a) For Residential:

      (1) Establish a clear, decipherable set of neighborhood features to describe the character of individual building types. This set shall define the relationships among features and shall serve as a tool to identify common elements in a neighborhood.

      (2) Conduct architectural surveys so as to define present character of the neighborhood. The requesting party shall conduct a field survey containing, as a minimum, the following criteria: distinctive building features; represented building styles; typical building components; finishing materials; placement of building(s) on a site; landscape treatment; degree of visual continuity; degree of density; and degree of compatibility of new structures within historical context.

      (3) Conduct architectural surveys so as to define early character of the neighborhood. The requesting party shall conduct a field survey containing, as a minimum, the following criteria: distinctive building features; represented building styles; typical building components; finishing materials; placement of building(s) on a site; landscape treatment; degree of visual continuity; degree of density; and degree of compatibility of new structures within historical context.

      (4) Develop preservation goals for the neighborhood and identify important characteristics to be respected by comparing the degree of change between early and present-day character.

      (5) Identify and project future character, based on potential change from present-day trends and regulations, relying on predominant existing characteristics within the neighborhood; on characteristics that are seen as desirable but not yet existing; or on a combination of the
two. Based on the present-day scenario, identify if the neighborhood will preserve its integrity and meet its design goals for the community.

(b) For Non-Residential: Depending on the intent of the neighborhood design character overlay, one of the two following methods of design analysis shall be used by the requesting party:

(1) DEFINE NEW CHARACTER - Establish a clear, decipherable set of standards that describe the desired character of the area. These criteria shall define the relationships among existing and future features and shall serve as a tool to identify common elements in a non-residential area so as to create a unified design.

(2) RETAIN EXISTING CHARACTER

(a) Conduct architectural surveys so as to define present character of the area. The requesting party shall conduct a field survey containing, as a minimum, the following criteria: distinctive building features; represented building styles; typical building components; finishing materials; placement of building(s) on the site; landscape treatment; degree of visual continuity; degree of density; and degree of compatibility of new structures within historical context.

(b) Conduct architectural surveys so as to define early character of the non-residential area. The requesting party shall conduct a field survey containing, as a minimum, the following criteria: distinctive building features; represented building styles; typical building components; finishing materials; placement of building(s) on the site; landscape treatment; degree of visual continuity; degree of density; and degree of compatibility of new structures within historical context.

(c) Develop preservation goals for the area and identify important characteristics to be respected by comparing the degree of change between early and present-day character.

(d) Identify and project future character as it relates to potential change from present-day trends and regulations. Based on the present-day scenario, identify if the area will preserve its integrity and meet its design goals for the community.

29-4(a)(2) DESIGN STANDARDS - The following criteria for new construction or additions shall be based on the design standards analysis within each district. The following are categories of design standards that shall be eligible for overlay regulations and may modify existing zoning as conditional zoning restrictions. It is not required that each of the following be addressed; instead, to utilize only those elements as applicable or desirable to conserve the character of the neighborhood or surrounding area, and as determined in the design standards analysis. All proposed standards should be specific and measurable.

(a) Exterior building material restrictions
(b) Roof lines and shape requirements
(c) Repeating elements
(d) Landscaping requirements
(e) Minimum window and door opening requirements
(f) Front building features
(g) Garage door restrictions
(h) Lot widths
(i) Building orientation
(j) Building heights
(k) Building setbacks
(l) Rear yard building setbacks
(m) Accessory structures
(n) Accessory dwelling units
(o) Bulk plane restrictions
(p) Off-street parking design
(q) Floor area ratios; and
(r) Signs

29-4(a)(3) APPLICATION - An application for the establishment of a neighborhood design character overlay district may be filed only by the Lexington-Fayette Urban County Council, Planning Commission, or the owners of the subject properties. The Board of Architectural Review, the Historic Preservation Commission, an individual Lexington-Fayette Urban County citizen or group of citizens may request that the Lexington-Fayette Urban County Council or the Planning Commission initiate a zone map amendment. Any group or individual(s) requesting initiation shall be referred to as the requesting party.
Said application shall be filed with the Planning Commission and transmitted to the Division of Historic Preservation for its review and consultation.

29-4(a)(4) OWNER NOTIFICATION - Specific design standards shall be included in property owner notifications as determined desirable and recommended for each proposed district.

29-5 BUILDING PERMIT REVIEW PROCESS - All building permit applications will be required to comply with adopted design standards for applicable building improvements on property located within a designated neighborhood design character overlay district and/or as approved by the Planning Commission.

29-6 COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS - In order to prevent purposeful neglect of structures within zones protected by neighborhood design character overlays, all properties shall comply with the BOCA, adopted Basic Property Maintenance Code, as well as all other applicable codes, statutes and regulations. To accomplish this, the Division of Code Enforcement shall, on a quarterly basis, compile and forward to the Planning Commission a list of those properties in zones with neighborhood design character overlays that have been found to be in violation of the BOCA Basic Property Maintenance Code.
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At the time of the reprinting of this Ordinance (7/31/08) the memberships of the Urban County Council, the Planning Commission and the Planning Division staff were as follows:

**MAYOR**

James Newberry

**LEXINGTON-FAYETTE**

**URBAN COUNTY COUNCIL**

Jim Gray, Vice Mayor
Julian Beard
Don Blevins
Tom Blues
K.C. Crosbie
Dick DeCamp
Chuck Ellinger, II
Linda Gorton
Peggy Henson
Andrea James
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**LEXINGTON-FAYETTE**

**URBAN COUNTY PLANNING COMMISSION**

Randall Vaughn, Chair
Neill Day, Vice-Chair
Frank Penn, Secretary
Mike Cravens, Parliamentarian
Ed Holmes, AICP
Carolyn Richardson
Lynn Roche-Phillips, AICP
Joan Whitman

**DIVISION OF PLANNING**

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Della Horton, Administrative Specialist Principal**

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Barbara Rackers, Administrative Officer**
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Jim Marx, Senior Planner
Traci L. Wade, AICP, Senior Planner
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Chris Taylor, Planner
Denice Bullock, Administrative Specialist
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*Primary staff responsibility for coordination and preparation of 1983 Revision.

**Primary staff responsibility for coordination and preparation of July 2008 reprinting.