

# OFFICIAL ZONING ORDINANCE

## CITY OF FORT THOMAS

November 19, 2012

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## **SECTION 1.0**

An ordinance dividing the City of Fort Thomas, Commonwealth of Kentucky, into zones. Zones of such shape and area as are deemed best suited to carry out these regulations: regulating the location, height, number of stories and size of buildings and other structures; regulating the size of yards and other open spaces and the density and distribution of population and the uses of buildings, structures and land use and other purposes. The Ordinance also prescribes penalties for the violations; provides for enforcement; provides for a Board of Adjustment and repeals all regulations, resolutions, orders, ordinances and/or codes in conflict with this ordinance.

Ordinance No. \_\_\_\_\_ adopting these regulations is hereby incorporated by reference.

## **ARTICLE II - AUTHORITY AND PURPOSE**

### **SECTION 2.0 AUTHORITY**

The Board of Council of the City of Fort Thomas, in pursuance of the authority of Kentucky Revised Statutes (KRS 100.201 - 100.991) hereby ordains and enacts into law the following articles and sections.

### **SECTION 2.1 PURPOSE**

The zoning regulations and districts as herein set forth have been prepared in accordance with the adopted Comprehensive Plan for the City of Fort Thomas to promote the public health, safety, morals, and general welfare of the city, to facilitate orderly and harmonious development and the visual or historical character of the city, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, this ordinance has been prepared to provide for vehicle off-street parking and loading and/or unloading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health or property from fire, flood or other dangers. The zoning regulations and districts as herein set forth are also employed to protect highways, and other transportation facilities, public facilities, including schools and public grounds, the central business district, natural resources and other specific areas in the City of Fort Thomas which need special protection by the city.

## **ARTICLE III - SHORT TITLE**

### **SECTION 3.0 SHORT TITLE**

This ordinance shall be effective throughout the City of Fort Thomas, Kentucky, and shall be known, referred to, and recited to as the "OFFICIAL ZONING ORDINANCE OF THE CITY OF FORT THOMAS."

## **ARTICLE IV - INTERPRETATION**

### **SECTION 4.0 GREATER RESTRICTION**

The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, and general welfare. Where this Ordinance imposes a greater restriction upon the buildings, structures or premises, upon heights of buildings or structures or requires larger open spaces than are imposed or required by any other ordinances, the provisions of this Ordinances shall govern.

### **SECTION 4.1 PERMIT OR LICENSE IN VIOLATION**

Notwithstanding any other provisions of this Ordinance or any other ordinances, rules, codes, permits or regulations of the City of Fort Thomas; if any permit or license is issued in violation of any provision of this Ordinance or purports to authorize the doing of any act not permitted by any provision of the Ordinance, said permit or license shall be void.

**ARTICLE V - CONFLICT**

**SECTION 5.0 CONFLICT**

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

ORDINANCE

DATE ADOPTED

## **ARTICLE VI - SEVERABILITY CLAUSE**

### **SECTION 6.0 SEVERABILITY CLAUSE**

That should any article, section, subsection, sentence, clause, or phrase of this Ordinance, for any reason, be held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions hereof. It is the intent of the Board of Council of the City of Fort Thomas to enact each section, and portion thereof, individually, and each such section, and portion thereof, individually, shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

## ARTICLE VII - DEFINITIONS

### SECTION 7.0 WORDS AND PHRASES

For the purpose of this Ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows:

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

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

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

**ACCESS POINT:** An access point is:

- A. A driveway, a local street, or a collector street intersecting an arterial street;
- B. A driveway or a local street intersecting a local street intersecting a collector street; or
- C. A driveway or a local street intersecting a local street.

**ADDRESS SIGN:** The numeric reference of a use or building to a street name.

**ADULT DAY CARE:** Facility or space for adult health care to provide, during specified daytime hours, continuous supervision of the patient to assure that health care needs are being met, supervision of self-administration of medications, personal care services, self-care training, and social and recreational activities. This program shall serve persons of all ages who may be frail, moderately handicapped, slightly confused or have incapacitating chronic conditions, who need organized health care during the day.

**AGRICULTURE:** A tract 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 agricultural use on the tract, but not including residential building development for sale or lease to the public. (See also KRS 100.111)

**AIR RIGHTS:** The ownership or control of that area of space at and above a horizontal plane over the ground surface of land. This horizontal plane shall be at a height above the existing or proposed development (depending on the individual property in question) which is reasonably necessary or legally required for the full and free use of the ground surface.

**ALLEY:** Public right-of-ways which normally affords a secondary means of access to abutting property.

**ALTERNATIVE ANTENNA TOWER:** Man-made trees, clock towers, bell steeples, light poles, church spires, belfry, chimney flue, elevator bulkhead, air-conditioning unit or other building equipment normally maintained above the roof line of a building.

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

**APARTMENT HOUSE:** See DWELLING, MULTIPLE.

**ATTIC:** The space between the ceiling beams of the top habitable story and the roof rafters. An attic shall not be considered a story, nor shall it be considered to be habitable.

**AUTOMOBILE OR TRUCK WASH:** A building or portion thereof, containing facilities for washing vehicles including any other appurtenances normally associated with automobile or truck wash establishments (such as vacuuming equipment). The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this Ordinance, coin-operated devices, of the above nature, which are operated on self- service basis shall be construed to be the same.

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

**AWNING:** A shelter projecting from and supported by the exterior wall of a building.

**BASEMENT:** A space having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6 1/2) feet. For the purposes of this ordinance, a basement will be partially below grade, and is considered a story.

**BENCH SIGN:** A sign painted on or affixed to any portion of a bench or seating area at bus stops or other such pedestrian areas.

**BOARD OF ADJUSTMENT:** Board of Adjustment, City of Fort Thomas, Commonwealth of Kentucky.

**BOARD OF COUNCIL:** The Board of Council of the City of Fort Thomas, Kentucky.

**BOARDING HOUSE:** A residential building other than a hotel, motel, or tourist cabin where lodging and meals for four (4) or more persons are served for compensation, and by prearrangement for definite periods.

**BORROW PIT:** Any place or premises where dirt, soil, sand, gravel, or other material is removed by excavation or otherwise, below the grade of surrounding land, for any purpose other than mining operation such as gold, silver, coal, etc., and that necessary and incidental to grading or to building construction on the premises.

**BUFFER AREA/YARD:** Area so planned and/or zoned which acts as a buffering or separation area between two (2) or more uses or structures not compatible, due to design, function, use, or operation.

**BUILDABLE AREA:** Any portion of area within the defined construction limits of a project that is essential for the purpose of constructing improvements thereon.

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

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

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

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

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

**BUILDING, HEIGHT OF:** The vertical distance measured from average elevation of the finished grade adjoining the building to the highest point of the roof surfaces, excepting chimneys, spires, steeples, cupolas and other ornamental or functional projections.

**BUILDING INSPECTOR:** The official or officials appointed by the City of Fort Thomas to administer and enforce the building codes.

**BUILDING PERMIT:** A permit issued by the City of Fort Thomas building inspector authorizing the construction or alteration of a specific building, structure, sign, or fence.

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

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

**BUILDING SITE:** Any lot that meets all of the provisions of the legislative body's ordinances, regulations, and codes for building on said site.

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

**CANOPY (MARQUEE):** A roof-like structure serving the purpose of protecting pedestrians from rain, snow, sun or hail, which structure projects from a building. Such structure shall be open on three (3) sides and, if ground supported, supports shall be confined in number and cross section area to the minimum necessary for actual support of the canopy.

**CANOPY, BUILDING:** A rigid multi-sided structure covered with fabric, metal or other material and supported by a building at one or more points and by columns or posts at the other points. May be illuminated by means of internal or external sources.

**CANOPY, FREE-STANDING:** A rigid multi-sided structure covered with fabric, metal or other material and supported by columns or posts. May be illuminated by means of internal or external sources.

**CARPORT:** See GARAGE, PRIVATE.

**CELLAR:** A space with less than one-half of its floor to ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six and one-half (6 1/2) feet. They may be used only for mechanical equipment accessory to the principal structure or for uninhabitable space such as a recreation, storage, or parking area. For the purposes of this ordinance, a cellar is not considered a story.

**CELLULAR ANTENNA TOWER:** Any structure that is designated and constructed, or an existing facility that has been adapted, for the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services. This includes guyed towers, lattice towers, monopoles, alternative cellular antenna tower structures and towers taller than 15 feet constructed on the top of another building, along with any separate building on the lot used to house any supporting electronic equipment.

**CELLULAR TELECOMMUNICATIONS ANTENNA:** Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips, at frequencies on the electromagnetic spectrum as the FCC from time to time may designate, used for cellular telecommunications services and/or personal communications services, but not including such structures or devices when used for the broadcast of television, AM/FM radio stations or for citizens' band or amateur radio use. Examples of cellular telecommunications or personal communications services include, but are not limited to, cellular telephone, paging, public safety, and data transmission.

**CELLULAR TELECOMMUNICATIONS EQUIPMENT SHELTER:** The structure, shelter, cabinet or vault in which the electronic receiving and relay equipment necessary for the processing of wireless telecommunications is housed together with necessary related equipment.

**CELLULAR TELECOMMUNICATIONS FACILITY (CTF):** The lot, tract, or parcel of land on which is located the telecommunications tower, wireless telecommunications equipment shelter, telecommunication antenna and related equipment involved in the transmission and/or reception of telecommunications.

**CELLULAR TELECOMMUNICATIONS FACILITY MAP:** A map prepared by the City of Fort Thomas indicating the location of existing CTFs , or other sites that have been identified by the Planning Commission as preferred areas for CTF in accordance with the Comprehensive Plan.

**CELLULAR TELECOMMUNICATION SERVICE:** A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

**CHILD DAY CARE CENTER:** See Day Care Facility.

**CITIZEN MEMBER:** Any member of the Planning Commission or Board of Adjustments who is not an elected or appointed official or employee of the City of Fort Thomas.

**CITY:** City of Fort Thomas, Kentucky (including any of its officers, employees, or designated representatives).

**CITY TREE:** A tree located on property owned by the City or located on a public right-of-way.

**CLINIC, ANIMAL:** A building used by medical persons for the treatment of small animals on an out-patient basis only, without animal runs.

**CLINIC, HUMAN CARE:** A building used by medical persons for the treatment of persons on an out-patient basis only.

**CLUB:** A building or premises owned or operated by a non-profit association made up of bona fide members paying dues, the use of which is restricted to said members and their guests.

**CO-LOCATION:** Locating two (2) or more cellular transmission antennas or related equipment on the same cellular antenna tower.

**COMMISSION (PLANNING COMMISSION OR PLANNING AND ZONING COMMISSION):** The Planning Commission of the City of Fort Thomas, Commonwealth of Kentucky.

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

- A. A statement of goals and objectives, principles, policies, and standards;
- B. A land use plan element;
- C. A transportation plan element; and
- D. A community facilities plan element.

It may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, and others.

**CONCEALED LIGHTING:** An artificial light source intended to illuminate the face of a sign, the direct source of which is shielded from public view and surrounding properties.

**CONDITIONAL USE:** A use which may be suitable as determined by the Board of Adjustment in zones herein defined, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed.

**CONDITIONAL USE PERMIT:** Legal authorization to undertake a conditional use, issued by the zoning administrator pursuant to authorization by the Board of Adjustment, consisting of two parts:

- A. A statement of the factual determination by the Board of Adjustment which justifies the issuance of the permit; and
- B. A statement of the specific conditions which must be met in order for the use to be permitted.

**CONFORMING USE:** Any lawful use of a building, structure, lot, sign or fence which complies with the provisions of this ordinance.

**CONSTRUCTION, SUBSTANTIAL:** Completion of a building foundation.

**COUNCIL MEMBER:** A member of the Board of Council, City of Fort Thomas, Commonwealth of Kentucky.

**COURT:** An open, unoccupied space other than a yard, on the same lot with a building and which is bounded on two (2) or more sides by the building.

**CUL-DE-SAC:** The area at the terminus of a street that is widened for the purpose of turning of vehicles.

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

**DBH:** Diameter at Breast Height.

**DAY CARE FACILITY:** Child care facility, or dwelling unit, where full or part-time care is provided, day or night, to at least four (4) children not related to the operator of the child day care facility by blood, marriage, or adoption. Care is provided away from their own home and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night. The term shall not include child care facilities operated by religious organizations while religious services are being conducted, or kindergarten programs that are part of a public or private educational school system.

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

**DENSITY:** A limitation or restriction on the total number of dwelling units permitted per acre. Density regulates the proximity of dwellings permitted per acre by creating minimum requirements for lot area, lot width, and yard setbacks.

**DEVELOPMENT PLAN:** Written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

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

**DRIP LINE:** A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

**DRIVE-IN EATING OR DRINKING PLACE:** An activity which provides food and/or drink items, specifically prepared and/or packaged in such a way as to permit consumption outside the building, either on or off the premises.

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

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

**DWELLING, ATTACHED, SINGLE-FAMILY:** A dwelling unit which is attached to one or more dwelling units, each of which has independent access to the outside of the building to ground level and which

has no less than two (2) exterior walls fully exposed and not in common with the exterior walls of any other unit.

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

**DWELLING, GROUP HOUSE:** A building that has not less than three (3) one-family housekeeping units erected in a row as a single building on one lot or on adjoining lots, each being separated from the adjoining unit or units by an approved masonry party wall or walls extending from the basement or cellar floor to the roof along the dividing lot line, and each such building being completely separated from any other building by space on all sides and such space shall be at least the required minimum yard setbacks as so specified in this ordinance.

**DWELLING, DOUBLES:** See DWELLING, TWO-FAMILY.

**DWELLING, DUPLEXES:** See DWELLING, TWO-FAMILY.

**DWELLING, TRAILER:** See MOBILE HOME.

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

**DWELLING, MULTIPLE:** A residential building used and/or arranged for rental occupancy, or cooperatively owned by occupants, having three (3) or more dwelling units, as separate housekeeping units. This type of dwelling shall be inclusive of apartment buildings and group house dwellings.

**DWELLING UNIT:** A building or portion thereof providing complete housekeeping facilities for one (1) person or one (1) family.

**EASEMENT:** A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for drainage or access purposes.

**ELEVATION:** A geometrical projection of a building on a vertical plane

**ESSENTIAL SERVICES:** The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety, or general welfare. This definition is not meant to include buildings.

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

**FENCE:** A hedge or structure planted or constructed so as to form a barrier which defines, limits, protects, obstructs, or enhances an entire lot or any portion thereof. The placement of any fence with a continuous length of ten (10) feet or more, or any three hedges, structures, or combinations thereof, of any length, which forms a barrier as defined, shall constitute a fence.

**FILLING STATION:** See SERVICE STATION.

**FLOOD PLAIN OR FLOOD PRONE AREA:** The relatively flat area or lowlands adjoining the channel of a river, stream, or watercourse, lake or other body of standing water which has been, or may be covered by flood water.

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

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

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

**FLOOR AREA, NET:** The sum of the net horizontal area of the several floors of any building exclusive of porches, balconies, garages, and all areas used in common by the occupants of the building, including hallways, stairways, closets, display windows, cellars, mechanical rooms, rest rooms, and dead storage areas. Net floor area shall be measured from the interior faces of all walls.

**FREQUENCY:** The number of oscillations per second in a sound wave. This is an index of the pitch of the resulting sound.

**FRONTAGE:** All the property abutting on one (1) side of the right-of-way of a street, measured along the right-of-way line of the street between the intersecting lot lines. In no case shall the line along an alley be considered as acceptable for frontage.

**GARAGE, PRIVATE:** An accessory building or portion of a principal building not exceeding eight hundred (800) square feet in area, per dwelling unit, designed, intended and used for the storage of motor driven vehicles owned, used and registered in the name of the occupants of the dwelling unit for which said private garage is intended, except a garage space within a principal building may be increased at a ratio equal to one-half (1/2) the gross finished floor area. Not more than one (1) of the vehicles shall be a commercial vehicle and this vehicle shall not be more than ten thousand (10,000) pounds and ten (10) feet in height and thirty (30) feet in length. This definition shall not include a public garage.

**GRADE:** The average level of the finished surface of the ground adjacent to a sign or to the exterior wall of the building to which a sign is affixed.

**GROUP HOUSING:** See DWELLING, GROUP HOUSE.

**HEIGHT, CELLULAR TELECOMMUNICATIONS TOWER:** The distance from the anchored base of the tower, whether on top of another building or at grade, to the highest point of the structure, even if the highest point is the top of the wireless telecommunications antenna.

**HOME OCCUPATION:** An accessory use customarily conducted entirely within a dwelling, as permitted herein and further meeting all requirements specified in Section 9.11 of this ordinance.

**HOSPITAL, PERSONS:** A building used by a group of professional medical persons for the healing arts or treatment of persons on a generally in-patient or boarding basis.

**HOSPITAL, ANIMAL:** A building used by a group of professional medical persons for the healing arts or treatment of animals on a generally in-patient or on a boarding basis but shall not have outside runs.

**HOTEL:** A building occupied as the more or less temporary abiding place for travelers and transient guests who are lodged with or without meals and in which there are sleeping rooms and with no provisions made for cooking in any individual room or a group of rooms occupied by a person or persons and with no provisions made for cooking in any of the rooms as specified.

**HOUSE TRAILER:** See MOBILE HOME.

**INDIVIDUAL BUSINESS UNIT:** A business which is located in a structurally independent building which has its own entrance and exit.

**JUNK:** Scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc, and all other scrap metals and the alloys, and bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, inoperative motor vehicles, used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition or which are subject to being dismantled.

**JUNK YARD:** An open area where any waste, used or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes an auto wrecking yard or the storage or keeping of one (1) or more inoperative motor vehicles unless where otherwise specifically permitted but does not include uses established entirely within enclosed buildings.

**KENNEL:** Any lot or premises used for the sale, boarding or breeding of dogs, cats or other household pets. Kennel shall also mean the keeping, on any lot or in any building, three or more of an individual type household pet which are over the age of four (4) months. A kennel shall also mean any premises upon which ten (10) or more such household pets are being, or have been raised, or kept for sale, during any twelve (12) month period regardless of the age of those household pets. For the purposes of this ordinance, a household pet includes: a.) those pets which are most common, such as dogs and cats, or b.) those pets which are deemed in this city to be tame and domesticated or which are commonly accepted in this city as a pet kept in or near a residence or as may wander the lot area.

**LABORATORY, MEDICAL OR DENTAL:** A building or a portion of a building used for providing bacteriological, biological, medical, x-ray, pathological, and similar analytical or diagnostic services to doctors or dentists and where no fabrication is conducted on the premises, except the custom fabrication of dentures.

**LANDMARK TREE:** Any tree designated and identified as such by Tree Commission pursuant to the standards set forth herein.

**LATTICE TOWER:** A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

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

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

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

**LOADING AND/OR UNLOADING SPACE:** A surfaced space within the main building or on the same lot providing for the temporary standing, loading, and/or unloading of trucks; said space having a minimum dimension of forty-eight (48) feet in length, twelve (12) feet in width, and fourteen (14) feet in height, except as herein provided; and connected with an accepted deeded public right-of-way which affords ingress and egress for vehicles.

**LODGING HOUSE:** A building other than an apartment hotel-motel, hotel, motel, or tourist court where lodging for five (5) or more persons is provided for compensation.

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

**LOT AREA:** The total area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by rights-of-way, flood plains, the waters of any lake, river, creek or major drainage ditch.

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

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

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

**LOT, FLAG:** A lot which abuts a deeded and accepted public right-of-way via a narrow strip of land which connects that portion of the lot containing the required lot width to the public right-of-way.

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

**LOT, ZONING:** A "zoning lot or lots" is a single tract of land located within a single block which (at the time of filing for a building permit) is designated by its owner or developers as a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

**LOT LINE, FRONT:** The common boundary line of an interior lot (other than a double frontage lot) and a street right-of-way line, or the common boundary line of a corner lot (other than a double frontage lot) and that street right-of-way line toward which the principal or usual entrance to the main building situated on such lots most nearly faces, or the common boundary line of a through lot and any adjacent road or street right-of-way line. On a corner lot only one street line shall be considered as a front lot line; provided that where the length of a shorter street lot line is less than ninety (90) percent of the length of the longer street lot line, the shorter street lot line shall be considered the front lot line. Where the shorter line is more than ninety (90) percent of the longer line, either line may be considered the front line.

**LOT LINE, REAR:** The boundary line of a lot which is most nearly opposite the front lot line of such lot. In the case of a triangular or wedge shaped lot, for measurement purposes only, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line. In the case of a corner lot,

providing that all requirements for yard space are complied with, the owner may choose either side not abutting a street as the rear lot line, even though it is not opposite the front lot line. Once the choice has been made, it cannot be changed unless all requirements for yard space can be complied with.

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

**LOT OF RECORD:** A designated fractional part or subdivision of a block, according to a specific recorded plat or survey, the map of which has been officially accepted and recorded in the office of the Campbell County Clerk, Commonwealth of Kentucky.

**LOT WIDTH, MINIMUM:** Width shall mean the effective width and shall be measured at right angle to the side lot line and shall not be the diagonal street frontage where side lot lines are not at right angles to the street. Likewise, on a cul-de-sac, the width shall be measured on the tangent line at right angles to the circle's bisecting radius line at the building front setback line.

**MEASUREMENT:** All measurements of land shall be made on the horizontal as has long been the accepted practice by the surveying and engineering professions. No slope measurements may be used to determine land dimensions or areas.

**MEZZANINE:** An intermediate or fractional story between the floor and ceiling or a main story, used for a purpose accessory to the principal use. A mezzanine is usually just above the ground floor and extending over only part of the main floor.

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

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

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

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

**MOBILE HOME:** Any coach, cabin, mobile home, house trailer, house car or other vehicle or structure intended for or capable of human dwelling or sleeping purposes, mounted upon wheels or supports, or supported and/or capable of being moved by another vehicle. For the purpose of this ordinance, the removal of wheels and/or the permanent or semi-permanent attachment of a foundation to said house trailer shall not change its classification.

**MOBILE HOME PARK:** Any lot, parcel, or premises, subdivided, designed, maintained, intended, or used for the purpose of supplying a location, accommodation for mobile homes; or any lot, parcel, or premises on which is parked, standing, or located two (2) or more mobile homes for a longer period than twenty-four (24) hours; or one (1) or more mobile homes connected to either electrical lines, or water or sewer pipes; or any mobile home being utilized on the premises on which it is located. For the purpose of this ordinance, any lot or premises used for the wholesale or retail sale of mobile homes shall not be included within this definition.

**MONOPOLE:** A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

**MOTELS:** A group of attached or detached buildings but not house trailers containing individual sleeping or living units for travelers and transient guests, with garage attached or parking facilities conveniently located to each unit. The term includes tourist court when related to the context specified herein.

**NON-CITY TREE:** Any tree other than a City tree as heretofore defined.

**NONCONFORMING LOT:** A lot which was lawfully created but which does not conform to the minimum area or dimensional requirements specified for the zone in which it is located.

**NONCONFORMING USE OR STRUCTURE:** An activity or a building, sign, fence, structure, or a portion thereof, which lawfully existed before the adoption or amendment of this ordinance, but which does not conform to all of the regulations contained in this ordinance or amendments thereto which pertain to the zone in which it is located.

**NOXIOUS MATTER OR MATERIALS:** Matter or material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals as determined by the Campbell County Health Department.

**NURSERY:** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings, but does not include the wholesale or retail sale of any items other than those incidental to the items raised or grown on said premises.

**NURSERY SCHOOL:** Any building used for the daytime care or education of preschool age children and including all accessory buildings and play areas, and shall for the purpose of this ordinance, be considered a group activity.

**NURSING HOME:** A health establishment which provides nursing care under the direction of a Kentucky licensed health care provider to patients who, for reasons of illness or physical infirmities, are unable to care for themselves properly.

**OCTAVE BAND:** A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

**OCTAVE BAND FILTER:** An electrical frequency analyzer designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.

**ODOROUS MATTER:** Any matter or material that yields an odor which is offensive in any way to a person with reasonable sensitivity.

**PARKING AREA, OFF-STREET:** An open, surfaced area other than the rights-of-way of a street, alley, or place, used for temporary parking of motor vehicles of self-propelled motor vehicles and available for public use either free, for compensation, or as an accommodation for clients, tenants, or customers.

**PARKING AREA PAVED:** An open area of ground covered with cement or asphaltic surface used for parking of vehicles; to include driveways but exclusive of streets or alleys located within a public right-of-way.

**PARKING BUILDING OR GARAGE:** A building or portion thereof designed, intended, and used exclusively for the temporary parking of self-propelled motor vehicles and may be publicly or privately owned and/or operated and may be for remuneration, free or privately utilized.

**PARKING SPACE:** A surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than one hundred and sixty-two (162) square feet, except where permitted under Article XIII, exclusive of driveways, permanently reserved for the temporary parking of one (1) operative automobile. The parking area shall be connected with a deeded and accepted public right-of-way by a surfaced driveway, which affords ingress and egress for vehicles.

**PARTICULATE MATTER:** Any material suspended in the atmosphere, except non-combined water that at standard conditions exists as a liquid or finely divided solid.

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

**PERSONAL COMMUNICATION SERVICE:** Has the meaning as defined in 47 U.S.C. sec 332(c).

**PLAY EQUIPMENT:** Portable equipment designed for primary use by children, such as, but not limited to, swing sets, playhouses, tree houses, trampolines, etc;

**PORCH, OPEN:** A covered or roofed platform at the entrance to a house with support posts or columns and open handrails/guardrails, where required.

**PROTECTIVE BARRIER:** A barrier constructed to protect the root system or trunk of a tree from damage during construction or from equipment or soil or material deposits.

**PROJECTING SIGN:** Any sign, which is erected on a building wall or structure and extends beyond the building wall more than twelve (12) inches.

**PUBLIC BUILDING:** Any building open to the general use, participation, benefit or enjoyment of the public or operated for the public's benefit and owned and/or operated by a city, county, state, or federal government, or by a public utility corporation or municipal district or authority.

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

**RELATED EQUIPMENT, WIRELESS TELECOMMUNICATIONS:** All equipment ancillaries to the transmission of telecommunications. Such equipment may include, but not be limited to, cable, conduit, connectors, air conditioning and emergency generators.

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

**RECREATION, COMMERCIAL:** Recreation facilities open to the general public for a fee or restricted to members when operated for profit as a business.

**RECREATION, PRIVATE, NON-COMMERCIAL:** Clubs or recreation facilities, operated by a non-profit organization and open only to bona fide members of such non-profit organization and their guests.

**RESIDENTIAL CARE FACILITY:** Residence operated and maintained by sponsoring private or governmental agency to provide services in a home-like setting for persons with disabilities.

**REST HOME:** A rest home or convalescent home for the aged or mentally or physically infirmed is any place of abode, building, institution, residence, or home used for the reception and care, for a consideration, of three (3) or more persons, who by reasons of age, mental, or physical infirmities, are not capable of properly caring for themselves.

**ROOT SYSTEM:** Tree roots within the drip line perimeter.

**SATELLITE RECEIVING ANTENNA:** An accessory structure whose purpose is to receive communication or other signals from orbiting satellites or other extra terrestrial sources. The satellite receiving antenna shall include three main components: The antenna, or dish, the low noise amplifier and a receiver.

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

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

**SCHOOLS, PUBLIC:** An institution or place for instruction or education belonging to the public and established and conducted under public authority in the various districts, counties, or cities and maintained at the public expense by taxation, and open with or without charge to the public for their attendance. This does not include schools owned and/or conducted by private parties though said schools may be open to the public generally and though tuition may be free. Schools in the aforementioned category of public schools shall include all public college or kindergarten, elementary, junior high, high schools, junior colleges, college and universities, but no others.

**SCHOOLS, BUSINESS:** An institution or place for instruction or education, specifically in courses of bookkeeping, business administration, operation of business machines, shorthand and typing and related courses, operated for an intended profit. For the purposes of this ordinance, business colleges shall be included in this definition.

**SCHOOLS, TRADE:** An institution or place for instruction or education, specifically in one or more of the general trades such as: welding, carpentry, electrical, etc.

**SCREENING AREA:** An area set aside to remain vacant of buildings and to be planted and landscaped to reduce the blighting effect of certain land uses on adjacent property.

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

**SERVICE STATION:** Any building, structure, or land used for the dispensing, sale, or offering for sale at retail, of any automobile fuels, oils, or accessories and in connection with which is performed general automotive servicing as distinguished from automotive repairs.

**SEXUALLY ORIENTED BUSINESS:** Means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture, picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

**SIGNS:** Any word, lettering, figures, numbers, phrases, sentences, emblems, devices, (including loud speakers, banners, posters, pennants, flags, ribbons, streamers, spinners, or other similar moving devices as well as strings of lights or spotlights) designs, pictures, trade names or trademarks by which is affixed to, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, place, activity, person, firm, corporation, institution, business service, commodity or a product, which are visible from the rights-of-way of any street, road or highway and designed to attract attention. The term "sign" shall not include the flag, pennant, or insignia of any nation, state, county, city, or other political unit. This definition is meant to include any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, monument, event or any type of traffic or warning sign or signal or the usual house or building number.

**SIGN, ADVERTISING:** A sign, which directs attention to a business, commodity, service, or entertainment, conducted, sold or offered:

- A. Only elsewhere than upon the premises where such sign is located or to which it is affixed; or
- B. As a minor and incidental activity upon the premises where the sign is located.

**SIGN, AREA:** The total area of the sign face which is used to display a message, not including its supporting poles or structures.

**SIGN, ANIMATED:** Any sign having a conspicuous and intermittent variation in the illumination or physical position of any part of the sign.

**SIGN, AWNING:** A sign painted on, printed on, or attached flat against the surface of an awning.

**SIGN, BUILDING MOUNTED:** A sign which is connected to a building. This includes, but is not limited to, a wall, building canopy, projecting or awning sign.

**SIGN, BUSINESS:** A sign which directs attention to a business, profession or industry, located upon the premises where such sign is displayed or to which it is affixed, to type of products sold, manufactured, or assembled, and/or to service or entertainment offered upon said premises but not pertaining to an advertising sign if such activity is only minor and incidental to the principal use of the premises.

**SIGN, CANOPY:** Any sign affixed directly to any canopy.

**SIGN, CHANGEABLE COPY/READER BOARD:** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this Ordinance.

**SIGN DIRECTORY:** A sign which lists the names of the occupants of a multiple occupancy building.

**SIGN, ELECTION:** A temporary sign directly associated with national, state or local elections.

**SIGN, FLAT:** Any sign which is attached directly, in rigid manner and parallel to the building wall and shall not extend outward from the building wall more than twelve (12) inches, except, however, if the sign is illuminated, the reflectors shall project not more than four (4) feet beyond the face of the sign. Such sign or signs shall not extend beyond the top or ends of the wall surface on which they are placed.

**SIGN, FLASHING:** Any sign having a conspicuous and intermittent variation in the illumination of the sign.

**SIGN, FREE-STANDING:** Any sign that is set firmly in or upon the ground surface and is not attached to any building or other structure.

**SIGN, GROSS AREA OF:** The entire area within a single continuous perimeter enclosing the extreme limits of a sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.

**SIGN, MONUMENT:** A graphic displayed on a solid, free-standing, decorative feature (wall) composed of brick, wood, metal or other material.

**SIGN, IDENTIFICATION:** A sign used to identify: the name of the individual, family, organization, or enterprise occupying the premises; the profession of the occupant; the name of the building on which the sign is displayed.

**SIGN, INDIVIDUAL LETTER:** Letters and/or numbers individually fashioned from metal, glass, plastic or other materials and attached directly to the wall of a building, but not including a sign painted on a wall or other surface.

**SIGN, ILLEGAL:** A sign which was not in compliance with this, or the applicable ordinance when it was erected, installed, altered or displayed.

**SIGN, ILLUMINATED:** A sign with an artificial light source incorporated internally or externally for the purpose of lighting the sign.

**SIGN, INCIDENTAL:** A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

**SIGN, NON-CONFORMING:** A sign that was erected, installed or displayed in compliance with previous sign regulations but which is not in compliance with this Ordinance and which has not been reconstructed, altered or otherwise modified since the adoption of this Ordinance except to bring the sign into compliance with the provisions of this Ordinance.

**SIGN, ON-SITE:** A sign which directs attention to a business located at or a service or product offered on the same lot where the sign is displayed.

**SIGN PLAN:** A coordinated plan for developing signs for an individual building or a group of buildings.

**SIGN, POLE:** Any sign affixed to one or more freestanding supporting pole(s) embedded in, and extending upward from the ground.

**SIGN, PORTABLE:** A sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way.

**SIGN, PROJECTING:** Any sign projecting from the face of a building and securely attached to the building by bolts, anchors, chains, guys, or to posts, poles, or angle irons attached directly to the building.

**SIGN, TEMPORARY:** A sign, including paper, cardboard and fabric signs, which is used for a limited period of time and is not permanently mounted.

**SIGN, TIME OR TEMPERATURE:** A sign or portion thereof on which the only copy that changes is an electronic or mechanical indication of time or temperature.

**SIGN, WINDOW:** Any type of sign or outdoor advertising device which is attached to a window of any building, but shall not extend past the limits of said window. For the purpose of Article XV SIGN REGULATIONS, the word "window" shall be construed to mean any glass, which comprises part of the surface of the wall regardless of its ability to be moved.

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

**STORY:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. For purposes of this ordinance, a basement shall be counted as a story.

**STORY, HALF:** A space under a sloping roof which has the line of intersection of the roof and wall face not more than three feet above the floor level, and in which space the possible floor area with head room of five feet or less occupies at least 40% of the total floor area of the story directly beneath. This space shall be considered habitable.

**STREET:** A public thoroughfare, constructed within the boundaries of an officially deeded and accepted public right-of-way, which affords principal means of access to abutting property.

**STREET, ARTERIAL:** Public thoroughfares that serve the major movements of traffic within and through the community as identified in the adopted comprehensive plan for the City of Fort Thomas.

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

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

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

**STREET FRONTAGE:** The distance along which a lot line adjoins a public street right-of-way from one lot line intersecting the street to the furthest distant lot line intersecting the same street. For purposes of this Ordinance, a development project containing more than one lot along a street shall be considered to have only one street frontage on that street. Corner lots have at least two (2) street fronts.

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

**STRUCTURE:** Anything constructed or erected, the use of which requires more or less permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings, mobile homes, walls, signs, and fences, but not including earthworks, ditches, canals, dams, reservoirs, pipelines, telephone or telegraph or electric power lines, driveways, or curbs.

**SUBDIVISION:** The division of a parcel of land into three (3) or more lots or parcels; except in a county containing a city of the first, second, or third class or in an urban county government or consolidated local government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section. (KRS 100.111)

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

- A. **Private:** When consisting of an accessory structure appurtenant to a one-family or a two-family dwelling and used only as such by persons residing on the same lot and their private guests (as distinguished from groups of any kind) with no payment of any kind or in any form charged or received for such use.
- B. **Semi-public:** When consisting of an accessory structure appurtenant to a multiple dwelling, hotel, motel, church, school, or private club, or country club, and used only as such by persons who reside or are housed on the same lot or who are regular members of such church, club, country club, or regular attendants at such school and by individual guests (as distinguished from groups of any kind) of the foregoing with no payment of any kind or in any form from being charged or being received for such use.
- C. **Public:** A swimming pool maintained and operated by a municipality or other unit of government for the general public, whether or not an admission fee is charged.
- D. **Commercial:** A swimming pool operated for profit, open to the public upon payment of an hourly, a daily, weekly, monthly, annual, or other fee.

**TAVERN:** Any establishment selling by the drink, fermented malt beverages or malt, vinous or spirituous liquors.

**TENT:** Any structure or enclosure, the roof of which and/or one-half (1/2) or more of the sides are constructed of silk, cotton, canvas, fabric or a similar light material.

**TREE:** Any living, self-supporting woody or fibrous plant, usually having a single woody trunk, and having a diameter of not less than two (2) inches measured at a point four (4) feet above the ground.

**TREE COMMISSION:** The Tree Commission of the City of Fort Thomas.

**TOURIST COURT:** See MOTELS.

**TOURIST HOME:** A building designed for or used by a single-family or two-family dwelling in which sleeping rooms are provided or offered to transient guests for compensation, but for not more than four (4) transient guests.

**TRAILER:** Any coach, cabin, mobile home, boat trailer, house trailer, house car or other vehicle or structure intended for or capable of human dwelling or sleeping purposes or containment of any items for storage or transport therein, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle. For the purpose of this ordinance, the removal of wheels and/or the permanent or semi-permanent attachment of a foundation to said house trailer shall not change its classification.

**UNIFORM APPLICATION:** Means an application for a certificate of convenience and necessity issued under KRS 278.020 submitted by the utility to the Public Service Commission to construct an antenna for cellular telecommunications services or personal communications services in a jurisdiction that has adopted planning and zoning regulations with KRS Chapter 100 and has registered with the Public Service Commission to regulate such wireless facilities.

**UTILITY:** Has the meaning as defined in KRS 278.010 (3).

**VARIANCE:** A departure from dimensional terms of the zoning regulations pertaining to the height, width, length or location of structures, and the size of yards and open spaces where such departure meets the requirements of Section 18.6 A-C.

**VUA:** Vehicle Use Area

**YARD:** An open space on the same lot or building site with a main building unoccupied and unobstructed from the ground upward, except by trees, plants, shrubberies, ornaments, utility poles and wires, dog houses, outdoor furniture, gas pumps, pump islands, and except as otherwise permitted in Section 9.10 (G) "Permitted Obstructions in Minimum Required Yards or Courts".

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

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

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

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

**ZONING ADMINISTRATOR:** The official or officials appointed by the City of Fort Thomas for carrying out the provisions and enforcement of this Ordinance.

## **ARTICLE VIII - ESTABLISHMENT OF ZONES**

### **SECTION 8.0 ZONES**

For the purpose and intent of this ordinance, the City of Fort Thomas, Commonwealth of Kentucky, is hereby divided into the following zones:

R-P	RIVER PRESERVATION ZONE
C-O	CONSERVATION ZONE
R-1AA	SINGLE FAMILY RESIDENTIAL-ONE AA ZONE
R-1A	SINGLE FAMILY RESIDENTIAL-ONE A ZONE
R-1B	SINGLE FAMILY RESIDENTIAL-ONE B ZONE
R-1C	SINGLE FAMILY RESIDENTIAL-ONE C ZONE
R-1D	SINGLE FAMILY RESIDENTIAL-ONE D ZONE
R-2	TWO FAMILY RESIDENTIAL-TWO ZONE
R-3	MULTI-FAMILY RESIDENTIAL-THREE ZONE
R-5	MULTI-FAMILY RESIDENTIAL-FIVE ZONE
RCD	RESIDENTIAL CLUSTER DEVELOPMENT ZONE
GC	GENERAL COMMERCIAL ZONE
HC	HIGHWAY COMMERCIAL ZONE
PO	PROFESSIONAL OFFICE ZONE
IP	LIGHT INDUSTRIAL PARK-RESEARCH ZONE
CBD	CENTRAL BUSINESS DISTRICT

### **SECTION 8.1 OFFICIAL ZONING MAP OR MAPS**

The zones are bounded and defined as shown on the map or maps entitled "OFFICIAL ZONING MAPS OF THE CITY OF FORT THOMAS, KENTUCKY" and shall so remain on file in the City Building of the City of Fort Thomas in the Office of the City Clerk.

### **SECTION 8.2 CHANGES ON ZONING MAP OR MAPS**

If, in accordance with the provisions of this ordinance and Kentucky Revised Statutes, changes are made in zone boundaries or other matters portrayed on the Official Zoning Map (or maps), such changes shall be made on the Official Zoning Map (or maps) by the Zoning Administrator promptly after the amendment to this Ordinance has been approved by the Board of Council and the Planning Commission is officially notified by a certified copy of said changes have been made on said map (or maps). In addition, no building, structure, sign, or fence permit shall be approved or issued until the OFFICIAL ZONING MAP (OR MAPS) indicate the proper zoning for the use intended as indicated upon the application for a permit.

No changes of any nature shall be made on the Official Zoning Map (or maps) or matter shown thereon which are not in conformity with the procedures set forth in this Ordinance.

Regardless of the existence of purported copies of the Official Zoning Map (or maps), the OFFICIAL ZONING MAP, which shall be located in the office designated by law, shall be the final authority as to the current zoning status of land, buildings, and other structures in the City of Fort Thomas, Commonwealth of Kentucky.

### **SECTION 8.3 REPLACEMENT OF OFFICIAL ZONING MAP OR MAPS**

In the event that the Official Zoning Map (or maps) becomes damaged, destroyed, or is deemed necessary to be replaced due to the age of the map or major corrections in location of rights-of-way or subdivisions, the City of Fort Thomas may by ordinance, cause to have prepared and by ordinance, adopt a new Official Zoning Map (or maps) which shall supersede the prior Official Zoning Map, (or maps) but no such corrections shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereto.

### **SECTION 8.4 RULES FOR INTERPRETATION OF ZONE BOUNDARIES**

Rules for interpretation of zone boundaries shown on the Official Zoning Map (or maps) are as follows:

- A. Boundaries indicated as approximately following the rights-of-way of a street, alley, or other public way shall be construed to follow such rights-of-way lines and when said rights-of-way are officially vacated, the zones bordering such rights-of-way shall be extended out to the centerline of said vacated rights-of-way.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following political boundary lines shall be construed as following such boundary lines.
- D. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as approximately following the center lines of streets, streams, rivers, ditches, gullies, ravines, or other bodies of water shall be construed to follow such centerlines.
- F. Boundaries indicated as approximately parallel to features indicated in Rules A through E of this section, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features indicated in Rules A through E of this section, shall be construed as being extensions of such features. Distances not specifically indicated on the Official Zoning Map (or maps) shall be determined by the scale of the map, (or maps) if an accurate legal description cannot be determined from the original zoning case.

### **SECTION 8.5 AREAS NOT INCLUDED WITHIN ZONES**

When an area is annexed to or otherwise becomes a part of the City of Fort Thomas, or in any case where property within the corporate limits of Fort Thomas has not been included within a zone, either through error or omission, such property shall be officially included in the "C-O" Zone until otherwise classified.

Within sixty (60) calendar days after an annexed area officially becomes a part of the City of Fort Thomas, or an error or omission is recognized, the Fort Thomas Board of Council shall take action to initiate a zone change review of the area in question, as per Article XVII, to insure its appropriate zoning classification in conformity with the officially adopted Comprehensive Plan.

## **ARTICLE IX - GENERAL REGULATIONS**

### **SECTION 9.0 PURPOSE**

General regulations shall apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

### **SECTION 9.1 REDUCTION IN BUILDING SITE AREA**

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

### **SECTION 9.2 INTERFERENCE WITH TRAFFIC CONTROL DEVICES**

Notwithstanding other provisions of this Ordinance, in any zone, no sign, structure, tree, planting, or vegetation, or any portion thereof, shall protrude over or into any street, road or highway so as to create confusion around, or otherwise interfere with, traffic control devices of any kind.

### **SECTION 9.3 VISION CLEARANCE AT INTERSECTIONS, CURB CUTS, PEDESTRIAN AND RAILROAD CROSSINGS**

Notwithstanding any part of this Ordinance, or any permit granted, or any variance granted by the Board of Adjustment; no type of structure, vehicle, tree, planting, vegetation, sign, or fence, or any type of obstacle or any portion thereof shall be placed or retained in such a manner which would obstruct the visual clearance and create a potential hazard from inadequate sight distance at intersections, curb cuts, and pedestrian or railroad crossings.

### **SECTION 9.4 CORNER LOTS, DOUBLE FRONTAGE LOTS, FLAG LOTS**

- A. On lots having frontage on more than one street, in any zone, the minimum front yard of a principle structure shall be provided for each street, road or highway, in accordance with the provisions of this ordinance. On corner lots, the minimum front yard shall be in accordance with the provisions of this ordinance, and the side yard facing the secondary street shall have a minimum requirement of fifteen (15) feet.
- B. Flag lots shall only be used in those locations where due to geometric, topographic and other physical features, it would be impractical to extend a publicly dedicated street to serve lots located in said areas. In no case shall the required lot width of a flag lot be located further than two hundred fifty (250) feet from the publicly dedicated right-of-way from which the flag lot originates, and the narrow portion of the lot (flag stem) extending from the right-of-way shall be physically capable of providing reasonable access to the flag lot. In no case shall more than two (2) flag lots be contiguous to each other at the publicly dedicated street.

## **SECTION 9.5 UTILITIES LOCATION**

Electrical transformer stations, gas regulator stations, sewage and water treatment plants, pumping stations, standpipes for public water supply and other similar utility uses may be located in any zone subject to the approval of the Board of Adjustment, as set forth in Section 18.4 C of this Ordinance. The location of such facilities shall be in accordance with Kentucky Revised Statutes, and all other pertinent regulations, and the following requirements:

- A. Such facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the element is a part.
- B. A building or structure, except an enclosing fence, shall be set back at least fifty (50) feet from any property line.
- C. Such facilities shall be enclosed by a protective fence as regulated by Article XII.
- D. Open spaces on the premises shall be suitably landscaped and maintained and a screening area, according to Section 9.17 of this Ordinance, may be required in and along any yard.
- E. The storage of vehicles and equipment on the premises, unless enclosed or screened, shall be prohibited.
- F. The surrounding area shall not be adversely affected by, and shall be protected from noise, odor, glare, dust, gas, smoke, and vibration by such suitable means and conditions as the Board of Adjustment or Planning Commission may specify.
- G. A Development Plan, as regulated by Section 9.19 of this Ordinance, shall be required with an application submitted to the Board of Adjustment or Planning Commission.

## **SECTION 9.6 RAILROAD RIGHTS-OF-WAY LOCATION**

Railroad right-of-ways, exclusive of such uses as marshalling yards, passenger and freight terminals, maintenance shops, fueling facilities and round houses, may be located in any zone of this ordinance providing said railroad right-of-ways meet the requirements of those sections of the Kentucky Revised Statute, Section 277, which regulate such uses.

## **SECTION 9.7 EXCAVATION, FILLING OR GRADING OPERATIONS**

Notwithstanding other provisions of this Ordinance, no governmental entity except Federal and State, or other person or entity shall strip, excavate, or otherwise remove or add fill or otherwise place soil for sale or for any other purpose, except for minor changes such as the filling of small pockets in lots, flower beds and other similar operations, in any zone set forth in this Ordinance without first insuring that all requirements of the Subdivision Regulations of the City of Fort Thomas, if applicable, have been fulfilled and then obtaining a permit from the Building Inspector for such filling, excavating or other means of addition or removal of soil, vegetation, and trees. For purposes of this ordinance “minor” grading shall be limited to areas requiring less than 200 cubic yards of material and not within 10 feet of property lines. The Building Inspector shall issue the required permit but may require a letter from the City of Fort Thomas Engineer, that the resulting change in grade in the affected area will not be against the best interests of the local area. The provisions of this section shall not be construed to prohibit normal excavation or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this ordinance, but shall include all road cuts thereto. Grading activities shall be subject to the requirements of Section 9.20 (B)(1-k) of this ordinance for runoff, erosion and silt control.

## SECTION 9.8 UNSIGHTLY OR UNSANITARY STORAGE

- A. No rubbish, salvage materials, junk or miscellaneous refuse shall be openly stored, or kept in the open, and no **grass and/or weeds over 12 inches high** shall be allowed to go uncut within any zone. Such materials shall be removed, and unsightly vegetation shall be cut and removed from the premises, within seven (7) days from the receipt of notification of the violation by the Zoning Administrator. Regular salvage and junkyards shall be adequately enclosed with a solid fence or wall, as regulated by Article XII and an approved permanent planting screen may also be required as regulated in Section 9.17 of this Ordinance.
- B. No vehicle which is abandoned, inoperable, in a state of disrepair, or lacking a valid license, shall be stored in excess of seventy-two (72) hours in any residential zone, unless it is in a completely enclosed building. Parking shall be limited to the number of operable vehicles regularly used by members of resident families and their guests. Any violation of this section shall be rectified within fourteen (14) days after receipt of notification from the Zoning Administrator.
- C. It shall be unlawful for any person, or persons, to live in any trailer, boat, or truck within the limits of the City of Fort Thomas, Kentucky. It shall be unlawful for any person, or persons, to keep or to park any trailer, or boat in any residential district on any street or public way in Fort Thomas, Kentucky, for more than 24 hours. Said 24 hour period being for the purpose of loading and unloading same. Except for above, it shall be unlawful to park or store any trailer or boat at any place or location in the City of Fort Thomas, except in the rear yard of any premises (as rear yard is defined in this ordinance). In no case shall more than one of the aforementioned vehicles or similar type equipment, be permitted in any rear yard area unless it is in a completely enclosed building. It shall be unlawful to park or keep any vehicle greater than seven feet (7') in height as measured from the ground nor more than **eight thousand pounds (8000 lbs.) curb** weight at any place or location on any private property in any residential district except in a completely enclosed garage building. No recreational vehicle, trailer, or boat greater than eight thousand pounds (8,000 lbs) **curb** weight or more than ten feet (10') in height or more than thirty feet (30') feet in length shall be permitted at any place or location on any private property in any residential district except in a completely enclosed garage building.
- D. It shall be unlawful to park any automobile, truck, trailer, boat, or vehicle or to keep any material or other item on any property, street or public way that blocks or obscures sight distance and/or creates a public safety hazard. Any violation of this section shall be rectified within twenty-four (24) hours of notification of violation from the Zoning Administrator. Failure to comply with an order of the Zoning Administrator to maintain sight distance as herein defined, may be corrected by the City at the property owner's or violator's sole expense.

## SECTION 9.9 JUNKYARD LOCATION

No person shall operate or cause to operate any junkyard which shall in no case be situated closer than two thousand (2,000) feet to the centerline of any county, state, federal or limited access highway or turnpike, including bridges and bridge approaches.

## SECTION 9.10 APPLICATION OF ZONING REGULATIONS

- A. Except as hereinafter provided, no public or private structure, except the service facilities of public utilities operating under the jurisdiction of the Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, shall be erected, reconstructed, or structurally altered, nor shall any public or private structures or land except the service facilities of public utilities operating under the jurisdiction of the Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, be used for any purpose other than that permitted in the zone in which such structures or land is to be located or is located.
- B. Except as hereinafter provided, no public or private structures except the service facilities of public utilities operating under the jurisdiction of the Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, shall be erected, reconstructed, or structurally altered to exceed the height or bulk limit herein established for the zone in which such structure is to be located or is located.
- C. Except as hereinafter provided, no lot areas shall hereafter be so reduced or diminished that the yards or other open spaces shall be smaller than described by this Ordinance and no building shall be occupied by more families than prescribed for such building, structure or premises for the zone in which it is located.
- D. Except as herein provided, no part of any yard, open space, or off-street parking or loading and/or unloading space in connection with any building, structure, or use permitted by this Ordinance shall be considered to be part of a required yard, open space, or off-street parking or loading space for any other building, structure, or use.
- E. Every public or private building or other structure hereafter erected shall be located on a lot as herein defined and in no case shall there be more than one (1) principal building and permitted accessory structures on one (1) lot, except as hereinafter provided, nor shall any building be erected on any lot which does not abut at least twenty-five (25) feet on a deeded and accepted public right-of-way.
- F. Accessory structures and uses shall not be permitted within any required minimum front yard or side yard, except in CBD Zone, as provided herein. Structures and garages shall not be permitted in any front or side yard unless they are attached to the principal structure on the lot and also conform to the minimum yard requirements of the zone. Accessory structures shall be permitted to be extended into the minimum yard areas, as defined herein, in all zones with the following limitations:
  - 1. At least five (5) feet from any property lines on an interior lot for garages and other storage buildings that do not exceed six hundred (600) square feet in floor area and fifteen (15) feet in height.
  - 2. On a corner lot, the side yard abutting the street shall equal the front yard of principal permitted uses on the abutting property on the same side of the street.
  - 3. On through or double frontage lots both setbacks abutting a street shall be at least the minimum front yard requirement for the zone in which it is located.
  - 4. All accessory structures and uses not intended as use for a garage or storage building shall not encroach more than ten (10) feet into the required rear yard setback and conform to all side yard requirements in the zone in which it is located.

5. A garage or accessory structure in a residential zone shall be clearly incidental to the principal permitted use. A garage, or garages, in a single-family zone as an accessory structure to a residence, shall not contain space for more than four (4) motor vehicles.

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

1. In All Minimum Required Yards or Courts - Awnings, terraces and uncovered porches which do not extend more than three (3) feet above the ground story floor level; canopies not over four (4) feet in width; driveways extending to the property line; walks, steps, fire escapes, chimneys, cornices, eaves and ornamental architectural features projecting three (3) feet or less into the required minimum yard; flag poles, bird baths, ornamental water fountains, yard lamp posts; and, fences and walls subject to the requirements in Article XII of this Ordinance.
2. In Minimum Front Yard Depths - One-story bay windows projecting three (3) feet or less into the minimum required yard, overhanging eaves and gutters projecting three (3) feet or less into the minimum required front yard, and open porches not exceeding twenty (20) percent of the width of the structure and not projecting more than six (6) feet into the minimum front yard.
3. In Minimum Rear Yard Depths - One-story bay windows, projecting three (3) feet or less into the minimum required rear yard; overhanging eaves and gutters projecting three (3) feet or less into the minimum required rear yard; play equipment, arbors and trellises, and open porches not exceeding twenty (20) percent of the width of the structure and not projecting more than six (6) feet into the minimum required rear yard.
4. In Minimum Side Yard Width - Overhanging eaves, gutters and chimneys, projecting thirty (30) inches or less into the minimum required side yard; arbors, trellises and play equipment.

## **SECTION 9.11 REQUIREMENTS FOR OTHER RESIDENTIAL ACTIVITIES**

A. HOME OCCUPATIONS:

The following requirements shall apply to home occupations when permitted herein:

1. No persons other than the individual, or individuals, residing on the premises shall be engaged in such operation as herein defined.
2. A home occupation shall be clearly incidental and subordinate to the use of a dwelling unit for residential purposes. No more than twenty-five percent (25%) of the total floor area nor more than five hundred (500) square feet, which ever is less, of the dwelling unit may be used in connection with a home occupation. Floor area of a dwelling unit, in this case, shall include the floors of all heated and ventilated and thereby habitable rooms, including basements, cellars and habitable attic space.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling unit, except that a name plate as regulated by Section 15.3 D of this ordinance, shall be permitted.

There shall be no entrance or exit way specifically provided in the dwelling or on the premises for the conduct of a home occupation.

4. A home occupation shall be operated wholly within the principal building. No home occupation or any storage of goods, materials, or products connected with a home occupation shall be permitted in an accessory building or garage, attached or detached, or any vehicle including a recreational vehicle.
5. There shall be no goods or products sold upon the premises in connection with such home occupation.
6. No traffic shall be generated by such home occupation in greater volumes than would normally be generated in a residential neighborhood.
7. Delivery from a commercial supplier in a vehicle larger than a step van shall be limited to one delivery and one pickup each week and the delivery or pickup shall not restrict traffic flow.
8. Neither a home occupation nor any equipment used in conjunction with a home occupation shall produce heat, sound, vibration, light, glare, dust, odor, smoke, or fumes detectable to normal sensory perception by a person located off premises or beyond the walls of the dwelling unit if the dwelling is part of a multi-family building. No equipment or process shall create a hazard to person or property, resulting in electrical, visual, or audible interference to nearby machinery or equipment, become a nuisance, or cause fluctuation on line voltage or utilities off or on the premises.
9. A home occupation shall not cause an increase in the use of any one or more utilities (water, sewer, electricity, waste collection, etc.) so that the combined total use for dwelling and home occupation exceeds the average for the residences in the neighborhood.
10. No outdoor display or storage of materials, goods, supplies, or equipment shall be allowed.
11. The Zoning Administrator may inspect all properties used for home occupations annually to determine compliance with a permit and/or applicable zoning regulations herein.
  - a. Upon inspection and determination of violation, the Zoning Administrator shall notify owner of violations and require compliance within twenty-one (21) days of receipt of notice.
  - b. Failure to comply with notification for compliance from the Zoning Administrator shall be cause for revocation of a permit for any home occupation.

**B. GARAGE SALES/YARD SALES:**

1. Permit required. No garage sale may be conducted within the city without a permit having been first issued for such sale by the Zoning Administrator. Such permit shall set forth and restrict the time and location of such garage sale. No more than three such permits may be issued to one residence and/or household during a calendar year. Such permits shall be limited in time to no more than the daylight hours of two consecutive days.
2. One sign of not more than twelve square feet shall be permitted to be displayed on the property of the residence where a garage sale is being conducted. Such signs shall be

displayed only during the times of the sale as stated on the permit. In no case shall the sign be placed on any property other than the property of the residence to which the permit has been issued, nor shall any sign be located closer than five feet from the property line.

3. General retail sales prohibited. The conduct of general retail sales or commercial activities in residential areas is, except as otherwise expressly authorized under this ordinance, prohibited. Garage/Yard sales are permitted only insofar as they are conducted consistent with the limitations set forth herein.

## **SECTION 9.12 NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE**

### **A. NONCONFORMING LOTS OF RECORD:**

1. Any lot of record, which does not meet the requirements of this ordinance, shall be considered a nonconforming lot of record.
2. If two (2) or more *unimproved* lots or combinations of lots and portions of lots with continuous frontage in single ownership, are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of the parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.
3. Where a single nonconforming lot of record exists having a lot area less than required by the particular zone district wherein said lot is located, development may be permitted on the lot provided: the lot is located on an existing and improved public street; the lot is of separate ownership from all adjacent and contiguous parcels; the adjacent and contiguous parcels exist as developed building lots or dedicated street right-of-ways precluding acquisition of additional area to achieve conformity; and development proposed on the lot is in conformance with all other requirements of this Ordinance. Where a dimensional variance from any minimum yard, setback, etc. is necessary to develop on said lot, an application for dimensional variance shall be submitted for review and approval by the Board of Adjustments in accordance with Article XVIII of this Ordinance.

### **B. NONCONFORMING USES:**

1. **CONTINUANCE:** Except as herein provided, the lawful use of any public or private structure or land existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the provisions of this Ordinance; however, no nonconforming use may be enlarged or extended unless and until the use is brought into conformance with all provisions of this Ordinance.
2. **CHANGE FROM ONE NONCONFORMING USE TO ANOTHER:** Any nonconforming use may be changed to another nonconforming use if approved by the Board of Adjustment pursuant to Section 18.4.

3. INTERMITTENT OR SEASONAL USES: Activities or uses that operate intermittently, seasonally or for periods of less than sixty (60) days shall not obtain nonconforming status or be considered nonconforming.

C. NONCONFORMING STRUCTURES:

1. CONTINUANCE: Except as herein provided, any public or private nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended beyond the scope and area of the operation at the time the regulation which created the nonconformity was adopted.
2. REPAIRS AND MAINTENANCE: On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the assessed value of the building, provided that the cubic content of the building, as it existed at the time of passage or amendment of this ordinance, shall not be increased, unless otherwise noted herein.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of official.

- D. ZONE CHANGES: These provisions shall apply to structures or uses that become nonconforming due to changes to the zoning text or map.

E. TERMINATION:

Except as noted, any one of the following acts or conditions shall immediately terminate the right to maintain nonconforming land, uses or structures:

1. Nonconforming land, structure or use made to conform. Where any nonconforming land, structure, or use in part or in whole is made to conform to the regulations for the zone in which it is located, the part or whole which has been made to conform may not thereafter be changed in such manner as would be nonconforming.
2. A nonconforming use is discontinued or abandoned for a period of twelve (12) consecutive calendar months. As used herein, "discontinued or abandoned" means that the owner or responsible party for the use of the property cannot document or demonstrate clear intent to continue using the property for the nonconforming use and that they had augmented that intent by making every reasonable effort to continue to have the property so used. Intent can be demonstrated by providing documentation or evidence that the owner has made reasonable, continuous effort to have the property rented or sold for the nonconforming purpose, or that the property has been vacant and/or unused as a result of legal proceedings.
3. Removal or destruction of a nonconforming structure as a result of owner's actions: intentional act; negligent act; or, failure to maintain and repair. In the event the removal or destruction is not a result of the owner's actions described herein, then the structure may be reconstructed, provided the owner makes application to reconstruct within six (6) months of the date of removal or destruction, but the structure shall not be enlarged, extended or moved.

## SECTION 9.13 EXCEPTIONS AND MODIFICATIONS

### A. EXCEPTIONS TO HEIGHT LIMITS:

1. The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smoke stacks, conveyers, flag poles, masts and aerials, equipment penthouses, scenery lofts, stand pipes, parapet walls, other related structures and necessary mechanical appurtenances, provided their construction is in accordance with existing or hereafter adopted ordinances of the City of Fort Thomas, Commonwealth of Kentucky, and is in conformance with federal regulations under the jurisdiction of the Federal Aviation Agency and the Federal Communication Commission. Radio and television towers shall not exceed the maximum building height of the zoning district in which they are located.
2. In the districts where permitted, as permitted or conditional uses, public or semi-public buildings or hospitals may be erected to a height not exceeding seventy-five (75) feet when the front, side and rear yards are increased an additional foot for each foot such buildings exceed the maximum height permitted in that district.

### B. AREA EXCEPTIONS:

1. For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as one (1) building occupying one (1) lot: Two-family and multi-family dwellings.
2. In the case of a court apartment or multi-family dwellings, side yards may be used as rear yards provided that:
  - a. The required side yard shall be increased by one (1) foot for each entrance or exit opening into or served by such yard;
  - b. The width of the court shall not be less than two and one-half (2-1/2) times the width of the side yard as required in the district in which such court apartments or multi-dwellings are located;
  - c. Where a roadway is provided in the court, the width allowed for such roadway shall be in addition to that required in the foregoing regulation;
  - d. All other requirements, including front, side, and rear yards shall be complied with in accordance with the regulations of the district in which such court apartments or multi-family dwellings are located;
  - e. Every part of a required minimum yard or court shall be open from its lowest point to the sky unobstructed, except for permitted obstructions in minimum required yards as specified in Section 9.10, G, of this Ordinance.

### C. OTHER EXCEPTIONS:

Service stations or gasoline filling stations shall be so constructed that the centerlines of the pumps shall be at least twenty-five (25) feet from any street right-of-way line.

D. MINIMUM YARD MODIFICATIONS:

1. In any zone where the average depth of existing front yards within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front yard depth prescribed elsewhere in this Ordinance, the required minimum front yard depth on such lot shall be modified to be the average depth of said existing front yards provided; however, that the depth of the front yard on any such lot shall not be greater than sixty (60) feet. In instances where more than one building can be constructed within the three hundred (300) feet, the minimum front yard required shall be determined by uniform successive setbacks in order to establish a gradual adjustment of front yard requirements. No front yard shall be less than the average depth of existing front yards on the lots abutting on each side; provided that in any residence district no front yard shall be less than ten (10) feet in depth.
2. In any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within three hundred (300) feet, when fifty-one percent (51%) or more of lots within that distance are improved with residential buildings having less than the required minimum front yard setback.
3. On a cul-de-sac lot or a lot located on a street radius only, where a side wall of a building is not parallel with the side lot line, or where the side yard is irregular, an average side yard width shall be permitted; however, said average width of the side yard shall not be less than the minimum side yard required in the district in which it is located. In no case shall the structure be closer at any point to the lot line than 1/2 the side yard requirement for that zone.

E. EXCEPTION TO AREA AND YARD REGULATIONS:

1. Where existing or proposed development within any multi-family (R-3, R-5) or commercial (NSC, GC, HC, and PO, CBD) zones is to be subdivided, the minimum area and yard requirements may be less than required by this Ordinance provided that:
  - a. The maximum density of the zone is not exceeded and/or the minimum site for the total development must not be less than that required by the respective zone;
  - b. A community association or other responsible entity is established prior to the approval by the Planning Commission of any subdivision of land. The association shall be obligated and empowered to own, operate and maintain all common areas (as specifically identified on the submitted site plan required by Item C of this section) including such items as open space, recreational facilities, access drives, parking areas, pedestrian walkways, etc., and all facilities constructed thereon;
  - c. A Development Plan as regulated by the applicable requirements of Section 9.19 of this Ordinance, including the proposed area and yard requirements for the development, is submitted for review and approval by the Planning Commission.
2. In addition, the Planning Commission may waive the requirement that all lots abut a minimum frontage along a dedicated right-of-way provided that those lots that do not abut a dedicated right-of-way are assured an unencumbered and maintained access way by the association to a dedicated right-of-way in accordance with Subsection 9.13, E, paragraph 1, b, above of this Ordinance.

3. It is understood that the developer shall comply with all of the provisions of Chapter 100 of the Kentucky Revised Statutes including but not limited to, the provisions, which deal specifically with the recording requirements for all subdivisions of lands.

## **SECTION 9.14 LIGHTING**

### **A. INTENT AND PURPOSE.**

Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, and not create or cause excessive glare onto adjacent properties and public street rights of way.

### **B. DEFINITIONS.**

**Cutoff Fixture** – An outdoor light fixture shielded or constructed in such a manner that no more than two and one half (2½) percent of the total light emitted by the fixture is projected above the horizontal plane of the fixture.

**Flood Lamp** – A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

**Flood Light** – A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

**Footcandle (FC)** – A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

**Full Cutoff Fixture** – An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

**Glare** – The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort, or loss of visual performance and ability.

**IESNA** – The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

**Internal Refractive Lens** – A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. Refractive refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source thereby reducing direct glare.

**Light Source** – The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

**Lumen** – A quantitative unit measuring the amount of light emitted by a light source.

**Maintained Footcandles** – Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

Medium Base – The size of lamp socket designed to accept a medium or Edison base lamp.

Outdoor Sports Field – An area designed for active recreation, whether publicly or privately owned, including but not limited to baseball/softball diamonds, soccer fields, football fields, golf courses and ranges, tennis courts, racetracks, and swimming pools.

Outdoor Performance Area – An area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory, or other performing arts, whether publicly or privately owned, including but not limited to amphitheaters and similar open or semi-enclosed structures.

Right-of-Way – An interest in land to the City which provides for the perpetual right and privilege of the City, its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a public street, including related and customary uses of street rights-of-way such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control, traffic control devices and signage, sanitary sewer, stormwater drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the rights-of-way.

Semi-Cutoff Fixture – An outdoor light fixture shielded or constructed in such a manner that it emits no more than five (5) percent of its light above the horizontal plane of the fixture, and no more than twenty (20) percent of its light ten (10) degrees below the horizontal plane of the fixture.

Vehicular Canopy – A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business' services.

Wall Pack – A type of light fixture typically flush-mounted on a vertical wall surface.

Wide-body Refractive Globe – A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage light style fixtures). “Wide-body” refers to a wider than average size globe (greater than 15.75 inches in diameter). “Refractive” refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. Wide-body refractive globes are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.

#### C. LIGHT MEASUREMENT TECHNIQUE.

Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five (5) percent. Measurements shall be taken with a light meter that has been calibrated within the year. Light levels are specified, calculated and measured in footcandles (FC). All FC values below are maintained footcandles.

#### D. GENERAL STANDARDS FOR OUTDOOR LIGHTING.

1. Unless otherwise specified in subsections (E) through (J) below, the maximum light level shall be 0.5 maintained footcandle at any property line in a residential district, or on a lot occupied by a dwelling, congregate care or congregate living structure, and 2.0 maintained footcandles at any public street right-of-way, unless otherwise approved by the Planning Commission.

2. All flood lights shall be installed such that the fixture shall be aimed down at least forty-five (45) degrees from vertical, or the front of the fixture is shielded such that no portion of the light bulb extends below the bottom edge of an external shield. Flood lights and display lights shall be positioned such that any such fixture located within fifty feet (50) of a public street right-of-way is mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed fifteen (15) degrees from perpendicular to the right-of-way.
3. All flood lamps emitting 1,000 or more lumens shall be aimed at least sixty (60) degrees down from horizontal, or shielded such that the main beam from the light source is not visible from adjacent properties or the public street right-of-way.
4. All wall pack fixtures shall be cutoff fixtures.
5. Service connections for all freestanding fixtures installed after application of this ordinance shall be installed underground.
6. Within Thoroughfare and Special Highway Overlay Districts, all outdoor lighting fixtures shall be at minimum semi-cutoff fixtures.
7. All light fixtures installed by public agencies, their agents, or contractors for the purpose of illuminating public streets are otherwise exempt from this regulation.

E. LIGHTING IN PARKING LOTS AND OUTDOOR AREAS.

1. Other than flood lights and flood lamps, all outdoor area and parking lot lighting fixtures of more than 2,000 lumens shall be cutoff fixtures, or comply with subsection below.
2. The mounting height of all outdoor lighting, except outdoor sports field lighting and outdoor performance area lighting, shall not exceed forty-one (41) feet above finished grade, unless approved by the Planning Commission as having no adverse effect.
3. Exceptions:
  - a. Non-cutoff fixtures may be used when the maximum initial lumens generated by each fixture shall not exceed 9500 initial lamp lumens per fixture.
  - b. All metal halide, mercury vapor, fluorescent, induction, white high pressure sodium and color improved high pressure sodium lamps used in non-cutoff fixtures shall be coated with an internal white frosting inside the outer lamp envelope.
  - c. All metal halide fixtures equipped with a medium base socket must utilize either an internal refractive lens or a wide-body refractive globe.
  - d. All non-cutoff fixture open-bottom lights shall be equipped with full cutoff fixture shields that reduce glare and limit upright.

F. LIGHTING FOR VEHICULAR CANOPIES.

Areas under a vehicular canopy shall have a maximum point of horizontal illuminance of twenty-four (24) maintained footcandles (FC). Areas outside the vehicular canopy shall be regulated by the standards of subsection (D) above. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or more of the following:

1. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy.
2. Light fixture incorporating shields, or shielded by the edge of the vehicular canopy itself, so that light is restrained to five degrees or more below the horizontal plane.
3. Surface mounted fixture incorporating a flat glass that provides a cutoff fixture or shielded light distribution.
4. Surface mounted fixture, typically measuring two feet by two feet, with a lens cover that contains at least two (2) percent white fill diffusion material.
5. Indirect lighting where light is beamed upward and then reflected down from the underside of the vehicular canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the vehicular canopy.
6. Other method approved by the Planning Commission.

#### G. OUTDOOR SPORTS FIELD /OUTDOOR PERFORMANCE AREA LIGHTING.

1. The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed eighty (80) feet from finished grade unless approved by the Planning Commission as having no adverse effect or approved by the City Council as part of a Special Use Permit.
2. All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.
3. The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.

#### H. LIGHTING OF OUTDOOR DISPLAY AREAS.

1. Parking lot outdoor areas shall be illuminated in accordance with the requirements for subsection (E), above. Outdoor display areas shall have a maximum point of illuminance of twenty-four (24) maintained footcandles (FC).
2. All light fixtures shall meet the IESNA definition of cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within twenty-five (25) feet of any public street right-of-way. Alternatively, directional fixtures (such as flood lights) may be used provided they shall be aimed and shielded in accordance with subsections (D)(1) and (D)(2) of this ordinance.

3. The mounting height of outdoor display area fixtures shall not exceed forty-one (41) feet above finished grade, unless approved by the Planning Commission as having no adverse effect.

I. SIGN LIGHTING.

Lighting fixtures illuminating signs shall be aimed and shielded so that direct illumination is focused exclusively on the sign.

J. LIGHTING OF BUILDINGS AND LANDSCAPING.

Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building façade, plantings, and other intended site feature and away from adjoining properties and the public street right-of-way.

K. PERMITS.

The applicant for any permit required for work involving outdoor lighting shall submit documentation at time of site plan or plot plan approval that the proposed lighting plan complies with the provisions of this Code. The submission shall contain, but not be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in this Code:

1. A point-by-point footcandle array in a printout format indicating the location and aiming of illuminating devices. The printout shall indicate compliance with the maximum maintained footcandles required by this Code.
2. Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including but not limited to manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [cutoff fixture, wall pack, flood light, etc.]). The Building Inspector or his/her designee(s) may waive any or all of the above permit requirements, provided the applicant can otherwise demonstrate compliance with this Code.

L. NONCONFORMITIES.

1. Following application of this regulation, the installation of outdoor lighting, replacement of outdoor lighting, and changes to existing light fixture wattage, type of fixture, mounting, or fixture location shall be made in strict compliance with this Code. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures not subject to subsection (2) below.
2. All outdoor lighting that fails to conform with subsection (D) above which is either located in a residential zoning district or which affects a lot occupied by a dwelling, congregate care, or congregate living structure located in a residential zoning district shall be discontinued, removed, or made to conform with subsection (D) at any time development or redevelopment on the property results in review of a Development Plan by the Planning Commission. The Planning Commission shall have the right to waive these requirements or impose them as a condition of approval of any Development Plan.

## **SECTION 9.15 SATELLITE RECEIVING ANTENNA FOR ALL ZONES**

- A. A satellite receiving antenna, and its components, herein defined as an accessory structure, shall not be permitted within any front yard depth or side yard depth in any zone.
- B. In all zones, a satellite-receiving antenna may be permitted in the rear yard area provided that such structures are set back from the rear lot line a minimum of fifteen (15) feet and set back from the side lot lines a minimum of fifteen (15) feet.
- C. The structure shall be mounted at ground level and the entire structure shall not exceed fifteen (15) feet in height as measured from ground level to the highest point of the structure.
- D. The dish antenna shall be limited to a maximum of ten (10) feet in diameter.
- E. No more than one (1) satellite receiving antenna shall be permitted per lot in single-family residential zones.
- F. No satellite-receiving antenna shall be roof-mounted or connected to any other structure.
- G. All structures shall be neutral in color and bear no advertising emblem. The name of the manufacturer in letters shall not exceed two inches in height.
- H. In the case of a corner lot providing that all requirements for yard space are complied with, the rear yard shall be most opposite the front yard and front lot line.
- I. In the case of a double frontage lot, the unit shall be located within the required rear yard depth for that zone.
- J. A Building Permit is required before a structure is to be placed on any lot. All satellite-receiving antenna shall comply with all regulations of the Kentucky Building Code, the Federal Communications Commission and the Official Zoning Ordinance.
- K. Any dish-type antenna measuring twenty-four (24) inches in diameter or less shall be excluded from all provisions of Section 9.15; however, dish-type antennae of this size shall still comply with all regulations of the Kentucky Building Code and the Federal Communications Commission.

## **SECTION 9.16 MOVE AND SET**

- A. No building, structure, or improvement shall be moved or set from or upon land located in any area or transported upon any public street, road, or highway in the City of Fort Thomas until and unless a move and set permit has been obtained therefore and said building, structure, or improvement complies with the provisions of this section.
- B. All buildings, structures, and improvements shall comply with the Kentucky Building Code.
- C. Procedure:
  - 1. Any person who wishes to obtain a move and set permit and a building permit, to move and set in compliance herewith, shall apply at the Office of the Building Inspector requesting an inspection of the building, structure or improvement to be moved and set, and that an application for such permit be filed with the Building Inspector.

2. The applicant shall submit, with his application for said building permit, a plat plan, footing and foundation plan, and construction plans for any new construction. Said plans shall comply with the Kentucky Building Code.
3. If the building, structure or improvement is located in the City of Fort Thomas, all outstanding property taxes shall be paid and the applicant shall submit with his application a statement from the City of Fort Thomas' City Treasurer showing that all past and current taxes have been paid before any permit shall be issued.
4. Upon receipt of the foregoing items, the Building Inspector shall inspect said building, structure or improvements, and the proposed location where it will be set within the City of Fort Thomas and determine that the proposed development complies with the building code.
5. The move and set shall be referred to the Zoning Administrator for approval or denial of compliance with this Ordinance.
6. Upon approval by the Zoning Administrator and Building Inspector, a permit shall be issued to permit the move and set. The City Engineer shall then be notified of it. The City Engineer or his agent will designate the route to be traveled. The move and set permit is good only for the date specified on the permit. The move and set permit will not be issued if ninety (90) consecutive calendar days or more have lapsed from the date of inspection by the Building Inspector.
7. There will be a move and set permit fee to cover the costs of investigation and inspection for assessing the structural condition of buildings, structures, or improvements to be moved, which fee is payable in advance and must accompany the application provided for herein. The inspection shall determine what will be necessary to bring buildings, structures or improvements into compliance with the City of Fort Thomas Building Code should the building not comply. This fee is not returnable. If buildings, structures, or improvements are found to be capable of complying with the Kentucky Building Code, and this Ordinance, a building permit will be issued at the regular fees as determined by the valuation of said building, structure, or improvements as published in the building code. This fee is in addition to the move and set fee first listed (see ARTICLE XIX).
8. The move and set permit provided for in this section shall not be in lieu of any building permits, which may be required by the City.
9. No move or set or building permit shall be issued until the applicant has first obtained the necessary permits from the telephone company, public utilities companies, railroad companies, the Kentucky Department of Transportation, the Campbell County Road Supervisor or any other utility companies having jurisdiction.
10. No move and set or building permit shall be issued for any building, structure or improvement exceeding the dimensions as approved by the Zoning Administrator and Building Inspector.
11. No person, corporation, or company shall transport, move or set any building, structure or improvement in the City of Fort Thomas until and unless such person, corporation or company shall post with the Building Inspector a good and sufficient indemnity bond in the amount of five thousand dollars (\$5,000.00) in favor of the City of Fort Thomas. Such bond shall be made by a Surety Corporation authorized to do business in the Commonwealth of

Kentucky; said bond may be issued on an annual basis but shall not be in excess of such period of time.

## **SECTION 9.17 LANDSCAPE/SCREENING REQUIREMENTS**

### **INTENT**

The purpose of this section is to mitigate the potential impacts and hazards created through the development of incompatible uses adjacent to each other and to preserve and supplement the tree and vegetation cover and the ecological, environmental and economical benefits they provide. Landscaping shall be used to reduce adverse impacts, to provide separation of private vehicle use areas from the public street, and to otherwise buffer incompatible land uses.

#### **A. LANDSCAPE REVIEW:**

The requirements stated in this section shall be addressed during the applicable review process for all newly developing property or expansion of existing sites subject to Development Plan review procedures as required by Section 9.19 and 9.20. Also review the Landscape Ordinance (0-40-90) for additional requirements.

The submitted landscaping plan shall be reviewed to determine if proposed improvements comply with the requirements and standards of this chapter and commonly accepted landscaping and design standards. The Planning Commission or Tree Commission may call upon professional services from either the public or private sectors to provide an evaluation relative to any submitted landscaping plan.

#### **B. GENERAL REQUIREMENTS:**

1. A Landscaping Plan will be required as part of the Development Plan Review procedure pursuant to Sections 9.19 and 9.20 of this ordinance. The landscaping plan shall be prepared by a licensed design professional or landscape professional and shall include the following information:
  - a. Proposed plant material, including botanical and common names, installation size, on-center planting dimensions where applicable, and an inventory of all existing and proposed landscaping materials to be used on site by type, common name, and quality.
  - b. Where development calls for removal of existing trees, a tree inventory plan and replanting plan for any proposed development shall be submitted in accordance with Section 9.24.C.4 of this Ordinance.
  - c. Typical building elevations and/or cross sections with proposed vegetation sufficient to demonstrate compliance with the provisions of this section.
2. The owner of the property shall be responsible for maintenance of all plant materials, and shall keep all plants in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced by the next planting season (seasons can differ depending on the type of plant) or within one year.
3. All Plant material:

- a. Shall meet specifications for the quality and installation of trees and shrubs in accordance with the most recent edition of “American Standards for Nursery Stock” published by the American Association of Nurserymen.
  - b. Shall be free from disease and damage.
  - c. Shall be planted in a manner that is not intrusive to utilities, pavement, pedestrian traffic or vehicular traffic.
4. Minimum plant size at time of planting shall be six (6) feet for evergreen trees, two (2) inch caliper for deciduous trees and twenty four (24) inches for all shrubs.
  5. All plant material must be installed according to the approved landscaping plan, and in accordance with commonly accepted landscape standards by no later than the next planting season or within six (6) months from the date that a building occupancy permit is issued, season permitting. If no occupancy permit is required, all plant material must be installed by the next planting season from the date of approval for the landscaping plan.
  6. All plant material that is selected should be able to tolerate the specific planting environment and shall be designed and installed to permit access to any area where repairs, renovations or maintenance to site, building, utilities, etc. can be reasonably expected.
  7. The location of all driveways, off-street parking and loading areas, and all other improvements, including grading, shall be designed to minimize the destruction of any existing trees. As part of the approved landscaping plan, trees to be removed due to disease or construction of improvements may be replaced by trees of an appropriate species with a caliper not less than three (3) inches.
  8. Loading/unloading areas, storage areas, utility and mechanical equipment and trash collection areas shall be screened from view of any street right-of-way or adjoining property. This screening shall be accomplished by continuous, solid closed fence, wall, earthen berm, evergreen hedge, evergreen trees or combination thereof which is high enough to effectively screen the items mentioned above from view. Any wall or fence shall be the same or compatible, in terms of texture and quality, with the material and color of the principle building.

C. WAIVER/DEFERRAL OF REQUIREMENTS:

The Planning Commission shall have the authority to grant a waiver of any of the requirements in this section upon receipt of a written request that outlines the rationale for the waiver. The Planning Commission shall review each written request and grant a waiver only under unusual or extreme circumstances that cause an unreasonable hardship such as the size of the lot, when sufficient vegetation exists that meets the screening requirement of the required buffer yard, or when an innovative or alternative approach can be made which still meets the intent and purpose of this section. If existing plant material is to be used to meet these requirements, they must be protected during all phases of construction. Protective tree barriers shall be installed to a minimum height of four (4) feet around the outermost drip line of the area to be protected. Tree protection zones shall be delineated with typical orange construction fence or continuous rope and flagging and “Tree Save Area” signs placed not more than every twenty (20) feet.

D. VEHICLE USE AREAS (VUA):

1. For uses that have more than twenty (20) parking spaces, a minimum of five (5) percent of the total VUA shall be landscaped. Except as noted in Items 4 and 5, the landscaping shall contain a variety of trees from Plant List A and shall be dispersed throughout the paved area in the form of islands or peninsulas (See Figure 9.17.2) This interior landscaping shall be in addition to any other planting or landscaping required within this Section. No interior landscaping will be required within industrial zones if the VUA is located behind the front of the building.
2. The minimum size of islands or peninsulas in VUA's shall be ten (10) feet in width and 200 square feet in size.
3. Planted areas will be required to have 1 tree from Plant List A per 200 square feet of area if designed as in Figure 9.17.3B and 1 tree per 40 linear feet (or fraction thereof) if designed as in Figure 9.17.3A.
4. Planted areas shall be required at the end of every other parking row and when parking adjoins each other at or near right angles (See Figure 9.17.4). Planting areas that are a minimum of 600 square feet will be required if rows of parking are unbroken for 180 linear feet or more (See Figure 9.17.3B).
5. Sites which have large uninterrupted circulation areas for tractor trailers and trucks, such as warehouses and distribution centers, can provide one or more large landscape islands in order to comply with the required 5% landscaped area within the large circulation areas.
6. All planting islands shall be planted with grass, low ground cover, shrubs, flowers, mulch or any combination of these. Hard surfaces or gravel are not permitted. All planting islands shall have minimum 6 inch curb installed to protect the planting area from vehicle traffic.
7. All plant material (other than grass or ground cover) located within landscape islands where vehicle overhangs are needed shall be setback a minimum of 2'6" from the edge of pavement or face of curb (See Figure 9.17.5).
8. When a VUA adjoins a street, regardless of whether it is public or private, landscaping shall be required. This landscaping is not required to be placed in a linear design, but shall be dispersed throughout the street frontage and not clustered entirely at the ends of the property. This landscaping will provide screening for vehicular use areas, while also allowing flexibility for uses that require high visibility from street frontages.
9. No landscaping materials with a mature height greater than 3.0 feet shall be placed in sight triangles, (see figure 9.17.1 for diagram of sight triangles.) This includes trees that are limbed up because a mature tree trunk can impair motorist visibility.

E. BUILDING LANDSCAPING:

1. Any blank façade or portion of a façade of a building that is not used for outdoor display, storage or loading/unloading shall be required to provide the following landscaping if the wall is visible from a public right-of-way. Blank façades shall be classified as any wall that does not have windows used for display or entry doors for customers of the general public. Buildings that are 5,000 square feet or smaller shall be exempt from the requirement within this section.
2. Landscaping shall be required to break the mass and visual monotony of long continuous façades. This landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the length of the building façade. If the required buffer yard can be used to adequately reduce the view of the façade from the public right-of-way, no building landscaping shall be required. However, the determination of whether the required buffer yard can be used for building landscaping shall be determined by the Fort Thomas Planning Commission.
3. Facades that abut VUA's shall have a minimum eight (8) feet wide planting area. This planting area may be reduced by four (4) feet if sidewalks are installed.

F. SIGN LANDSCAPING:

Landscaping shall be located around the base of free-standing signs. This landscaping should be ornamental in nature with annuals, perennials, ornamental grasses, etc. This landscaping is not required to be installed for existing free-standing signs. The amount of landscape area required shall be one square foot of landscape area per one square foot of sign area.

G. BUFFER YARDS

1. A buffer yard is defined as a planted area that is used to separate uses that are not compatible. This planted area should reduce or eliminate noise and light pollution and other adverse impacts, while providing a year round or partial visual separation. Buffer yards shall consist of a continuous strip of land and screening that shall contain existing vegetation, planted vegetation, a berm, a wall or fence or any combination of these sufficient to provide the necessary separation.
2. Buffer yards shall be required for any development in a multifamily, commercial or industrial zoning district that adjoins a district permitting single family detached housing.
3. Buffer yards shall be a minimum of one half (1/2) of the required side or rear yard setback for the developing property and shall extend along the entire property line.
4. If the adjoining property falls within the same zoning district as the use being developed, a buffer yard shall not be required.

The elimination or reduction of buffer yard requirements can be made if a developing site contains healthy mature vegetation. The amount of reduction permitted will depend on the size, quality, type and density of the trees and vegetation. The required plant material can be completely eliminated if the existing vegetation meets the intent of this section. The determination regarding whether a buffer yard is not required or regarding the amount of reduction which can be permitted shall be made during the Development Plan review process.

Buffer yards can be located within building setbacks, and in some circumstances can be located within utility easements with a written agreement from the grantee of the easement. However, this will require approval by

the Planning Commission and shall only be permitted if the required amount of plant material can be accommodated in the area in which the plants will be permitted to flourish. If the vegetation is removed or damaged because of necessary maintenance or construction, it will be the responsibility of the owner of the property to replace the required vegetation at their expense. No activity can be conducted within the buffer yard except for ingress and egress to the site, (including driveway connections between adjoining sites) sidewalks, bicycle trails and passive recreation uses. In addition, detention and retention systems can also be located within the required buffer yards; however, the visual screening requirements shall be altered or diminished. Activities not permitted within buffer yard shall include parking, loading, storage, paving, except for that mentioned above, or accessory structures.

The design and exact placement of the buffer yard shall be the decision of the designer or developer, but shall be reviewed during the Development Plan review procedure to ensure compliance with this section. However, trees and shrubs should be planted a minimum of five (5) feet away from the property line to ensure maintenance access and to avoid encroachment on neighboring property.

Buffer yards can be shared between uses if an easement is provided and recorded which indicates how maintenance and replacement of unhealthy plants will be accomplished. The more restrictive buffer yard width and plant material shall be provided between the two properties in this instance if different requirements would normally apply.

#### H. PLANT LISTS:

Plant Lists A thru E are defined as follows:

- Plant List A: Large deciduous trees over 50 feet in height at maturity;
- Plant List B: Medium sized deciduous trees 25 to 50 feet in height at maturity;
- Plant List C: Large shrub or small tree 10 to 25 feet in height at maturity;
- Plant List D: Large evergreen trees over 50 feet in height at maturity;
- Plant List E: Shrubs of any size and ground cover;

FIGURE 9.17.1  
CLEAR SIGHT TRIANGLE

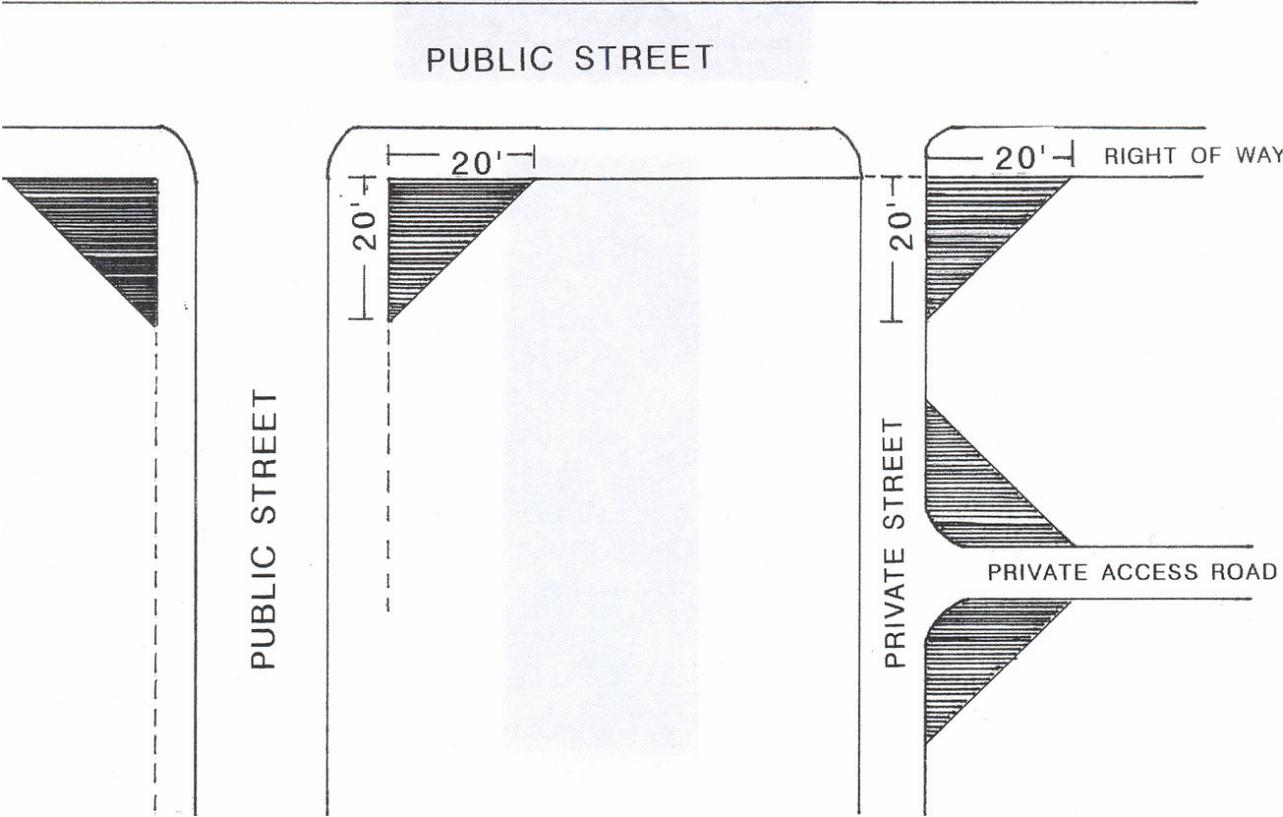
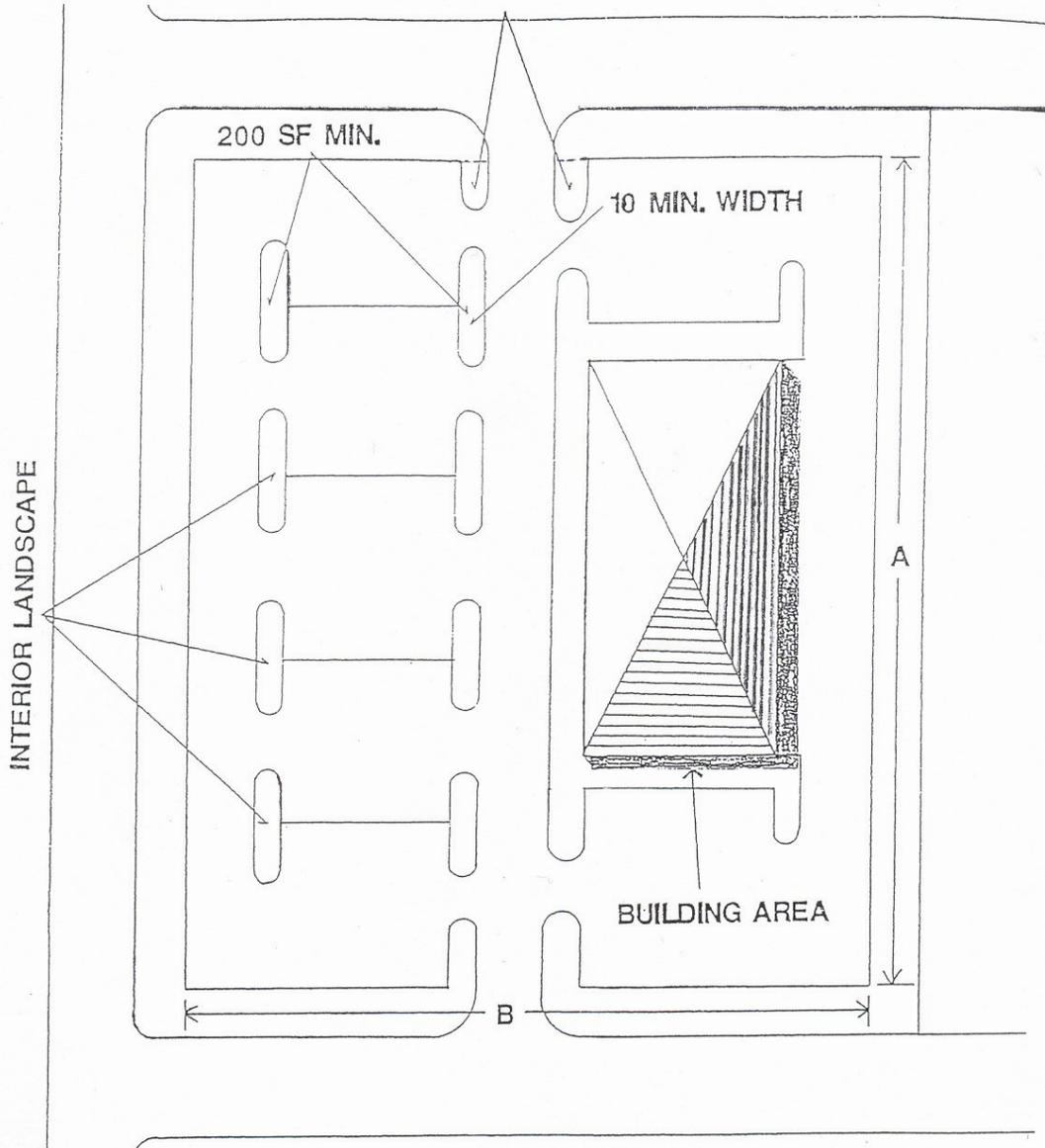


FIGURE 9.17.2  
INTERIOR LANDSCAPE

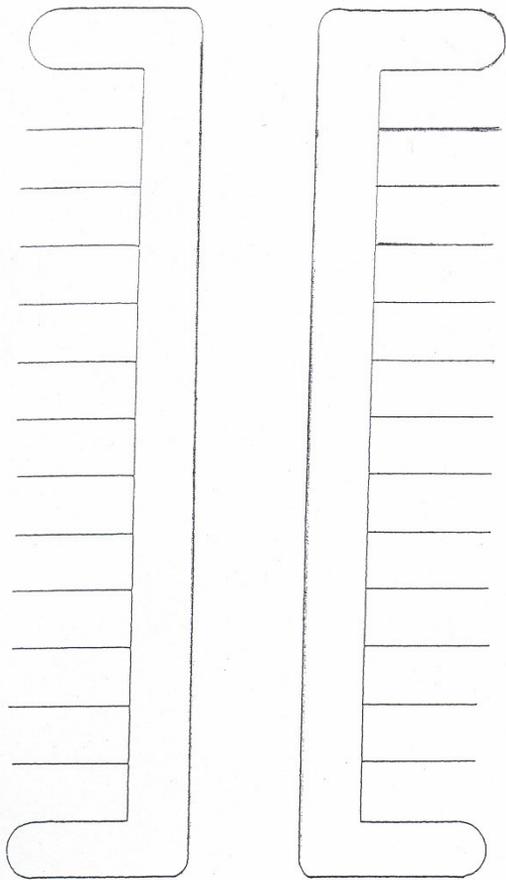


$$\text{V.U.A.} = A \times B - \text{BUILDING AREA}$$

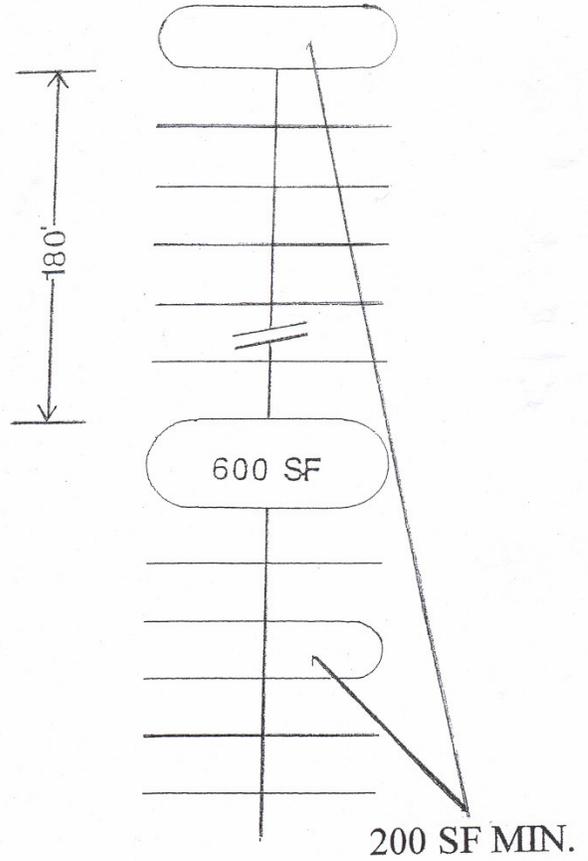
$$5\% \text{ OF V.U.A.} = \text{INTERIOR LANDSCAPE}$$

$$\text{BUILDING AREA} = \text{BUILDING} + \text{SIDEWALK} + \text{LANDSCAPING}$$

FIGURE 9.17.3  
LANDSCAPE ISLAND TYPES

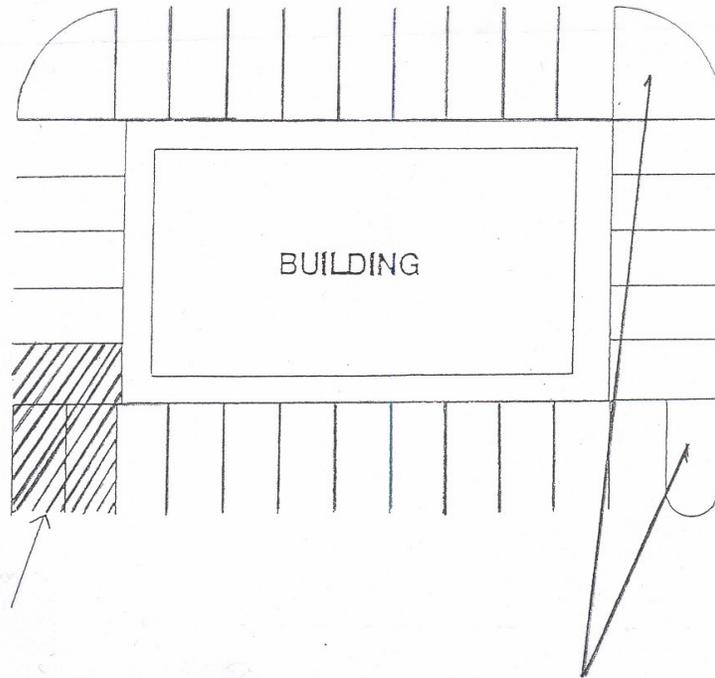


TREES 40' ON CENTER  
3.A



1 TREE PER 200 SF  
3.B

**FIGURE 9.17.4  
PARKING ISLANDS**



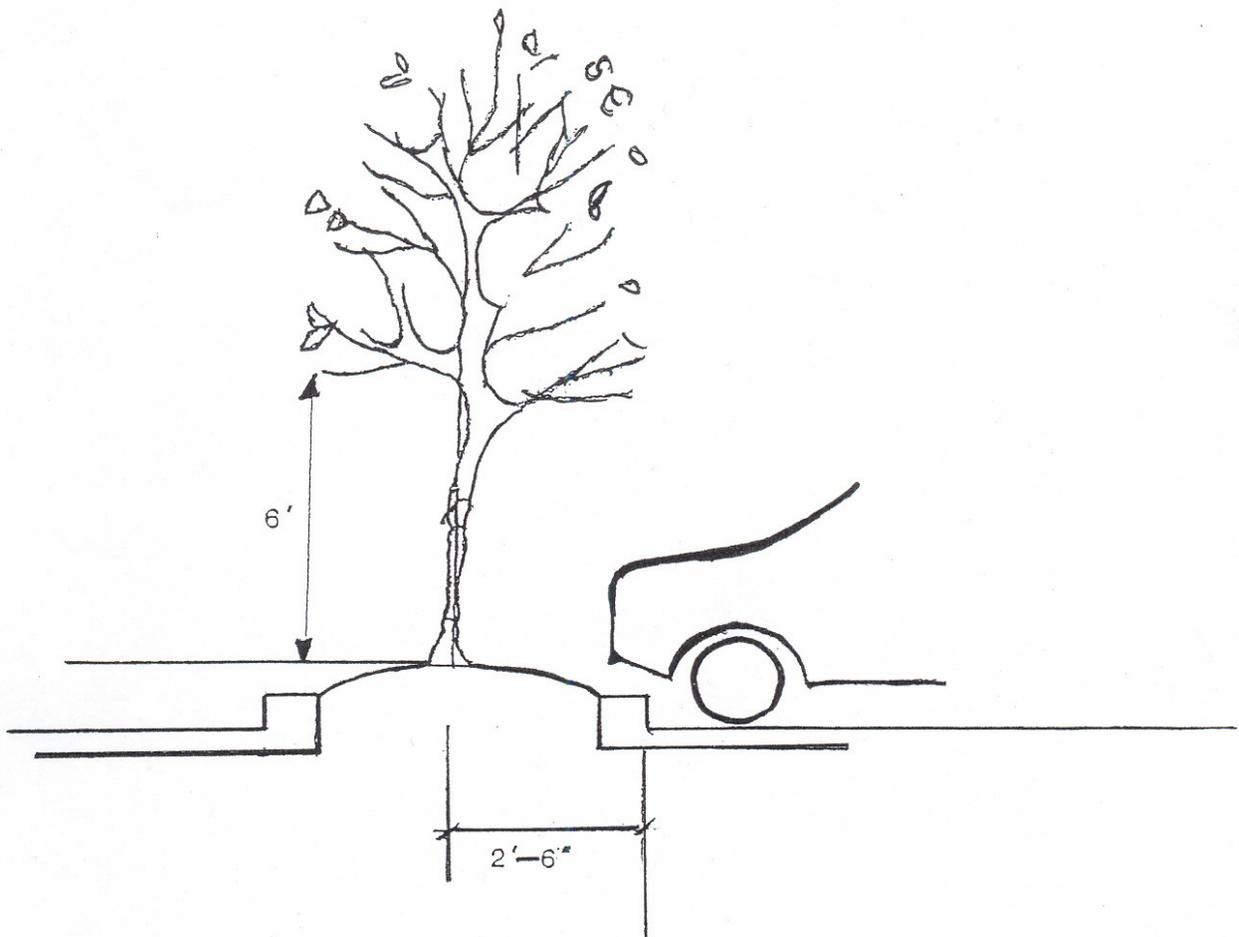
**NOT PERMITTED**

**WITHOUT LANDSCAPE ISLAND**

**PARKING AT RIGHT ANGLES**

**REQUIRES LANDSCAPE ISLAND**

FIGURE 9.17.5  
PARKING ISLAND PLANTING



## SECTION 9.18 OUTDOOR SWIMMING POOLS

### A. PRIVATE SWIMMING POOLS:

All private swimming pools eighteen (18) inches or more in depth shall be regulated according to the following requirements:

1. Swimming pools shall be permitted to be located only to the side or rear of the principal permitted dwelling or dwellings, shall be a minimum of sixty (60) feet from the front lot line, meet side yard setback requirements and may encroach up to ten (10) feet into the minimum required rear yard.
2. Except as herein provided, no swimming pool, including the apparatus and equipment pertaining to the operation of the swimming pool shall be permitted within any required side yards of the lot nor within the limits of any public utility right-of-way or easement.
3. The swimming pool, or the property on which the pool is located, shall be surrounded by a fence or wall (only classes 1, 3, 4, 5, 6, and 7 are permitted as regulated in Article XII of this Ordinance) at least four (4) feet in height but not exceeding a height of six (6) feet or of such construction that a small child may not reach the pool from the street or from any adjacent property without opening a door or gate or scaling a wall or fence as determined by the Zoning Administrator. The same shall have a self-closing and self-latching gate. Elevated or portable pools which sides are at least four (4) feet above the surrounding ground level for a minimum area of four (4) feet from the base of the pool will be considered to comply with this regulation, provided stairs, ramps, or ladders used for ingress and egress are protected by self-latching and self-closing gates or other approved protection. Pools located more than three hundred and fifty (350) feet from the nearest lot line are excluded from this fence requirement.
4. Glare from floodlights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties and comply with Section 9.14 of this ordinance.
5. All swimming pools including the apparatus and equipment pertaining to the operation of the swimming pool, shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the City of Fort Thomas. Any water used in the operation of a swimming pool other than from a public source, shall be approved by the appropriate health department.
6. On a corner lot, a swimming pool shall conform to all setback requirements for a structure in that zone. When a swimming pool is placed on a corner lot whose rear lot line is common with a side lot line of an adjoining lot, a closed fence (less than 10% open) and screen plantings shall be placed on the corner lot to the extent necessary to screen the view of the pool and the view of the fence from said abutting lot. The minimum screening shall be determined by the Zoning Administrator.

### B. PUBLIC, SEMI-PUBLIC AND COMMERCIAL SWIMMING POOLS:

All public, semi-public, and commercial swimming pools shall be regulated according to the KBC and the following requirements:

1. Except as herein provided, no swimming pool including the apparatus and equipment pertaining to the operation of the swimming pool, shall be permitted within any required yards of the lot or within the limits of any public utility right-of-way easement.
2. No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent residential properties through the emission of noises, voices or music.
3. The swimming pool or the property on which the pool is located shall be surrounded by a fence or wall, (only classes 1, 3, 4, 5, 6, and 7 are permitted as regulated by Article XII of this Ordinance) at least six (6) feet in height, but not exceeding the height as herein required, or of such construction that a small child may not reach the pool from the street or from any adjacent property without opening a door or gate or scaling a wall or fence as determined by the Zoning Administrator. Pools located more than three hundred and fifty (350) feet from the nearest lot line are excluded from the fence requirement.
4. Glare from flood lights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties and comply with Section 9.14 of this ordinance.
5. All swimming pools including the apparatus and equipment pertaining to the operation of the swimming pool shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the City of Fort Thomas. Any water used in the operation of swimming pool other than from a public source, shall be approved by the appropriate health department.

## **SECTION 9.19 DEVELOPMENT PLAN REQUIREMENTS**

### **INTENT**

The purpose of this Section is to provide a procedure for review of Development Plans on development activity with the potential to influence adjacent lands. Furthermore, this procedure is designed to permit Development Plan flexibility within the constraints and standards of this zoning ordinance.

- A. No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel for uses or in zones where a Development Plan review is required, except in accordance with the regulations of this section and an approved Development Plan as hereinafter required. The Planning Commission shall hold at least one (1) public hearing on any proposed Development Plan application and said application and required fees shall be submitted one (1) month prior to public hearing. Stage I Development Plans shall contain the information as listed in Section 9.20A and shall be submitted to the City a minimum of twenty (20) days prior to the scheduled public hearing. Whenever practical the Zoning Administrator may waive the Stage II requirements before the public hearing, unless deemed necessary for adequate review. Failure to submit completed plans within this time period may result in cancellation of the scheduled public hearing. All Stage I Development Plans shall be reviewed by the Planning Commission (and the Design Review Board when located within the Central Business District) and the factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of this ordinance, and the adopted comprehensive plan for the City of Fort Thomas.
- B. Upon approval of Stage I plans by the Planning Commission, a Stage II Development Plan shall be submitted to the City Staff for review. Stage II plans will be reviewed by the City Staff for compliance with Section 9.20 B and approval or rejection of said plans shall be submitted to the

applicant in writing. Amendment or modification from the approved Stage I plan may be subject to a public hearing by the Planning Commission when deemed such to be in the public interest.

- C. All Development Plans shall be prepared by a qualified, registered licensed architect or professional engineer, and land surveyor as indicated in Section 9.20 A and B. All public improvements shall be designed and prepared by a licensed professional engineer.
- D. All Development Plans approved shall be binding upon the applicants, their successors and assigns and shall limit the development to all conditions and limitations established in such plans. Approved Development Plans shall be valid for twelve (12) months. If substantial construction is not completed during this period, the Development Plan is no longer valid, and shall be re-submitted for review and approval by the Planning Commission. A twelve (12) month extension may be granted by the Planning Commission if the applicant provides the Planning Commission with sufficient information as to why substantial construction has not commenced on the project. If, after the commencing of a project, substantial construction lapses for a period exceeding eighteen (18) months, the Development Plan is no longer valid and shall be resubmitted for review and approval.

## **SECTION 9.20 PLAN REQUIREMENTS - STAGES I, II AND RECORD PLAT**

### **A. STAGE I - PRELIMINARY PLAN REQUIREMENTS:**

All Stage I Development Plans submitted to the Planning Commission in accordance with this section shall contain the information required herein, unless specifically waived by the Planning Commission or Zoning Administrator.

Plan(s) of the subject property shall be drawn to a scale not smaller than one (1) inch equals fifty (50) feet prepared by, and bearing the seal of, an architect, engineer and land surveyor licensed in the Commonwealth of Kentucky, showing:

1. The total area in the project including legal description;
2. A legible vicinity map;
3. The present zoning of the subject property and all adjacent properties and the names of all adjacent property owners;
4. All public and private rights-of-way and easement lines located on or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned;
5. Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed five (5) feet;
6. Identification of all existing structures on the property;
7. Proposed housing units on the property indicating the following information:
  - a. Detached housing:

Location, arrangement, and number of all lots, including lot dimensions and setbacks, and maximum height of buildings.

- b. Attached housing:

Location, height, setbacks and arrangement of all buildings indicating the number of units in each building, and, where applicable, location, arrangement and dimensions of all lots; and total density of the project.
- 8. Delineation of all existing and proposed nonresidential uses in the project:
  - a. Commercial uses:

Location and type of all uses including approximate number of acres, gross floor area, heights, and setbacks of buildings.
  - b. Open Space-Recreation:

The amount of area proposed for common open space, including the location of recreational facilities, and identification of unique natural features to be retained.
  - c. Other public and semi-public uses:

Location and type of all uses, including approximate acreage, height and setbacks of buildings.
- 9. Location of existing and proposed pedestrian walkways, indicating all dimensions;
- 10. Location of proposed streets, identifying dimensions of pavement, right-of-way widths, and grades;
- 11. Location of all existing and proposed water, sanitary sewer, and storm drainage lines indicating approximate pipe sizes. Indication should also be given regarding the provision of electric and telephone service to the site, and compliance with the Regional Storm Water Management Program;
- 12. Certification from appropriate water, sewer, and other applicable utility agencies that services will be available;
- 13. Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed methods of handling said problems. Areas indicated as Physically Restrictive on the City's Comprehensive Plan shall be subject to requirements as outlined in Section 9.24 - Hillside Development Control.
- 14. A tentative schedule of development, including the staging and phasing of:
  - a. Residential area, in order of priority, by type of dwelling unit;
  - b. Streets, utilities, and other public facility improvements, in order of priority;
  - c. Dedication of land to public use or set aside for common ownership; and
  - d. Nonresidential buildings and uses, in order of priority.
- 15. Landscaping and screening details pursuant to the requirements of Section 9.17.

16. A tree inventory plan and tree-planting plan in accordance with requirements outlined in Section 9.26
17. Other information that may be determined necessary for description and/or to insure proper integration of the proposed project in the area.

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

**B. STAGE II - DEVELOPMENT PLAN REQUIREMENTS:**

The Stage II Plan shall conform to the following requirements:

1. Plan(s) of the subject property drawn to a scale of not smaller than one (1) inch equals fifty (50) feet prepared by, and bearing the seal of, an architect, engineer, and land surveyor licensed in the Commonwealth of Kentucky, that provides the following information:
  - a. The name, address and telephone number of the developer and architect/engineer;
  - b. The existing and proposed finished topography of the subject property shown by contours with intervals not to exceed five (5) feet. Where conditions exist that may require more detailed information on the proposed topography, contours with intervals of less than five (5) feet may be required by the City Staff. Also, the topography shall be indicated one hundred (100) feet onto all adjacent properties;
  - c. All housing units on the subject property:
    1. Detached housing:

Location, arrangement, and number of all lots, including lot dimensions and setbacks, and maximum height of buildings;
    2. Attached housing:

Location, height, setbacks and arrangement of all buildings indicating the number of units in each building, and, where applicable, location, arrangement and dimensions of all lots; and the total density of the project.
  - d. Location, height, arrangement and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions;
  - e. Location and arrangement of all common open space areas, and recreational facilities, including lot dimensions. Methods of ownership and operation and maintenance of such lands shall be identified;
  - f. Landscaping features, as defined in Section 9.17 of this Ordinance and the location, type, and height of walls and fences.
  - g. Location of signs indicating their orientation and size and height;

- h. All utility lines and easements:
  - 1. Water distribution systems, including line sizes, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;
  - 2. Sanitary sewer system, including pipe sizes, width of easements, gradients, type of pipes, invert elevations, location and type of manholes; the location, type, and size of all lift or pumping stations; capacity, and process of any necessary treatment facilities, and other appurtenances;
  - 3. Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of retention and/or sedimentation basins, and data indicating the quantity of storm water entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of flow that will by-pass storm inlets, the quantity of storm water generated by development of the subject area, and the quantity of storm water to be discharged at various points to areas outside the subject property.
  - 4. Other utilities (e.g., electric, telephone, etc.) including the type of service and the width of easements.
- i. Location of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, geometric details; grading; the type of surfacing, dimensions, and the number and arrangement of off-street parking, and loading and/or unloading spaces;
- j. Circulation System:
  - 1. Pedestrian walkways, including alignment, grades, type of surfacing and width;
  - 2. Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details, and typical cross sections.
- k. Provisions for control of erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures, which will be implemented during all phases of clearing, grading, and construction. The following principles are effective in minimizing erosion and sedimentation and shall be included in the Development Plan where applicable.
  - 1. Stripping of vegetation, re-grading or other development shall be done in such a way that will minimize erosion. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
  - 2. To the extent practical, developments shall conform to the existing topography so as to minimize the cut and fill operations and create the least erosion potential;
  - 3. The smallest practical area of land shall be exposed at any one time and the

duration of exposure shall be kept to a practical minimum;

4. Disturbed areas shall be stabilized as quickly as practicable with temporary vegetation and/or mulching to protect exposed critical areas during development;
  5. The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development;
  6. The downhill side of disturbed areas shall be protected with a straw bale silt trap or a silt fence;
  7. Straw bale inlet filters shall be provided at catch basins, inlets and the inlet side of pipe openings;
  8. Concentration of surface water runoff shall only be permitted in swales or watercourses;
  9. Straw bale silt traps and/or silt checks shall be provided at the outlet ditch, swale, watercourse or pipe located at the low end of the project. Depending upon the size and topography of the development area, sediment basins or debris basins may be required;
  10. Swales, watercourses and ditches shall be protected from erosion due to concentrated flows by erosion control netting or matting, sodding, rock channel lining or paving with concrete, as appropriate;
  11. Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, for protection of downstream areas, storm water detention shall be provided. All erosion control measures implemented at the site shall be subject at all times to the inspection and approval of the City of Fort Thomas and/or the City Engineer and the developer shall make any corrections or provide any additional measures deemed necessary by the City of Fort Thomas and/or the City Engineer within one (1) week of receipt of written notification.
  12. Demonstrate compliance with the Regional Storm Water Management Program by providing a copy of a Clearing, Grading and Land Disturbance Permit issued by Sanitation District Number One (SD#1) for any development disturbing an area of one acre or more in size.
- l. A geo-technical report of general soil conditions of the entire site.
  - m. A schedule of development, including the staging and phasing of:
    1. Residential area, in order of priority, by type of dwelling unit;
    2. Streets, utilities, and other public facility improvements, in order of priority;
    3. Dedication of land to public use or set aside for common ownership; and

4. Non-residential buildings and uses, in order of priority.
- n. Notation of responsibility for the developer / contractor to contact the appropriate agencies for testing and inspection of public improvements to include telephone numbers of these agencies;
- o. Landscaping and screening details in accordance with requirements as outlined 9.17.
- p. A tree inventory plan and tree-planting plan in accordance with requirements outlined in Section 9.26.
- q. Such other information with regard to the Development area as may be required by the Planning Commission or its duly authorized representative, to determine conformance with this Ordinance.

The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated. A separate plan or drawing for each element may be required to allow for a proper review.

#### C. RECORD PLAT REQUIREMENTS:

The applicant shall submit a Record Plat, prepared, stamped and sealed by a licensed land surveyor, and in conformance with the Stage II approved plans. If the Record Plat is submitted in sections, an index shall be developed showing the entire plan area. The particular number of the section, and the relationship of each adjoining section, shall be clearly shown by a small key map on each section submitted. The Record Plat shall conform to the applicable requirements of the subdivision regulations, unless specifically waived by the Planning Commission.

### **SECTION 9.21 REGULATIONS CONCERNING AIR RIGHTS**

Any proposed use of air rights as defined herein shall be in the form of a Development Plan (as regulated in Section 9.19 of this ordinance) submitted to the Planning Commission, for its review.

### **SECTION 9.22 AIR CONDITIONING**

All air conditioning condenser units, heat pumps, or other mechanical devices placed outside of a building shall comply with minimum yard requirements for the zoning district in which they are located, except that they may be located within five (5) feet of a side property line if they are sound shielded and screened with fencing and/or shrubs equal in height to the height of the appliance.

### **SECTION 9.23 DEVELOPMENT PLAN MODIFICATIONS FOR CERTAIN PUBLIC AND SEMI-PUBLIC USES**

The Planning Commission may authorize a variation because of extraordinary or unique topographical, or other environmental conditions, from strict compliance with the area and height regulations. Certain permitted uses, specifically publicly owned and/or operated parks, playground and community recreational centers, public and parochial schools, police, fire and other municipal uses, which are required to meet the conditional use requirements as follows:

- A. More than one building may be permitted on a single lot;
- B. The minimum lot width at minimum building setback line, minimum side yard requirements, minimum rear yard depth, and maximum building height may be modified by the Commission;
- C. A detailed report prepared by a licensed professional engineer or architect must be included specifically stating the proposed exceptions to the area and height regulations and the need for same.

The Planning Commission may alter the area or height requirements as specifically indicated above to the extent deemed just and proper so as to relieve difficulty or hardship for environmental conditions, provided such relief may be granted without impairing the intent and purposes of the Zoning Ordinance; however, all other portions of this and any other applicable ordinances of the City of Fort Thomas shall be strictly adhered to and all access roads, other than parking lots or service drives, must be public streets. Any modification thus granted shall be entered in the minutes of the Planning Commission setting forth the reasons which, in the opinion of the Commission, justified the modification.

A Development Plan is required if the owner wishes any variation from strict compliance. If the development is approved, it shall be subject to such conditions as the Commission may include. The Commission shall establish a time limit within which development must be initiated. It may prescribe a sequence in which order of development must take place and such additional conditions as are necessary, in its opinion, to assure completion of the proposed development in accordance with the ordinance then a zoning permit will be issued by the Commission. When a zoning permit has not been initiated within the time limit established by the Commission in the permit, the Commission may, by majority vote, revoke such permit at any time thereafter, providing that the permittee is sent notice thereof by registered mail at his last address of record at least thirty (30) days prior to such action.

**SECTION 9.24 HILLSIDE DEVELOPMENT CONTROLS**

- A. The purpose of this Section is to promote the public health, safety and general welfare, and to minimize public and private losses resulting from earth movement, erosion, deforestation, and related environmental damage in the areas subject to Hillside Development Controls as well as adjoining properties.
- B. The areas subject to compliance of this section shall contain two (2) or more of the following site characteristics:
  - 1. Slopes of 20% or greater; as identified on the Comprehensive Plan;
  - 2. Exposures of KOPE geologic formations;
  - 3. Prominent hillsides, which are readily viewable from a public thoroughfare located in a valley below the hillside;
  - 4. Hillsides, which provide views of a major stream or valley;
  - 5. Hillsides functioning as community separators or community boundaries;
  - 6. Hillsides which support a substantial natural wooded cover.
- C. The following requirements shall be enforced on all proposed development within property

designated as "Hillside Development" as outlined in Section B above:

1. No excavation, removal or placement of any soil, foundation placement, or construction of buildings, or structures of any nature within "any area designated as Hillside Development" may occur until plans and specifications for such work have been submitted in the form of a site plan as regulated by Section 9.19 of this ordinance and all the requirements as outlined in this section;
2. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling) compaction, erosion sedimentation basins, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area;
3. A subsurface geo-technical investigation report shall be submitted as part of the Stage I Development Plan in accordance with Section 9.19 of this ordinance. This report shall include but not be limited to the following:
  - a. A general description of the existing site geology and topographic features
  - b. A description of visible indications of past or present adverse site features such as landslides, slumps erosion, creep, ravines, man-made cuts and fills, springs, ponds, etc.
  - c. A general description of the proposed development and resulting changes to the existing site
  - d. The results of any soil borings, laboratory tests and geo-technical analysis.
  - e. Recommendations of the type, location and procedure for construction of the proposed development, which will not promote slope failures, excessive settlement of erosion on the site or an adjacent properties.

This report shall be produced by a qualified professional engineer licensed in the Commonwealth of Kentucky. The report conformance with the requirements of this ordinance shall be subject to approval by the Planning Commission,

4. Plan(s) which inventory the approximate location, species, and size of all trees over eight (8) inch caliber that are located in the area to be affected by the proposed development. This plan shall further designate between the trees to be saved and those which will be lost due to construction. This plan shall be submitted with Stage I Development Plans for review by the Zoning Administrator and the Planning Commission.

The Planning Commission shall retain the right to require a developer to post a performance bond with the City of Fort Thomas for an amount specified below for the purpose of ensuring strict compliance with submitted plans. Failure to comply with said plans will result in the Planning Commission directing that the bond be executed to cover the expenditures required to replace trees that were removed in violation of said plan. The performance bond shall be effective until the site improvements are completed in accordance with approved plans and the Zoning Administrator performs a final inspection and recommends to the Planning Commission that said bond be released.

The following schedule will be used to determine amounts of bonding required for tree conservation on development sites:

\$2,500 - for first acre

\$1,000 - for each additional acre or fraction thereof

5. Plans shall indicate the limits of all proposed tree conservation areas. Such limits shall be undisturbed through all phases of construction and shall be staked and protected by a physical barrier throughout the construction of the site. This barrier shall be installed in accordance with the approved plan before issuance of any permits to proceed with work on the site.
6. Provision shall be made to replace trees lost due to construction. Location, species, and size of replacement trees shall be indicated on the submitted Stage I plans. It may be required as a condition of approval that trees lost to construction are replaced pursuant to Section 9.26 of this ordinance.
7. The site plan and other information required in this section shall be reviewed by the City Engineer and Zoning Administrator who shall report to the Planning Commission regarding compliance with this ordinance.
8. The Planning Commission shall consider the reports from City Staff and the following "Hillside Development Guidelines" when reviewing the plan for acceptance or denial. The following guidelines may be used for consideration of an approval or denial of a development:
  - a. Cuts in the hills should not be made if they would leave cliff-like vertical slopes;
  - b. Large parking area requirements should be satisfied by providing some parking within structures and by providing multiple small parking areas, screening them with plantings, berms, and walls. The rate of storm water discharges from the site should be analyzed and limited to minimize erosion in receiving watercourses.
  - c. Buildings should be planned to fit into the hillside rather than altering the hillsides to fit the buildings. This should be accomplished with as little cutting as necessary for foundations, parking, and access drives;
  - d. All cuts, fills or any other earth modifications shall be replanted in accordance with Section 9.17 of this Ordinance.
  - e. Buildings should be planned and designed to take advantage of views without obstructing the views from other buildings;
  - f. Avoid roof-top utilities, or provide screening and sound control, or in other ways integrate them into the rooftop;
  - g. Respect the site's conditions of steepness, soil, bedrock, and hydrology so as to insure hillside stability and reduce erosion both during and after construction;
  - h. Match scale of buildings to scale of terrain, stagger or step building units according to the topography;

- i. Provide parking on the uphill side behind buildings;
  - j. Respect and retain natural site features such as streams, slopes, ridge lines, wildlife habitat, plant communities, and trees;
  - k. Employ techniques that create a variety of architectural solutions responsive to the limits and potentials of hillside development.
9. After consideration of the recommendations, the Planning Commission, or the Zoning Administrator, may authorize use of the site in accordance with the submitted plans.

**SECTION 9.25 PHASED ZONING REGULATIONS**

- A. Phased zoning is an overlay type of zone to be used in cases where the timing and/or phasing of the zoning of an area is especially critical to the implementation of the adopted Comprehensive Plan. The intent of the phased zoning regulations is to encourage redevelopment of a specified area for the use and/or density designated on the Comprehensive Plan when the necessary conditions for such development are realized (e.g., demolition of existing building). Implicit in such a phased zoning approach is the premise that until such conditions are realized, the type of development identified by the Comprehensive Plan is premature; such development would be prevented by temporarily zoning the area to generally conform with the predominant existing land use, with a clear stipulation of an intended future rezoning, which would be in compliance with the adopted Comprehensive Plan.
- B. The phased zoning regulations may be overlaid over any zoning classification by means of a conventional zone change process. The use of the phased zoning regulations would indicate that the regulations of the overlaid zone are currently being enforced based upon the general existing land use, but upon attainment of the requirements of the zone which corresponds to the adopted Comprehensive Plan for type of use and/or density, the area could be rezoned in direct compliance with the plan.

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

**SECTION 9.26 TREE CONSERVATION AND RESTORATION REQUIREMENTS**

- A. All subdivision plans and Development Plans submitted for consideration to the Fort Thomas Planning Commission shall address the following items. Plans shall first be submitted to the Tree Commission for review and recommendation to the Planning Commission. The Planning Commission shall have sole enforcement authority of said ordinance as it relates to subdivision plans and Development Plans.
- B. The following requirements shall apply for all Development Plans submitted for a development in any zone:
  - 1. A tree inventory plan shall be submitted in conjunction with all Development Plans. The tree

inventory plan shall be submitted pursuant to the requirements contained in Section 9.24.C.4 of this ordinance. The tree inventory plan shall also identify any landmark tree(s) and delineate the buildable area of a proposed development. The Planning Commission may permit the removal of a tree outside the buildable area, with the advice of the Tree Commission, provided the proposed tree removal is reasonably required to develop the parcel in compliance with this ordinance.

2. All trees to be saved outside of the buildable area of a development shall be conspicuously designated with suitable protective tree barriers. Protective tree barriers shall be installed to a minimum height of four (4) feet above ground level around the outermost drip-line of the tree protection zone. Tree protection zones shall be delineated with typical orange construction fencing or continuous rope or flagging. In either case, the tree protection barrier shall be accompanied by "Tree Save Area" signage to be placed around the tree zone not more than every twenty (20) feet. The use of tree protection zones is encouraged rather than the protection of individual (non-specimen) trees that may be scattered throughout a development site.
3. The layout of development improvements, utilities, access drives, grading, etc., of a site shall accommodate the required tree protective zones. The public improvements shall be placed along the corridors between tree protective zones unless the placement of same causes undue hardship on the developer as determined by the Planning Commission. If the Planning Commission determines that public improvements and/or utilities may be placed within a tree protective zone, the installation shall occur by way of tunneling rather than trenching. Tunneling or boring shall be at least three (3) feet below grade within the dripline of the tree and any access pits for utilities shall be placed outside the dripline.
4. Construction site activities including, but not limited to, material storage, parking, or concrete washout shall not encroach into any tree protection zone. Any tree irreparably damaged or killed within a tree protection zone as a result of construction activity shall be removed and replaced by the owner and/or developer at a rate of two (2) trees for every tree irreparably damaged or killed.
5. The tree-planting plan shall indicate the total number and location of trees to be planted within a proposed development. Trees required to be planted by this ordinance should be planted predominately in the developed areas, driveway aisles, and/or parking areas of the project. In no case shall more than fifty percent (50%) of the trees required be utilized to satisfy the screening requirements of a development. The exact location of the trees to be planted shall be approved by the Planning Commission, after review of all Tree Commission recommendations, as part of the Stage I Development Plan review process. Whenever the owner/developer can demonstrate to the Planning Commission that the site spatial constraints result in an absolute inability to plant the required number of trees, as many trees as possible shall be planted on the site. The difference of those trees required to be planted, and those trees planted, shall be donated to the City for use elsewhere in the City on public property. A reduction credit of one (1) tree or more shall be granted to a owner/developer:
  - a. For every tree saved within the buildable area of a development, eight (8) inches or more in diameter; or
  - b. For every two (2) trees saved within the buildable area of a development four (4) to eight (8) inches in diameter.

- C. The following criteria shall apply for tree replacement for Development Plans in each zoning district as outlined below. Trees planted to meet this requirement shall be planted within the development site unless otherwise noted and shall not be less than three (3) inches in diameter when planted.
1. In the R-3, R-5 and RCD zones one (1) tree shall be planted on the development site for every one unit approved.
  2. In the NSC, GC, HC, PO, CBD and IP zones one (1) tree shall be planted for every five (5) required parking spaces.
  3. In the R-1AA, R-1A, R-1C, R-1D and R-2 zones one (1) tree shall be planted on each lot or on the public right-of-way in front of each lot, for every five thousand (5,000) square feet of lot area or fraction thereof.

## **SECTION 9.27 CELLULAR TELECOMMUNICATION FACILITIES**

### **INTENT:**

It is the general purpose of these regulations to provide for integration of wireless telecommunications facilities for cellular telecommunications services or personal communications services within the community while providing for such facilities in coordination with the recommendations of the Comprehensive Plan. Furthermore, it is the purpose and intent of the City of Fort Thomas to provide for the integration of cellular telecommunications facilities in a manner that will retain the integrity and character of neighborhoods, property values and aesthetic value of the community at large. The City of Fort Thomas, while recognizing the need to provide essential utilities to citizens of Fort Thomas, furthermore states that the purpose of this regulation is as follows:

1. To establish an administrative process for the approval/disapproval of cellular telecommunications facilities.
2. Protect the public health, safety and welfare by requiring that the cellular telecommunications facilities are adequately secured and encouraging the timely maintenance of the structures.
3. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
4. Ensure that cellular telecommunications facilities are situated in appropriate locations while minimizing the negative visual impact of wireless facilities on neighborhoods, community landmarks, historic sites and buildings, and natural scenic areas.
5. Minimize the number of cellular telecommunications facilities by requiring the use of existing structures and co-location where feasible.
6. Provide for adequate information about plans for cellular telecommunications facilities in order to permit the community to effectively plan for the location of such facilities.

A. GENERAL PROVISIONS:

Cellular telecommunications facilities for cellular telecommunications services or personal communications services may be allowed in any zone after a Planning Commission review in accordance with the following procedures to ascertain agreement with the adopted Comprehensive Plan and the regulations contained within the Official Zoning Ordinance of the City of Fort Thomas.

B. APPLICABILITY:

Every utility or company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct a wireless telecommunications facility for cellular communications or personal communications services shall submit a copy of the utility's complete uniform application, as specified below, to the Fort Thomas Planning Commission.

C. APPLICATION REQUIREMENTS:

A uniform application for the construction of wireless telecommunications facilities for cellular telecommunications services or personal communications services shall be submitted to the Fort Thomas Planning Commission. The uniform application shall contain the following information:

1. A grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:
  - a. All of the planning unit's jurisdiction; and
  - b. A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers;
2. Include in any contract with an owner of property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a cellular antenna tower, including a timetable for removal;
3. Comply with any local ordinances concerning land use, subject to the limitations imposed by 47 U.S.C. sec. 332(c), KRS 278.030, 278.040, and 278.280;
4. The full name and address of the applicant;
5. The applicant's articles of incorporation, if applicable;
6. A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs and foundation design recommendations;
7. A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;
8. Clear directions from the county seat to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions;

9. The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement demonstrating compliance with KRS 100.987(2);
10. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;
11. A site Development Plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system;
12. A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;
13. The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky;
14. A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower;
15. A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:
  - (a) Notified by certified mail, return receipt requested, of the proposed construction, which notice shall include a map of the location of the proposed construction;
  - (b) Given the telephone number and address of the local planning commission; and,
  - (c) Informed of his or her right to participate in the planning commission's proceedings on the application;
16. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;
17. A statement that the chief executive officer of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction;
18. A copy of the notice sent to the chief executive officer of the affected local governments and their legislative bodies;
19. A statement that:
  - (a) A written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and

the planning commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application; and

- (b) A written notice, at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site;
- 20. A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed;
- 21. A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved;
- 22. A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and
- 23. A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.

All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request 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. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030.

#### D. PROCESSING OF APPLICATION:

Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:

- 1. NEW SITES:
  - a. At least one (1) public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once in a newspaper of general circulation in the county, provided that one (1) publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.

- b. Notice of the hearing shall be posted conspicuously on the property in question, for fourteen (14) consecutive days immediately prior to the hearing. Said posting shall consist of two signs, as follows;
  - (1) A written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application; and
  - (2) A written notice, at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site;
- 2. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, with certification by the Planning Commission secretary, or other officer of the planning commission, that the notice was mailed to an owner of every parcel of property within five hundred (500) feet of the base of the proposed tower or monopole, and any abutting property owners. It shall be the duty of the person(s) proposing the facility to furnish to the Planning Commission the names and addresses of said property owners. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner.

E. PLANNING COMMISSION ACTION:

- 1. Upon holding such hearing, the Planning Commission shall, within sixty (60) days commencing from the date that the application is received by the Planning Commission, or within a date specified in a written agreement between the Planning Commission and the applicant, make its final decision to approve or disapprove the uniform application. The Planning Commission shall submit to the Public Service Commission, along with its action, the basis for its decision. If the Planning Commission fails to issue a final decision within sixty (60) days, and if there is no written agreement between the Planning Commission and the utility to a specific date for the Planning Commission to issue a decision, it is presumed that the Planning Commission has approved the utility's uniform application.
- 2. When considering an application to construct a cellular antenna tower, the Planning Commission shall:
  - a. Review the uniform application in light of its agreement with the comprehensive plan and locally adopted zoning regulations;
  - b. Make its final decision to approve or disapprove the uniform application; and

- c. Advise the applicant in writing of its final decision within sixty (60) days commencing from the date that the uniform application is submitted to the planning commission.
  - d. If not approved, state the reasons for disapproval in a written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower shall be issued until the planning commission approves the uniform application or the sixty (60) day time period has expired, whichever occurs first.
3. In regulating the placement of cellular antenna towers, a planning commission shall not:
- a. Regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that these facilities comply with the regulations of the Federal Communications Commission concerning radio frequency emissions;
  - b. Institute a moratorium upon the siting of cellular antenna towers;
  - c. Charge an application fee that exceeds an amount that is reasonably related to expenses associated with processing an application to construct a cellular antenna tower, and to issue any necessary permits including any required building permit, up to a maximum of two thousand five hundred dollars (\$2500). Application fee amounts shall not be raised after June 15, 2002;
  - d. Regulate the placement of antennas or related equipment on an existing structure; or
  - e. Require the submission of application materials in addition to those required by KRS 100.9865 and 100.987, unless agreed by both parties.

4. PREVIOUSLY APPROVED SITES:

Previously approved sites can be reviewed and approved under the following conditions if (1) the proposed augmentation of the structure does not increase the height of the structure by more than thirty-three percent (33%), and (2) the proposed augmentation of the structure does not alter the lighting requirements for a structure on which lighting is currently not required. A list of previously approved or preferred sites (which include existing utility structures, towers, CTFs, etc.) can be obtained from the Fort Thomas Planning Commission upon request from the utility.

- a. For facilities located on previously approved sites, the Zoning Administrator shall review the application for its conformity with these regulations and the regulations contained within the applicable local zoning ordinance. The latitude and longitude of the structure shall be submitted along with a detailed description of the plan to co-locate or augment a structure.
- b. If the Zoning Administrator determines that the application is in conformity with these regulations and the regulations contained within the Official Zoning Ordinance, an administrative approval may be granted.

- c. If the Zoning Administrator determines that the application is not in conformity with these regulations and the regulations contained within the Official Zoning Ordinance, a public hearing, pursuant to Section E of these regulations, shall be scheduled.

F. DESIGN STANDARDS:

At the time of application submittal, the applicant shall provide information demonstrating compliance with the following requirements. Where the Planning Commission finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the Planning Commission may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit justification for each requested modification or waiver.

1. All structures, except fences, shall be located at least ten (10) feet from all property lines or lease lines. The tower shall be set back at least the height of the proposed tower when the site abuts a residence or residentially zoned property or when the site abuts a street.
2. A cellular antenna tower, or alternative antenna tower structure, may be constructed to a maximum height of two hundred (200) feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than fifteen (15) feet constructed on the top of another building or structure, with the height being the overall height of the building/structure and tower together, measured from the grade to the highest point. The Planning Commission may allow antennae greater than two hundred (200) feet in height upon review of the applicant's justification that the additional height meets the criteria identified in Subsection E, above.
3. When any cellular antenna tower, or alternative antenna tower structure, is taller than the distance from its base to the nearest property line, the applicant shall furnish the Planning Commission with a certification from an engineer registered in the Commonwealth of Kentucky that the tower meets all applicable engineering and building codes and standards.
4. Any monopole, guyed, lattice or similar type cellular antenna tower and any alternative cellular antenna tower structure similar to these towers, such as light poles, shall be maintained in either galvanized steel finish or be painted light gray or light blue in color. Alternate sections of aviation orange and aviation white paint may be used only when the FAA finds that none of the alternatives to such marking are acceptable.
5. Cellular antenna towers shall not be illuminated except as required by the Federal Aviation Administration (FAA) and other state or federal regulations. However, where required to be illuminated, the utility provider shall request dual lighting from the FAA. Strobe lighting is not permitted unless deemed absolutely necessary and shall only be permitted during daylight hours and switched to red lighting after dark.

6. The site shall be un-staffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall only be from approved access points.
7. A minimum of one (1) off-street parking space, per provider, shall be provided on the site. In no case shall there be more than three (3) parking spaces per site.
8. Woven wire or chain link (eighty (80) percent open) or solid fences made from wood or other materials (less than fifty (50) percent open), shall be used to enclose the site. Such fences shall not be less than eight (8) feet in height. The use of barbed wire or sharp pointed fences shall be prohibited. Such fence may be located within the front, side and rear yards.
9. Screening shall be required around the perimeter of the fenced area, parking area and access area, as appropriate to adequately screen the facility. Screening shall be provided by live evergreen plantings of a sufficient size as to be equal to at least the height of the required fencing within three (3) years after planting occurs. The number, type and planting location shall be approved by the Planning Commission.
10. Any site subdivided to be purchased or leased for the installation of a cellular antenna tower, or alternative antenna tower, and ancillary facilities, shall comply with the minimum lot size requirements of the zone in which the facility is to be located.
11. Surfacing of all driveways and off-street parking areas shall comply with the requirements of the Official Zoning Ordinance, Article XIII.
12. There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs, which are required by a federal, state or local agency. Such signs shall not exceed five (5) square feet in area.
13. All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three (3) service providers.
14. All option and site lease agreements shall contain non-exclusive co-location clauses.

G. AMENDMENTS:

Any amendments to plans, except for minor adjustments as determined by the Planning Commission or the Zoning Administrator, shall be made in accordance with the procedure required by Subsection E, subject to the same limitations and requirements as those under which such plans were originally approved.

H. DISCONTINUANCE:

If the use of any cellular antenna or cellular antenna tower or alternative tower structure is discontinued, the owner shall provide the Planning Commission with a copy of the notice to the FCC of intent to cease operations within thirty (30) days of such notice to the FCC. If the CTF will not be

reused, the owner shall have six (6) months from submittal of the FCC notice to the Planning Commission to obtain a demolition permit and remove the antenna and/or tower that will not be used. If the CTF is to be reused, the owner shall have no more than twelve (12) months from submittal of the FCC notice to the Planning Commission in which to commence new operation. Upon failure to commence new operation of the CTF within twelve (12) months, the CTF shall be presumed to be abandoned, and the owner shall obtain, within 90 days of the expiration of the twelve (12) month period, a demolition permit and remove the CTF within 60 days of obtaining the demolition permit. If the owner fails to remove an antenna or tower in the time provided by this paragraph, the Planning Commission may, on grounds of public safety, cause the demolition and removal of the CTF and recover all costs in accordance with the guarantee provided pursuant to Section K, "Guarantee" of these regulations.

#### I. NON-CONFORMING CELLULAR TELECOMMUNICATIONS FACILITIES:

Cellular telecommunications facilities in existence on the date of the adoption of these regulations that do not comply with these regulations, are subject to the following provisions:

1. Existing CTFs may continue use for the purpose now used, but may not be expanded or replaced without complying with these regulations, except as further provided in this ordinance.
2. Existing CTFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining zoning approval but without otherwise complying with these regulations.
3. The owner of any existing CTF may replace, repair, rebuild and/or expand such CTF to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards by obtaining a zoning approval by the Zoning Administrator. These improvements can be made without having to conform to the public hearing provision in Section E of the regulations so long as such facilities (construction type, building setbacks and heights) does not impact adjoining properties.
4. An abandoned CTF must be dismantled and removed in accordance with Section I "Discontinuance" of these regulations.

#### J. GUARANTEE:

To insure the removal of all improvements at any abandoned telecommunications facility, any applicant filing a request under these regulations shall, at the time of submittal, deposit with the Planning Commission, and to the benefit of the Planning Commission, a letter of credit, a performance bond or other security acceptable to the planning commission in the amount equal to the cost of the demolition and removal of the facility. Any guarantee submitted shall be irrevocable and shall provide for the Planning Commission to collect the full amount of the guarantee if the applicant fails to maintain the guarantee or in the event that the CTF is not dismantled and removed within six (6) months of notifying the Planning Commission of the intent to cease operations.

## ARTICLE X - ZONE REGULATIONS

THIS ARTICLE PROVIDES ZONE REGULATIONS FOR THOSE ZONES ESTABLISHED IN ARTICLE VIII. FOR CONVENIENCE, THE AREA AND HEIGHT REGULATIONS ARE ALSO SHOWN ON SCHEDULE I IN THE APPENDIX.

### SECTION 10.0 RIVER PRESERVATION ZONE (RP)

#### A. USES PERMITTED:

1. Agriculture (excluding dairying, animal and poultry husbandry) as defined in this ordinance.  
Also:
  - a. The keeping of fowl or small animals not primarily for gain provided that any enclosures for such fowl and animals shall be at least a twenty (20) foot distance from every lot line;
  - b. The keeping of horses, cows, and other livestock, not primarily for gain and only within an enclosure, which shall be a distance at least 100 feet from every lot line. No manure or bedding shall be stored or kept within 100 feet of any lot line and same is prohibited unless stored or kept in a sanitary manner and so as not to emit or produce noxious or objectionable odors;
2. Publicly owned and/or operated parks and/or recreation areas, including public swimming pools;
3. Recreational uses other than those publicly owned and/or operated, such as country clubs, including commercial swimming pools.
4. Sexually Oriented Businesses

#### B. ACCESSORY USES:

1. Customary accessory buildings and uses;
2. Fences and walls as regulated by Article XII of this ordinance;
3. Signs as regulated by Article XV of this ordinance.

#### C. CONDITIONAL USES:

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance:

1. Riding academies and stables;
2. The following uses are permitted in connection with streams, rivers, lakes, or other bodies of water, providing that the development of all permitted facilities in or adjacent to navigable

waters shall be approved by the Corps of Engineers, Department of the Army, and such statement of approval or denial shall be submitted to the Board of Adjustment at the time of submittal for a conditional zoning certificate:

- a. Pleasure boat harbors and marinas: The following uses shall be permitted as accessory uses in connection with any boat harbor or marina and primarily intended to serve only persons using the boat harbor or marina:
  - 1. Boat fueling, service and repairs;
  - 2. Sale of boat supplies;
  - 3. Grocery store;
  - 4. Restaurant;
  - 5. Club house and lockers.
- b. Public boat landing or launching facilities;
- c. Recreational dockage facilities;
- d. Off-street parking facilities and temporary parking of boat trailers including spaces large enough to accommodate automobiles pulling boat trailers.

**D. AREA AND HEIGHT REGULATIONS:**

No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:

- 1. Minimum lot area - Five (5) acre;
- 2. Minimum lot width at building setback line - one hundred (100) feet;
- 3. Minimum front yard depth - twenty-five (25) feet;
- 4. Minimum side yard width on each side of lot - fifteen (15) feet; (See E-6 below)
- 5. Minimum rear yard depth - thirty-five (35) feet; (See E-6 below)
- 6. Maximum building height - twenty-five (25) feet.

**E. OTHER DEVELOPMENT CONTROLS:**

- 1. All "Uses Permitted", "Conditional Uses", and "Temporary Uses", permitted in this zone shall require a certificate of approval from the City Engineer certifying his approval of the type of, and manner of, construction to be built (insuring that such construction shall not cause flood hazards, soil erosion, adverse changes in the natural drainage courses or unnecessary destruction of natural features) which completed certificate shall be submitted to the appropriate officer or Board, as required herein, at time of request;
- 2. Dwelling units, both permanent and seasonal, are not permitted in this zone;

3. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
4. With the exception of Subsection D of this section of the ordinance, no outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;
5. No lighting shall be permitted which would glare from this zone on to any street, road, highway, and deeded right-of-way or into any residential zone (See Section 9.14);
6. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of one hundred (100) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance;
7. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone and must comply with Article XI of this ordinance.

## **SECTION 10.1 CONSERVATION ZONE (CO)**

### **A. USES PERMITTED:**

1. Agriculture (excluding dairying, animal and poultry husbandry) as defined in this ordinance. Also:
  - a. The keeping of fowl or small animals not primarily for gain provided that any enclosures for such fowl and animals shall be at least a twenty (20) foot distance from every lot line;
  - b. The keeping of horses, cows, and other livestock, not primarily for gain and only with an enclosure which shall be a distance at least 100 feet from every lot line. No manure or bedding shall be stored or kept within 100 feet of any lot line and same is prohibited unless stored in a sanitary manner and so as not to emit or produce noxious or objectionable odors.
2. Publicly owned and/or operated parks and/or recreation areas, including public swimming pools;
3. Recreational uses other than those publicly owned and/or operated, such as country clubs, including commercial swimming pools.

### **B. ACCESSORY USES:**

1. Customary accessory buildings and uses;
2. Fences and walls as regulated by Article XII of this ordinance;
3. Signs as regulated by Article XV of this ordinance;

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance:

1. Riding academies and stables;
2. The following uses are permitted in connection with streams, rivers, lakes or other bodies of water, providing that the development of all permitted facilities in or adjacent to navigable waters shall be approved by the Corps of Engineers, Department of the Army, and such statement of approval or denial shall be submitted to the Board of Adjustment at the time of submittal for a conditional zoning certificate:
  - a. Pleasure boat harbors and marinas;

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

1. Boat fueling, service and repairs;
  2. Sale of boat supplies;
  3. Grocery store;
  4. Restaurant;
  5. Club house and lockers.
- b. Public boat landing or launching facilities;
  - c. Recreational dockage facilities;
  - d. Off-street parking facilities and temporary parking of boat trailers including spaces large enough to accommodate automobiles pulling boat trailers.

D. AREA AND HEIGHT REGULATIONS:

No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - five (5) acres;
2. Minimum lot width at building setback line - three hundred (300) feet;
3. Minimum front yard depth - one hundred (100) feet;
4. Minimum side yard width on each side of lot - fifty (50) feet; (Also see Section E-6 below)
5. Minimum rear yard depth - fifty (50) feet; (Also see Section E-6 below)
6. Maximum building height - twenty-five (25) feet.

E. OTHER DEVELOPMENT CONTROLS:

1. All "Uses Permitted", "Conditional Uses", and "Temporary Uses", permitted in this zone shall require a certificate of approval from the City Engineer certifying his approval of the type of and manner of construction to be built (insuring that such construction shall not cause flood hazards, soil erosion, adverse changes in the natural drainage courses or unnecessary destruction of natural features) which completed certificate shall be submitted to the appropriate officer or Board, as required herein, at time of request;
2. Dwelling units, both permanent and seasonal, are not permitted in this zone;
3. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
4. With the exception of Subsection D of this section of the ordinance, no outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;

5. No lighting shall be permitted which would glare from this zone on street, road, highway, deeded right-of-way or into any residential zone (See Section 9.14);
6. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of one hundred (100) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance;
7. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of residential zone, and must comply with Article XI of this ordinance.

## **SECTION 10.2 RESIDENTIAL-1AA ZONE (R-1AA)**

### **A. USES PERMITTED:**

1. Single family dwellings;
2. The following are permitted uses; however, they must meet the requirements of conditional uses as defined in Paragraph (E):
  - a. Publicly owned and/or operated parks, playgrounds, and community recreational centers;
  - b. Public and parochial schools;
  - c. Governmental offices and accessory uses.

### **B. ACCESSORY USES:**

1. Customary accessory buildings and uses;
2. Fences and walls as regulated by Article XII of this Ordinance;
3. Home occupations subject to the restrictions and limitations established in Section 9.11 of this Ordinance;
4. Signs - as regulated by Article XV of this Ordinance;
5. Agriculture (excluding dairying, animal, and poultry husbandry, and kennels) as defined in this Ordinance. Also:
  - a. The keeping of fowl or small animals not primarily for gain providing that any enclosures for such fowls and animals shall be at least twenty-foot (20') distance from every lot line;
  - b. The keeping of horses, cows, and other livestock, not primarily for gain and only within an enclosure, which shall be a distance at least 100 feet from every lot line. No manure or bedding shall be stored or kept within 100 feet of any lot line and same is prohibited unless stored or kept in a sanitary manner and so as not to emit or produce noxious or objectionable odors.

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings and uses be permitted until and unless the location of said use shall have been applied for and approved by the Board of Adjustment as set forth in Section 18.4 C:

1. Cemeteries;
2. Churches and other buildings for the purpose of religious worship providing they are located adjacent to an arterial street;

3. Institutions for higher education providing they are located adjacent to an arterial street;
4. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, home for the aged and philanthropic institutions providing they are located adjacent to an arterial street;
5. Day care facilities; including nursery school.
6. Recreational uses other than those publicly owned and/or operated as follows:
  - a. Golf courses;
  - b. Country clubs;
  - c. Semi-public swimming pools.

**D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:**

No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - one (1) acre;
2. Minimum lot width at building setback line - one hundred fifty (150) feet;
3. Minimum front yard depth - forty (40) feet; (Also see Section 9.13 D)
4. Minimum side yard width on each side of the lot - total: 38 feet; one side: 12 feet;
5. Minimum rear yard depth - forty (40) feet;
6. Maximum building height - thirty-five (35) feet, or two and one-half (2 1/2) stories.

**E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:**

No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - twenty-two thousand five hundred (22,500) square feet, except that Day care facility; including nursery school. will require nineteen thousand (19,000) square feet unless there are less than five (5) children in which case such uses may conform to Paragraph "D" of this Section;
2. Minimum lot width at building setback line - one hundred fifty (150) feet;
3. Minimum front, side (on each side of the lot) and rear yards - fifty (50) feet;
4. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

**F. OTHER DEVELOPMENT CONTROLS:**

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV or this Ordinance;

2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any residential zone (See Section 9.14);
4. Where any yard of any conditional use permitted in this zone abuts property in a single family zone, a ten (10) foot wide screening area as regulated by Section 9.17 of this Ordinance shall be required;
5. Where any permitted use in this zone is required to meet conditional use requirements in Paragraph (E), Section 9.23 may be invoked.

## **SECTION 10.3 RESIDENTIAL-1A ZONE (R-1A)**

### **A. USES PERMITTED:**

1. Single family dwellings;
2. The following are permitted uses; however, they must meet the requirements of conditional uses as defined in Paragraph (E):
  - a. Publicly owned and/or operated parks, playgrounds, and community recreational center;
  - b. Public and parochial schools;
  - c. Governmental offices and accessory uses.

### **B. ACCESSORY USES:**

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

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance:

1. Cemeteries;
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
3. Institutions for higher education, providing they are located adjacent to an arterial street;
4. Institutions for human medical care - hospitals, clinic, sanitariums, convalescent homes, nursing homes, and homes for the aged and philanthropic institutions providing they are located adjacent to an arterial street;
5. Day care facility; including nursery school.
6. Recreational uses other than those publicly owned and/or operated, as follows:
  - a. Golf courses;
  - b. Country clubs;
  - c. Semi-public swimming pools.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - nine thousand five hundred (9,500) square feet;
2. Minimum lot width at building setback line - seventy-five (75) feet;
3. Minimum front yard depth - thirty (30) feet; (Also see Section 9.13 D)
4. Minimum side yard width on each side of lot - ten (10) feet;
5. Minimum rear yard depth - forty (40) feet;
6. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - twenty-two thousand five hundred (22,500) square feet, except that Day care facility; including nursery school. will require nineteen thousand (19,000) square feet, unless there are less than five (5) children in which case such uses may conform to Paragraph "D" of this section;
2. Minimum lot width at building setback line - one hundred fifty (150) feet;
3. Minimum front, side (on each side of the lot) and rear yards - fifty (50) feet;
4. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any residential zone (See Section 9.14);
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance shall be required;
5. Where any permitted use in this zone is required to meet conditional use requirements in Paragraph (E), Section 9.23 may be invoked.

## **SECTION 10.4 RESIDENTIAL-1B ZONE (R-1B)**

### **A. USES PERMITTED:**

1. Single family dwellings;
2. The following are permitted uses; however, they must meet the requirements of conditional uses as defined in Paragraph (E):
  - a. Publicly owned and/or operated parks, playgrounds, and community recreational centers;
  - b. Public and parochial schools;
  - c. Governmental offices and accessory uses.

### **B. ACCESSORY USES:**

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

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance:

1. Cemeteries;
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
3. Institutions for higher education, providing they are located adjacent to an arterial street;
4. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, homes for the aged and philanthropic institutions providing they are located adjacent to an arterial street;
5. Day care facility; including nursery school.
6. Off-street parking lots and/or parking garages, providing they are an accessory use;
7. Recreational uses other than those publicly owned and/or operated, as follows:
  - a. Golf courses;
  - b. Country clubs;

- c. Semi-public swimming pools.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - seven thousand five hundred (7,500) square feet;
2. Minimum lot width at building setback line - sixty-five (65) feet;
3. Minimum front yard depth - thirty (30) feet; (Also see Section 9.13 D)
4. Minimum side yard width on each side of the lot - nine (9) feet;
5. Minimum rear yard depth - thirty-five (35) feet;
6. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

No building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - twenty-two thousand five hundred (22,500) square feet, except that Day care facility; including nursery school. will require fifteen thousand (15,000) square feet, unless there are less than five (5) children in which case such uses may conform to Paragraph "D" of this section;
2. Minimum lot width at building setback line - one hundred fifty (150) feet;
3. Minimum front yard, side yard (on each side of the lot) and rear yard - fifty (50) feet;
4. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any adjacent property (See Section 9.14);
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required;
5. Where any permitted use in this zone is required to meet conditional use requirements in Paragraph (E), Section 9.23 may be invoked.

## **SECTION 10.5 RESIDENTIAL-1C ZONE (R-1C)**

### **A. USES PERMITTED:**

1. Single family dwellings;
2. The following are permitted uses; however, they must meet the requirements of conditional uses as defined in Paragraph (E):
  - a. Publicly owned and/or operated parks, playgrounds, and community recreational centers;
  - b. Public and parochial schools;
  - c. Governmental offices and accessory uses.

### **B. ACCESSORY USES:**

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

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for an approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance:

1. Cemeteries;
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
3. Funeral homes, providing they are located adjacent to an arterial street;
4. Institutions for higher education, providing they are located adjacent to an arterial street;
5. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged and philanthropic Institutions providing they are located adjacent to an arterial street;
6. Day care facility; including nursery school.
7. Off-street parking lots and/or parking garages, providing they are an accessory use;
8. Recreational uses other than those publicly owned and/or operated, as follows:

- a. Golf courses;
- b. Country clubs;
- c. Semi-public swimming pools.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - seven thousand (7,000) square feet;
2. Minimum lot width at building setback line - sixty (60) feet;
3. Minimum front yard depth - twenty-five (25) feet; (Also see Section 9.13 D)
4. Minimum side yard width on each side of the lot - eight (8) feet;
5. Minimum rear yard depth - thirty (30) feet;
6. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - twenty-two thousand five hundred (22,500) square feet, except that Day care facility; including nursery school. Will require fourteen thousand (14,000) square feet, unless there are less than five (5) children, in which case such uses may conform to Paragraph "D" of this section;
2. Minimum lot width at building setback line - one hundred fifty (150) feet;
3. Minimum front, side (on each side of the lot) and rear yards - fifty (50) feet;
4. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any adjacent property (See Section 9.14);
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required;

5. Where any permitted use in this zone is required to meet conditional use requirements in Paragraph (E), Section 9.23 may be invoked.

## **SECTION 10.6 RESIDENTIAL-1D ZONE (R-1D)**

### **A. USES PERMITTED:**

1. Single family dwellings;
2. The following are permitted uses; however, they must meet the requirements of conditional uses as defined in Paragraph (E):
  - a. Publicly owned and/or operated parks, playgrounds, and community recreational centers;
  - b. Public and parochial schools;
  - c. Governmental offices and accessory uses.

### **B. ACCESSORY USES:**

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

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance.

1. Cemeteries;
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
3. Funeral homes, providing they are located adjacent to an arterial street;
4. Institutions for higher education, providing they are located adjacent to an arterial street;
5. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged and philanthropic institutions providing they are located adjacent to an arterial street;
6. Day care facility; including nursery school.
7. Off-street parking lots and/or parking garages, providing they are an accessory use;
8. Recreational uses other than those publicly owned and/or operated, as follows:

- a. Golf courses;
- b. Country clubs;
- c. Semi-public swimming pools.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - thirteen thousand (13,000) square feet;
2. Minimum lot width at building setback line - eight-five (85) feet;
3. Minimum front yard depth - thirty (30) feet; (Also see Section 9.13 D)
4. Minimum side yard width on each side of the lot - ten (10) feet;
5. Minimum rear yard depth - forty (40) feet;
6. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - twenty-two thousand five hundred (22,500) square feet, except that Day care facility; including nursery school. will require nineteen thousand (19,000) square feet, unless there are less than five (5) children, in which case such uses may conform to Paragraph "D" of this section.
2. Minimum lot width at building setback line - one hundred fifty (150) feet;
3. Minimum front, side (on each side of the lot) and rear yards - fifty (50) feet;
4. Maximum building height - thirty-five (35) feet or two and one-half (2 1/2) stories.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any adjacent property (See Section 9.14);
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required;

5. Where any permitted use in this zone is required to meet conditional use requirements in Paragraph (E), Section 9.23 may be invoked.

## **SECTION 10.7 RESIDENTIAL-2 ZONE (R-2)**

### **A. USES PERMITTED:**

1. Single-family or two-family dwellings.
2. The following are permitted uses; however, they must meet the requirements of conditional uses as defined in Paragraph (E).
  - a. Publicly owned and/or operated parks, playgrounds, and community recreational centers.
  - b. Public and parochial schools.
  - c. Governmental offices and accessory uses.

### **B. ACCESSORY USES:**

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

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for an approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance.

1. Cemeteries.
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
3. Funeral homes, providing they are located adjacent to an arterial street;
4. Institutions for higher education, providing they are located adjacent to an arterial street;
5. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, homes for the aged and philanthropic institutions providing they are located adjacent to an arterial street;
6. Day care facility; including nursery school.;
7. Off-street parking lots and/or parking garages, providing they are an accessory use;
8. Recreational uses other than those publicly owned and/or operated, as follows:

- a. Golf courses;
- b. Country clubs;
- c. Semi-public swimming pools.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - eight thousand (8,000) square feet;
2. Minimum lot width at building setback line - seventy-five (75) feet;
3. Minimum front yard depth - twenty-five (25) feet; (Also see Section 9.13 D)
4. Minimum side yard width on each side of the lot - eight (8) feet;
5. Minimum rear yard depth - thirty (30) feet;
6. Maximum building height - thirty-five (35) feet or two and one-half (2-1/2) stories.

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - twenty-two thousand five hundred (22,500) square feet, except that Day care facility; including nursery school. will require sixteen thousand (16,000) square feet, unless there are less than five (5) children, in which case such uses may conform to Paragraph "D" of this section;
2. Minimum lot width at building setback line - one hundred fifty (150) feet;
3. Minimum front, side (on each side of the lot) and rear yards - fifty (50) feet;
4. Maximum building height - thirty-five (35) feet or two and one-half (2-1/2) stories.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Article XIII and XIV of this ordinance;
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any adjacent property (See Section 9.14);
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required;

5. Where any permitted use in this zone is required to meet conditional use requirements in Paragraph (E), Section 9.23 may be invoked;
6. More than one building may be permitted on a single lot of more than 8,000 square feet provided that the lot is contiguous with an integral portion of a development in a R-3 Zone.

## **SECTION 10.8 RESIDENTIAL-3 ZONE (R-3)**

### **A. USES PERMITTED:**

1. Single, Duplex and Multi-family dwellings;
2. The following are permitted uses; however, they must meet the requirements of conditional uses as defined in Paragraph (E):
  - a. Publicly owned and/or operated parks, playgrounds, and community recreational centers;
  - b. Public and parochial schools;
  - c. Governmental offices and accessory uses.

### **B. ACCESSORY USES:**

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

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance:

1. Cemeteries;
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
3. Funeral homes, providing they are located adjacent to an arterial street;
4. Institutions for higher education, providing they are located adjacent to an arterial street;
5. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged and philanthropic institutions providing they are located adjacent to an arterial street;
6. Day care facility; including nursery school;
7. Off-street parking lots and/or parking garages, providing they are an accessory use;
8. Recreational uses other than those publicly owned and/or operated, as follows:

- a. Golf courses;
- b. Country clubs;
- c. Semi-public swimming pools.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:

- 1. Minimum lot area;
  - a. Multi-family - eight thousand (8,000) square feet for the first four (4) dwelling units or less in one building, four thousand (4,000) improved square feet of land shall be provided for every dwelling unit thereafter in the same building;
  - b. Duplex – eight thousand (8,000) square feet
  - c. Single Family – eight thousand (8,000) square feet
- 2. Minimum lot width at building setback line;
  - a. Multi-family - eighty (80) feet. (Add ten (10) feet for every additional family unit over four (4) up to a maximum of one hundred twenty (120) feet;
  - b. Duplex – eighty (80) feet
  - c. Single Family – eighty (80) feet
- 3. Minimum front yard depth for all structures - thirty-five (35) feet; (Also see Section 9.13 D)
- 4. Minimum side yard width on each side of the lot;
  - a. Multi-family - minimum (15) feet. Plus, ten (10) feet for each additional story to a maximum of thirty-five (35) feet;
  - b. Duplex – fifteen (15) feet
  - c. Single Family – nine (9) feet
- 5. Minimum rear yard depth for all structures - thirty-five (35) feet;
- 6. Maximum building height;
  - a. Multi-family - six (6) stories, not to exceed fifty (50) feet.
  - b. Duplex – thirty five (35) feet or two and one half (2-1/2) stories.
  - c. Single Family - thirty five (35) feet or two and one half (2-1/2) stories

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulation:

- 1. Minimum lot area - twenty-two thousand five hundred (22,500) square feet, except that Day care facility; including nursery school. will require sixteen thousand (16,000) square feet, unless there are less than five (5) children, in which case such uses may conform to Paragraph "D" of this section;
- 2. Minimum lot width at building setback line - one hundred fifty (150) feet;

3. Minimum front, side (on each side of the lot) and rear yards - fifty (50) feet;
4. Maximum building height - fifty (50) feet.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Article XIII and XIV of this ordinance;
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any adjacent property (See Section 9.14);
4. Where any yard of any use permitted in this zone, except a single family dwelling, abuts property in a single-family zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required;
5. A Development Plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone, except a single family dwelling;
6. More than one building may be permitted on a single lot of more than sixteen thousand (16,000) square feet, however, in no case may the density exceed the limits in subsection D-1 above.
7. Where any permitted use in this zone is required to meet conditional use requirements in Paragraph (E), Section 9.23 may be invoked;
8. All of those areas identified on the locally adopted Comprehensive Plan as Physically Restrictive Development Area (containing slopes of 20 percent or greater) and left undisturbed in their natural state as required by the Planning Commission may not be included in the determination of the total number of dwelling units to be permitted on the site. Furthermore, existing vegetation shall be left undisturbed wherever possible, especially on sloped areas, to ensure stable hillside conditions and minimize increases in storm water runoff.

## **SECTION 10.9 RESIDENTIAL-5 ZONE (R-5)**

### **A. USES PERMITTED:**

1. Multi-family dwellings (maximum of twelve units per detached building);
2. The following are permitted uses; however, they must meet the requirements of conditional uses as defined in Paragraph (E):
  - a. Publicly owned and/or operated parks, playgrounds, and community recreational centers;
  - b. Public and parochial schools;
  - c. Governmental offices and accessory uses.

### **B. ACCESSORY USES:**

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

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance:

1. Cemeteries;
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
3. Funeral homes, providing they are located adjacent to an arterial street;
4. Institutions for higher education, providing they are located adjacent to an arterial street;
5. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged and philanthropic institutions providing they are located adjacent to an arterial street;
6. Day care facility; including nursery school;
7. Off-street parking lots and/or parking garages, providing they are an accessory use;
8. Recreational uses other than those publicly owned and/or operated, as follows:

- a. Golf courses;
- b. Country clubs;
- c. Semi-public swimming pools.

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

No building shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - nineteen thousand two hundred (19,200) square feet for the first four (4) dwelling units or less in one building; four thousand eight hundred (4,800) square feet of land shall be provided for every dwelling unit thereafter in the same building;
2. Minimum lot width at building setback line - eighty (80) feet. (Add ten (10) feet for every additional family unit over four (4) up to a maximum of one hundred twenty (120) feet;
3. Minimum front yard depth - thirty-five (35) feet; (Also see Section 9.13 D)
4. Minimum side yard width on each side of the lot - ten (10) feet for the first four units (add two (2) feet for every additional family unit to a maximum of twenty (20) feet);
5. Minimum rear yard depth - thirty-five (35) feet;
6. Maximum building height - three (3) stories, not to exceed thirty-five (35) feet;
7. Minimum distance between buildings - thirty (30) feet;

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

No conditional building and/or use shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - twenty-two thousand five hundred (22,500) square feet, except that Day Care Facility will require sixteen thousand (16,000) square feet, unless there are four or less (4) children, in which case such uses may conform to Paragraph "D" of this section;
2. Minimum lot width at building setback line - one hundred fifty (150) feet;
3. Minimum front, side (on each side of the lot) and rear yards - fifty (50) feet;
4. Maximum building height - fifty (50) feet.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers or approved equal;

3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any adjacent property (See Section 9.14);
4. Where any yard of any use permitted in this zone abuts property in a single-family zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be required;
5. A Development Plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone;
6. More than one building may be permitted on a single lot of more than thirty-eight thousand four hundred (38,400) square feet; however, in no case may there be more than one (1) dwelling unit for each four thousand eight hundred (4,800) square feet of land;
7. All of those areas identified on the locally adopted Comprehensive Plan as Physically Restrictive Development Area (containing slopes of 20 percent or greater) and left undisturbed in their natural state as required by the Planning Commission may not be included in the determination of the total number of dwelling units to be permitted on the site.

## **SECTION 10.10 RESIDENTIAL CLUSTER DEVELOPMENT OVERLAY ZONE (RCD)**

### **A. PURPOSE:**

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

### **B. GENERAL:**

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

### **C. APPLICATION AND PROCESSING:**

Applications for Residential Cluster Development Overlay Zone shall be processed in accordance with Section 9.19 and 9.20 of this Ordinance.

### **D. RESIDENTIAL USES AND DENSITIES:**

Attached and detached single-family dwellings may be permitted within a RCD Overlay Zone. The density of dwelling units in a RCD shall be determined by the density (dwelling units per net acre) as calculated from the existing residential (R-1) zone superimposed by the RCD Overlay Zone. This density shall be applied to the total project area excluding that land devoted to streets public and private) and those areas as identified as Physically Restrictive Area on the Comprehensive Plan.

### **E. PUBLIC AND SEMI-PUBLIC USES:**

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

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

7. Open space-recreation areas.

F. AREA REQUIREMENTS:

No RCD Overlay Zone shall be permitted on less than five (5) acres of land; however, development of a smaller tract adjacent to an existing RCD Overlay Zone may be permitted if the proposed development conforms to and extends the original development as if the new area had been a part of the original development.

G. HEIGHT, YARD AND SETBACK REGULATIONS:

Requirements shall be as approved in the plan.

H. OFF-STREET PARKING AND LOADING AND/OR UNLOADING:

Off-street parking and when applicable, loading and/or unloading facilities, all be provided in accordance with Articles XIII and XIV of this ordinance.

I. FENCES, WALLS, AND SIGNS:

The location, height, and type of all fences, walls, and signs shall be as approved in the plan or, as outlined in other applicable Sections of this ordinance.

J. EROSION AND SEDIMENTATION CONTROL:

Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 and Section 9.20.K of this ordinance.

K. COMMON OPEN SPACE - RECREATION AREA:

At least fifteen percent (15%) of the total acreage of the proposed RCD shall be retained as common open space and recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such open space and recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the RCD. Common open space and recreation area shall be that part of the total project exclusive of dwellings, streets, parking areas, single-family lots, commercial areas, and other non-open space and non-recreational oriented facilities.

L. AMENDMENTS:

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

## **SECTION 10.11 CENTRAL BUSINESS DISTRICT (CBD)**

### **A. USES PERMITTED:**

The following retail sales and service businesses:

1. Advertising agencies;
2. Antique shop;
3. Apparel shop;
4. Art supplies, framing, gallery;
5. Bakery and bakery goods store providing the products are sold primarily on the premises;
6. Banks and other financial institutions, including savings, loan, and finance companies;
7. Barber shop;
8. Beauty shop;
9. Book, stationery or gift shop;
10. Camera and photographic supplies;
11. Candy, soda fountain, and ice cream stores, excluding drive-ins;
12. Carpet and rug store;
13. Clothing store;
14. Delicatessen store;
15. Department store;
16. Drug store;
17. Dry cleaning and laundry pickup stations;
18. Eating and drinking places, including outdoor seating;
19. Electronics store, including repair;
20. Florist shop;
21. Food store and supermarket;
22. Furniture store;
23. Garden supplies;

24. Glass, china or pottery store;
25. Hardware store;
26. Hobby shop;
27. Household appliance store, including incidental repair;
28. Interior decorating studio, provided 50% or more of the space is dedicated to retail sales;
29. Jewelry store, including repair;
30. Laboratories when accessory to medical or dental office;
31. Leather goods and luggage store;
32. Locksmith shop;
33. Music, music studio, musical instruments and record shop;
34. Office, including medical or dental;
35. Office appliances and supply;
36. Off-street parking lots and/or garages;
37. Package liquor and wine store;
38. Paint and wallpaper store;
39. Pet shop, excluding boarding and outside runs;
40. Plumbing sales and repair;
41. Personal packaging, mailing and/or shipping service;
42. Retail printing establishments;
43. Residential (as regulated herein);
44. Shoe store and shoe repair;
45. Sporting goods;
46. Tailor shop;
47. Theaters, excluding drive-in theater;
48. Travel bureau;

**B. ACCESSORY USES:**

1. Customary accessory buildings and uses;
2. Fences and walls as regulated by Article XII of this ordinance;
3. Signs as regulated by Article XV of this ordinance.

C. CONDITIONAL USES:

1. Business and professional colleges;
2. Clubs, including philanthropic, YMCA, YWCA;
3. Day Care Centers;
4. Establishment containing drive-through windows (restaurant, bank);
5. Funeral home;
6. Laboratories, medical and dental;
7. Laundromats – self service washing and drying; and
8. Studios for professional work or teaching of any form of fine arts, photography, music, drama, and dance.

D. AREA AND HEIGHT REGULATIONS:

No building shall be erected or structurally altered, except in accordance with the following regulations:

1. Minimum lot area – five thousand five hundred (5,500) square feet;
2. Minimum lot width at building setback line - fifty (50) feet;
3. Minimum front yard depth – as approved by the Planning Commission per submitted site plan. (Also see Section 9.13 D)
4. Minimum side yard width on each side of lot - as approved by the Planning Commission per submitted site plan. (Also see Section E-4 below)
5. Minimum rear yard depth – as approved by the Planning Commission per submitted site plan. (Also see Section E-4 below)
6. Maximum percentage of lot coverage - no restrictions except as required by the yard requirements of this zone;
7. Maximum building height - four (4) stories or fifty (50) feet.

E. OTHER DEVELOPMENT CONTROLS:

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

2. No outdoor storage of any material, except waste, shall be permitted in this zone and then only within enclosed metal containers or approved equal. All approved containers shall be located in side or rear yard areas, appropriately screened with solid walls, fences or approved landscaping, or combination thereof.
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any residential zone. Furthermore, lighting fixtures, types and placement shall be consistent with Section 9.14 and with design standards approved for the CBD zone and reviewed by the Design Review Board.
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, with a screening area, as regulated by Section 9.17 of this ordinance. The Planning Commission may reduce this minimum yard requirement by no more than one-half of the required fifty (50) foot setback based upon the submission of a Development Plan that utilizes other approaches to effectively screen and separate incompatible land uses.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone, and must comply with Article XI of this ordinance.
6. Residential uses shall be restricted to floors other than the ground floor. Residential floor space shall not exceed a ratio of 2:1 of the other permitted use(s) in the structure.
7. A Development Plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone;
8. All new construction, building improvements and alterations shall be completed in conformance with the CBD Design Standards and plans approved by the CBD Design Review Board as outlined within this ordinance.
9. No motor vehicle, which is inoperable, or trailer, which is usable or unusable, shall be stored or used for storage of any items therein on any lot or parcel of ground in this zone unless it is within a completely enclosed building.
10. Parking requirements shall be determined by the number of spaces required by the non-residential portion of the mixed-use premises. However, any residential units in excess of two (2) shall have additional parking as required in Article XIII. The waiver of the parking requirements for the first two (2) residential units on a mixed use premises shall be restricted to those businesses or organizations with operating hours limited to 6:00 A.M. to 6:00 P.M. that utilize the same off-street parking area.

## SECTION 10.12 GENERAL COMMERCIAL ZONE (GC)

### A. USES PERMITTED:

The following retail sales and service businesses:

1. Advertising agencies;
2. Antique shop;
3. Apparel shop;
4. Art supplies, framing, galleries;
5. Automobile, motorcycle and truck sales, new and used;
6. Automotive parts and accessory store, new;
7. Automotive service and repair, providing all business activities are conducted within a completely enclosed building;
8. Automotive and truck rentals;
9. Bakery and bakery goods store providing the products are sold primarily on the premises;
10. Banks and other financial institutions, including savings, loan, and finance companies with drive-in windows;
11. Barber shop;
12. Beauty shop;
13. Billiard or pool hall;
14. Boat and marina sales and service, new and used;
15. Book, stationery or gift shop;
16. Bowling alley;
17. Business and professional colleges;
18. Camera and photographic supplies;
19. Candy, soda fountain, and ice cream stores, excluding drive-ins;
20. Carpet and rug store;
21. Clinics - medical or dental;
22. Clothing Stores;

23. Clubs, including philanthropic, YMCA, YWCA;
24. Delicatessen store;
25. Department store;
26. Drug store;
27. Dry cleaning and laundry pickup stations;
28. Eating and drinking places, including drive-throughs;
29. Electronic stores;
30. Employment agencies;
31. Florist shop;
32. Food store and supermarket;
33. Funeral home;
34. Furniture store;
35. Garden supplies;
36. Glass, china or pottery store;
37. Hardware store;
38. Health clinics and health spas;
39. Hobby shop;
40. Household appliance store, including incidental repair;
41. Interior decorating studio;
42. Jewelry store, including repair;
43. Laboratories - medical and dental;
44. Laundromats - self service washing and drying;
45. Leather goods and luggage store;
46. Library;
47. Locksmith shop;
48. Music, music studio, musical instruments and record shop;

49. Newspaper office, including printing;
50. Office;
51. Office appliances and supply;
52. Off-street parking lots and/or garages;
53. Opticians and optical supply;
54. Package liquor and wine store;
55. Paint and wallpaper store;
56. Pet shop, excluding boarding and outside runs;
57. Plumbing sales and repair;
58. Police, fire stations, and other municipal uses;
59. Personal packaging, mailing and/or shipping service;
60. Printing establishments;
61. Shoe store and shoe repair;
62. Sporting goods;
63. Studios for professional work or teaching of any form of fine arts, photography, music, drama, and dance;
64. Tailor shop;
65. Theaters, excluding drive-in theater;
66. Travel bureau;

**B. ACCESSORY USES:**

1. Customary accessory buildings and uses;
2. Fences and walls as regulated by Article XII of this ordinance;
3. Signs as regulated by Article XV of this ordinance.

**D. AREA AND HEIGHT REGULATIONS:**

No building shall be erected or structurally altered, except in accordance with the following regulations:

1. Minimum lot area - seven thousand five hundred (7,500) square feet;
2. Minimum lot width at building setback line - fifty (50) feet;
3. Minimum front yard depth - twenty (20) feet; (Also see Section 9.13 D)
4. Minimum side yard width on each side of lot - none (see E-4, below);
5. Minimum rear yard depth - fifteen (15) feet (see E-4 below);
6. Maximum percentage of lot coverage - no restrictions except as required by the yard requirements of this zone;
7. Maximum building height - four (4) stories or fifty (50) feet.

E. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material, except waste, shall be permitted in this zone and then only within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any residential zone (See Section 9.14);
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, with a screening area, as regulated by Section 9.17 of this ordinance;
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone, and must comply with Article XI of this ordinance;
6. A Development Plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone;
7. No motor vehicle, which is inoperable, or trailer, which is usable or unusable, shall be stored or used for storage of any items therein on any lot or parcel of ground in this zone unless it is within a completely enclosed building.

## **SECTION 10.13 HIGHWAY COMMERCIAL ZONE (HC)**

### **A. USES PERMITTED:**

1. Automobile and truck sales, new and used,
2. Automotive service and repair, providing all business activities shall be conducted within a completely enclosed building,
3. Banks and other financial institutions, including loan, savings, and finance companies with drive-in windows;
4. Boat and other marine equipment, sales and service, new and used;
5. Bowling alley, skating rinks, golf driving ranges, miniature and par-3 golf courses;
6. Motels and hotels;
7. Off-street parking lots and/or garages;
8. Police and fire stations, and other municipal uses;
9. Restaurants, supper clubs, not including drive-ins.

### **B. ACCESSORY USES:**

1. Customary accessory buildings and uses;
2. Fences and walls as regulated by Article XII of this ordinance;
3. Signs as regulated by Article XV of this ordinance;
4. Uses as listed below included within and entered from within any motel or hotel building as a convenience to the occupants thereof, and their customers, providing that such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays for any accessory uses shall be visible from outside the building:
  - a. Barber shop;
  - b. Beauty shop;
  - c. News and confectionery stands.

### **C. CONDITIONAL USES:**

No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment, as set forth in Section 18.4 C of this ordinance:

1. Service stations (including auto repairing), providing that all repair except that of a minor nature (e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc.) is conducted wholly within a completely enclosed building and providing further that such service station is located adjacent to an arterial street;
2. Automobile or truck washes, providing that the following minimum standards be met:
  - a. All washing activities must be carried on within an enclosed building, except for entrance and exit doors which may be left open during hours of operation.
  - b. The minimum site size shall be fifteen thousand (15,000) square feet, with no less than one hundred (100) feet of frontage.
  - c. All washing structures shall be located at least fifty (50) feet from any adjoining residential property and shall be no closer than ten (10) feet from the side property lines or any other property.
  - d. Vacuuming or steam cleaning equipment may be located outside a building, but shall not be placed closer than fifty (50) feet to any adjacent residential property and at least twenty (20) feet from a public right-of-way. No such equipment shall be placed closer than ten (10) feet neither to any property line, nor without proper screening as required in this Ordinance.
  - e. Water or residue from the washing process shall not be allowed to drain from the site containing such establishment.
  - f. The following waiting and parking requirements shall be minimum requirements:
    1. A minimum of six (6) off-street waiting spaces shall be provided for every bay of a self-service washing facility, and a minimum of ten (10) off-street waiting spaces shall be provided for every bay with automatic or assembly-line type washing facilities. Waiting spaces shall not block or otherwise interfere with site circulation patterns.
    2. A minimum of two (2) parking spaces shall be provided at the exit end of each washing bay for drying and hand finishing of vehicles.
    3. One (1) parking space for each regular employee of the premises with a minimum of two (2) employee parking spaces for the site. No parking, for employees or otherwise, shall interfere with site circulation patterns.
  - g. A solid fence, wall or evergreen shrubbery at least six (6) feet in height shall be required when a vehicle washing facility is adjacent to any residential property. Such six (6) feet height requirement is in addition to the three (3) feet in height earth berm as further defined in Section 9.17 of this Ordinance.
  - h. Access shall only be from arterial or collector streets to which the automobile washing facility shall adjoin.
3. Drive-in food establishments.

D. AREA AND HEIGHT REGULATIONS:

No building shall be erected or structurally altered, except in accordance with the following regulations:

1. Minimum site for a highway commercial zone - three (3) acres, with the ratio of length to width of the total HC Zone not exceeding two (2) to one (1). In the case of this zone (HC), more than one principal building, as defined herein, may be permitted to be constructed within the minimum building site area;
2. Minimum front yard depth - fifty (50) feet; (Also see Section 9.13 D)
3. Minimum side yard width on each side of lot - fifteen (15) feet; (See E-5 below)
4. Minimum rear yard depth - fifteen (15) feet; (See E-5 below)
5. Maximum building height - forty (40) feet;

E. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material, except waste, shall be permitted in this zone and then only within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any residential zone (See Section 9.14);
4. No motor vehicle which is inoperable or trailer which is usable or unusable shall be stored or used for storage of any items therein on any lot or parcel of ground in this zone unless it is within a completely enclosed building;
5. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said and shall be provided, ten (10) feet of which shall be maintained with a screening area, as regulated by Section 9.17 of this ordinance;
6. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone;
7. A Development Plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.
8. Off-street parking and loading and/or unloading areas may be located in front and side yard areas in this zone provided that no off-street parking areas shall be closer than fifteen (15) feet to the street, road, highway, or right-of-way line or the boundary line of any adjacent district. This fifteen (15) foot area shall remain open and unobstructed except items specifically permitted in yards in this ordinance.

## SECTION 10.14 PROFESSIONAL OFFICE BUILDING ZONE (PO)

### A. USES PERMITTED:

1. Clinics - medical or dental;
2. Offices;
3. Off-street parking and lots and/or garages;
4. Governmental offices and accessory uses;
5. Residential uses (as regulated herein);
6. Adult day care; and,
7. Studios for professional work or teaching of any form of fine arts, photography, music, drama, and dance.
8. Child day care facilities. (added 6/28/07)

### B. ACCESSORY USES:

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

### C. AREA AND HEIGHT REGULATIONS:

No building shall be erected or structurally altered, except in accordance with the following regulations:

1. Minimum lot area - ten thousand (10,000) square feet;
2. Minimum lot width at building setback line - one hundred (100) feet;
3. Minimum front yard depth - twenty-five (25) feet; (Also see Section 9.13 D)
4. Minimum side yard width - fifteen (15) feet (see D- 4, below);
5. Minimum rear yard depth - fifteen (15) feet (see D- 4, below);
6. Maximum building height - six (6) stories, not to exceed fifty (50) feet. (The Planning Commission shall have the right to waive the maximum number of stories and the maximum height regulations.)

D. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material, except waste, shall be permitted in this zone and then only within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any residential zone;
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of thirty (30) feet for each side and/or rear yard which abuts said zone shall be provided, with a screening area as regulated by Section 9.17 of this ordinance;
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone, and must comply with Article XI of this ordinance;
6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking, loading or unloading areas, or automatic teller machine facilities. Automatic teller machines may be located within a detached accessory building in a side yard;
7. A Development Plan, as regulated by Section 9.19 of this ordinance, shall be required for any permitted or conditional use in this zone.
8. Residential uses shall be restricted to floors other than the ground floor. Residential floor space shall not exceed a ratio of 2:1 of the other permitted use(s) in the structure.
9. Parking requirements shall be determined by the number of spaces required by the nonresidential portion of the mixed-use premises. However, any residential units in excess of two (2) shall have additional parking as required in Article XIII. The waiver of the parking requirement for the first two (2) residential units on a mixed use premises shall be restricted to those businesses or organizations with operating hours limited to 6:00 A.M. to 6:00 P.M. that utilize the same off-street parking area.

## SECTION 10.15 INDUSTRIAL PARK ZONE (IP)

### A. USES PERMITTED:

The following uses are permitted providing all permitted uses are in compliance with the performance standards set forth in Section XI of this ordinance:

1. Except for those that decompose by detonation, the manufacturing, compounding, processing, packing, or assembling of the following uses:
  - a. Candy and confectionery products, food and beverage products, except the rendering of refining of fats and oils and excluding poultry and animal slaughtering and dressing;
  - b. Cigars and cigarettes;
  - c. Cosmetics, pharmaceuticals, and toiletries;
  - d. Animated and/or illuminated billboards and other commercial advertising structures;
  - e. Electric appliances, television sets, phonographs, household appliances;
  - f. Electrical machinery, equipment and supplies;
  - g. Fountain and beverage dispensing equipment;
  - h. Furniture;
  - i. Instruments of professional, scientific, photographic and optical use;
  - j. Metal products and metal finishing, excluding the use of blast furnaces or drop forges;
  - k. Musical instruments, toys, novelties, jewelry, rubber or metal stamps;
  - l. Office equipment;
  - m. Pottery and figurines, using only previously pulverized materials in kilns fired only with gas or electricity;
  - n. Product from the following previously prepared materials: paper, glass, cellophane, leather, feathers, fur, precious or semi-precious metals, hair, horn, shell, tin, steel, wood, plastics, rubber, bone, cork, felt, fibers, yarn, wool, tobacco, and cleaning compounds;
  - o. Textile products, including canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope and twine;
  - p. Buildings products and glass and aluminum products, such as windows, doors, mirrors, siding, gutters and roofing materials, including warehousing, wholesale sales and accessory retail sales of said products.

2. Bottling and canning works;
3. Crating services;
4. Industrial engineering consultant offices;
5. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern whether public or private;
6. Machine shops;
7. Printing, engraving and related reproduction processes;
8. Publishing and distribution of books, newspapers, and other printed material;
9. Railroad facilities exclusive of yards, maintenance and fueling facilities;
10. Schools for industrial or business training;
11. Warehousing or wholesaling;
12. Home improvement centers.

**B. ACCESSORY USES:**

1. Customary accessory buildings and uses, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use, such as maintenance shops, power plants, and machine shops;
2. Fences and walls as regulated by Article XII of this ordinance;
3. Signs as regulated by Article XV of this ordinance;
4. Uses, as listed below, included within and entered from within any use permitted in this zone as a convenience to the occupants thereof, and their customers, providing such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building:
  - a. Cafeterias;
  - b. Coffee shops or refreshment stands;
  - c. Soda or dairy bars.

**C. AREA AND HEIGHT REGULATIONS:**

No building shall be erected or structurally altered, except in accordance with the following regulations:

1. Minimum site for an industrial park zone - twelve (12) acres;

2. Minimum lot area - twenty-one thousand-seven-hundred and eighty (21,780) square feet (0.5 acres);
3. Minimum lot width at building setback line - one hundred (100) feet;
4. Minimum front yard depth - fifty (50) feet; (Also see Section 9.13 D)
5. Minimum side yard width - twenty-five (25) feet; (Also see Section E-4 below)
6. Minimum rear yard depth - fifty (50) feet; no rear yard shall be required where a rail spur line forms the rear property line;
7. Maximum building height - forty (40) feet or three (3) stories.

D. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this ordinance;
2. No outdoor storage of any material, except waste, shall be permitted in this zone and then only within enclosed metal containers or approved equal;
3. No lighting shall be permitted which would glare from this zone on to any street, road, highway, deeded right-of-way or into any residential zone;
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear which abuts said zone shall be provided and shall include a screening area, as regulated by Section 9.17 of this ordinance;
5. A Development Plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.

## **ARTICLE XI - PERFORMANCE STANDARDS FOR IP ZONE**

### **SECTION 11.0 APPLICATION OF PERFORMANCE STANDARDS**

After the effective date of this ordinance, any use established or changed to, and any building, structure, or tract of land developed, constructed or used for any permitted or permissible principal or accessory use in the IP Zone shall comply with all of the performance standards herein set forth for the district involved. If any existing use or building or other structure is extended, enlarged, or reconstructed, the performance standards for the district involved shall apply with respect to such extended, enlarged, or reconstructed portion or portions of such use or building or other structure.

#### **A. SUBMISSION OF PLAN OF OPERATION:**

The applicant shall submit in duplicate a plan of the proposed construction, development or addition including a description of the proposed machinery, processes and products, and specifications. Techniques to be used in restricting the emission of dangerous and objectionable or nuisance type elements as well as complying with all other performance standards contained herein shall be submitted to the Planning Commission.

#### **B. REPORT BY EXPERT CONSULTANTS:**

If, in the opinion of the Planning Commission, additional information is needed to evaluate the compliance with performance standards, a detailed qualified consultant's report may be required. The applicant shall deposit by the city the required costs for the consultant's report as part of the application fee. The Commission shall retain the consultant to make the required investigation and report. Such consultant shall report to the Commission as promptly as possible and a copy of such report shall be furnished to the applicant.

#### **C. REVIEW BY PLANNING COMMISSION:**

After the Planning Commission has received the aforementioned application, process description and consultant's report, if required, the Commission shall decide whether the proposed use will conform to the applicable performance standards. On such basis, the Commission shall authorize, or refuse to authorize, issuance of the desired permit or require modifications of proposed equipment or operation.

#### **D. ISSUANCE OF PERMIT:**

Any permit so authorized and issued shall be conditioned upon, among other things, the applicant's completed buildings, installations, and process conforming to the applicable performance standards.

#### **E. CONTINUED ENFORCEMENT:**

The Zoning Administrator shall periodically investigate compliance to performance standards. If there is reasonable grounds to believe a violation exists, he shall notify the Planning Commission.

### **SECTION 11.1 TIME SCHEDULE FOR COMPLIANCE OF PERFORMANCE STANDARDS**

Except as otherwise specified herein, compliance with the provisions of this article of the ordinance shall be according to the following time schedule:

- A. All new installations shall comply as of going into operation.
- B. All existing installations not in compliance as of the effective date of the ordinance shall be in compliance within one (1) calendar year of the effective date of this ordinance unless the owner or person responsible for the operation of the installation shall have submitted to the Planning Commission in a form and manner satisfactory to the Planning Commission, a program and schedule for achieving compliance. Such program and schedule to contain a date on or before which full compliance will be attained and such other information as the Planning Commission may require. If approved by the Planning Commission, such date will be the date on which the person shall comply.

The Planning Commission may require persons submitting such program to submit subsequent periodic reports on progress in achieving compliance.

## **SECTION 11.2 EFFECTS OF CONCURRENT OPERATIONS**

The sum total of the effects of concurrent operations on two or more lots should not be greater or more offensive to the sense than the standards contained herein. Compliance with the provision of these performance standards by single or mutual changes in operational levels, scheduling of operations, and other adjustments is permitted.

### **A. BUILDING ENCLOSURES:**

Every use permitted in the IP industrial district shall be operated in its entire within a completely enclosed building.

### **B. LANDSCAPING:**

In the IP district, all required front yards shall be landscaped. All other required yards shall either be open landscaped and grassed areas or be left in a natural state, if acceptable to the Planning Commission. If said area is to be landscaped, it shall be landscaped attractively with lawn, trees, shrubs, etc., according to the initially submitted plans which were first approved of for the development of such tract as a permitted use.

In areas to be used for off-street parking, the parking arrangement and surfacing must likewise have been approved of for the development of such tract as a permitted use. Any landscaped areas shall be properly maintained thereafter in a sightly and well-kept condition. Parking areas shall likewise be maintained in good condition. Any areas left in a natural state shall be properly maintained in a well-kept condition.

### **C. NOISE:**

For the purpose of measuring the intensity and frequencies of a sound, a sound level meter and an octave band analyzer shall be employed that conforms to specifications published by the American Standards Association (American Standard Sound Level Meter for Measurement of Noise and Other Sounds Z24.3 -1944, and American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10 1953, American Standards Association, Inc., New York, New York, or the latest edition of such standards, shall be used). In the enforcement of the regulation, noises produced by the operation of motor vehicles or other transportation facilities shall not be included in determining the maximum permitted decibel level. In the IP district, the sound pressure of noise radiated continuously from any activity shall not exceed the value given in Tables 1 and 2 of this section, in any octave band frequency at any point on or beyond any lot line. If the

noise is not smooth and continuous, one or more of the corrections in Table 2 of this section may be added or subtracted from each of the decibel levels given in Table 1 of this ordinance.

TABLE 1: Maximum Permissible Sound Pressure Level At Specified Points Of Measurement For Noise Radiated Continuously From A Facility

OCTAVE BAND (CYCLES PER SECOND)	SOUND PRESSURE LEVEL (DECIBELS*)
20 - 75	69
75 - 150	54
150 - 300	47
300 - 600	41
600 - 1,200	37
1,200 - 2,400	34
2,400 - 4,800	31
4,800 - 10,000	28
10,000 - 20,000	26 **
20,000 - 30,000	25 **
30,000 - 40,000	24 **
40,000 - 50,000	23 **
* According to the following formula: SOUND PRESSURE LEVEL (IN DECIBELS) + 10 LOG P1 where P2 = 0.0002 dynes/cm squared	
** To avoid possible interference with animal experiments	

TABLE 2: Correction In Maximum Permitted Sound Pressure Level In Decibels To Be Applied To Table 1

TYPE OF OPERATION OF CHARACTER OF NOISE	CORRECTION IN DECIBELS
Noise source operates less than 20% of any one hour period	plus 5 *
Noise source operates less than 5% of any one hour periods	plus 10 *
Noise source operates less than 1 % of any hour period	plus 15 *
Noise of impulsive character (hammering, etc.)	minus 5
Noise of periodic character (hum, screech, etc.)	minus 5
* Apply one of these corrections only.	

TABLE 3: Maximum Permitted Sound Pressure Level In Decibels

OCTAVE BAND (CYCLES PER SECOND)	SOUND PRESSURE LEVEL (DECIBELS)*
0 - 74	79
75 - 149	74
150 - 299	66
300 - 599	59
600 - 1,199	53
1,200 - 2,399	47
2,400 - 4,799	41
4,800 and over	39
* According to the following formula: $\text{SOUND PRESSURE LEVEL (In Decibels)} = 10 \log \frac{P_1}{P_2}$ where $P_2 = 0.0002 \text{ dynes/cm squared}$	

If the IP District adjoins a residential district, the maximum sound pressure level at any point on the district boundary shall be reduced by six (6) decibels from the maximum listed in Table 3.

In the IP district, industrial noise shall be muffled so as not to become objectionable due to intermittence, beat, frequency, or shrillness.

**D. ODOROUS MATTER:**

No emission of odorous matter shall be permitted in such quantities so as to be readily detectable or to produce a public nuisance or hazard at any point as measured along the lot lines in the IP District when diluted in a ratio of one (1) volume of odorous air to four (4) volumes of clean air for not more than fifteen (15) minutes in any one (1) hour period. Detailed plans for the elimination of odorous matter may be required before the issuance of a building permit.

**E. HUMIDITY, HEAT OR GLARE:**

In the IP district, any activity producing humidity, in the form of steam or moist air or producing heat or glare, shall be carried on in such a manner that the steam, humidity, heat or glare is not perceptible at any lot line. Detailed plans for the elimination of humidity, heat or glare may be required before the issuance of a building permit.

**F. EXTERIOR LIGHTING:**

Any lights used for exterior illumination, except for overhead street lighting and warning, or traffic signals, shall direct light away from the zones adjoining the IP District. (Also see Section 9.14)

**G. VIBRATION:**

Vibrations shall be measured at the lot line in the IP district. No vibration is permitted which is discernible to the human sense of feeling for three minutes or more in duration in any one hour. Vibration shall not produce, at any time, an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States

Bureau of Mines Bulletin No. 442, "Seismic Efforts of Quarry Blasting", on any structure. The methods and equations of said Bulletin No. 442, or any subsequent revision or amendment thereto, shall be used to compute all values for the enforcement of these provisions. Detailed plans for the elimination of vibrations may be required before the issuance of any building permit.

#### H. SMOKE:

1. The Ringelmann Smoke Chart published by the United States Bureau of the Mines Information Circular 8333, or any subsequent revision or amendment thereto, shall be used for the measurement of smoke.

Following are the steps that shall be used in the measurement of smoke:

- a. Observations shall be made from a position which is at a right angle to the line of travel of the emitted material;
  - b. The plume shall be observed against a suitable background;
  - c. Observations during daylight hours shall be made with the observer generally facing away from the sun;
  - d. Observations during hours of darkness shall be made with the aid of a light source;
  - e. Readings shall be noted at approximately fifteen (15) second intervals during observations, except that intervals up to one (1) minute shall be permitted where the appearance of the emission does not vary during such intervals;
  - f. The general color of the emission during the period of observation shall be noted as part of the record of observation.
2. In the IP District, no person shall discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period, or periods, aggregating more than three (3) minutes in any one (1) hour which is:
    - a. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, or; such opacity (excluding water vapor) as to obscure an observer's views to a degree equal to or greater than does smoke described in subsection H, 2, a, of this regulation.
  3. Detailed plans for the elimination of smoke may be required before the issuance of a building permit.

#### I. PARTICULATE MATTER:

1. Particulate matter from incineration of refuse: In the IP District, particulate matter emitted shall not exceed 0.40 lbs. per 1,000 lbs. of gases based upon total products of combustion and adjusted to fifty percent (50%) excess air.
2. Particulate matter from industrial processes:

a. General provisions:

1. This regulation applies to any operation, process, or activity except the burning of fuel for indirect heating in which the products of combustion do not come into direct contact with process materials and except the burning of refuse and except the processing of salvageable material by burning.
2. Process weight means the total weight of all materials introduced into a source operation, including solid fuels, but excluding liquids and gases used solely as fuels, and excluding air introduced for purposes of combustion. Process weight rate means a rate established as follows:
  - a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof;
  - b. For cyclical or batch source operations, the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.

Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this section, that interpretation which results in the minimum value for allowable emission shall apply.

- c. Emission tests relating to this regulation shall be made following the standards in the American Society of Mechanical Engineers Power Test Codes - PTC - 27 dated 1957 and entitled "Determining Dust Concentrations in a Gas Stream".

b. Emission Limitations:

1. Except as provided for in Subsection I,2, b, (2), which follows, no person shall cause, suffer, allow, or permit the emission of particulate matter in any one hour from any source in the IP District in excess of the amount shown in Table 4 of this ordinance for the process weight allocated to such source.
2. The limitations established by Subsection I, 2, b,(1) shall not require the reduction of particulate matter concentration, based on the source gas volume, below the concentration specified in Table 5 for such volume provided that, for the purpose of this section, the person responsible for the emission may elect to substitute a volume determined according to the provisions of Subsection I, 2, b, (3) and provided further that the burden of showing the source gas volume or other volume substituted therefore, including all the factors which determine such volume and the methods of person seeking to come within the provisions of this subsection.

TABLE 4(a): Maximum Rate Of Particulate Matter Emission By Process Weight

PROCESS WEIGHT RATE		RATE OF EMISSION	PROCESS WEIGHT RATE		RATE OF EMISSION
LB/HR	TONS/HR	LB/HR	LB/HR	TONS/HR	LB/HR
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.40	1,000,000	500.00	69.0
9,000	4.50	11.20	2,000,000	1,000.00	77.6
10,000	5.00	12.00	6,000,000	3,000.00	92.7
12,000	6.00	13.60			

- a. Interpolation of the data in this table for process weight rates up to 10,000 lb./hr. shall be accomplished by use of the equation E-4.10 P<sup>0.67</sup>, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb./hr. shall be accomplished by use of the equation: E=55.OP<sup>0.11</sup> - 40. where E=rate of emission in lb./hr. and P=process weight rate in tons/hr.
- b. Standard cubic foot per minute;
- c. Grain per standard cubic foot;
- d. Interpolation of the data in this table shall be based on linear interpolation between adjacent values.

TABLE 5(c): Maximum Reduction Of Particulate Matter Concentration Based On The Source Gas Volume

SOURCE GAS VOLUME SCF/Ma	CON-CENTRATION GR/SCFb	SOURCE GAS VOLUME SCF/Ma	CON-CENTRATION GR/SCFb
7,000 or less	0.100	140,000	0.038
8,000	0.096	160,000	0.036
9,000	0.092	180,000	0.035
10,000	0.089	200,000	0.034
20,000	0.071	300,000	0.030
30,000	0.062	400,000	0.027
40,000	0.057	500,000	0.025
50,000	0.053	600,000	0.024
60,000	0.050	800,000	0.021
80,000	0.045	1,000,000 or more	0.020
100,000	0.042		
120,000	0.040		

3. Any volume of gases passing through and leaving an air pollution abatement operation may be substituted for the source operation served by such air pollution abatement operation, for the purposes of Subsection I, 2, b, (2), provided such air pollution abatement operation emits no more than 40 percent of the weight of particulate matter entering thereto; and provided further that such substituted volume shall be corrected to standard conditions and to a moisture content no greater than that of any gas stream entering such air pollution abatement operation.
  
4. No person shall cause, suffer, allow, or permit the emission of particulate matter from any source in a concentration in excess of 0.30 grain per standard cubic foot of exhaust gases. If provisions of this subsection 2, b, (1), the provision of this subsection I, 2, b, (4), shall not apply except that the following regulation shall apply to existing gray iron jobbing cupolas. For purposes of this regulation, a jobbing cupola is defined as a cupola which has a single melting cycle no more than 10 hours in any consecutive 24 hours and no more than 50 hours in any consecutive 7 days.
  - a. All existing gray iron cupolas shall be equipped with gas cleaning devices and so operated as to remove 85 percent by weight of all the particulate matter in the cupola discharge gases, or release no more than 0.4 grain of particulate matter per standard cubic foot of charge gas, whichever is more stringent;
  
  - b. All gases, vapors, and gas entrained effluent from such cupolas shall be incinerated at a temperature not less than 1200 degrees Fahrenheit for a period of not less than 0.3 seconds;
  
  - c. The following exceptions to the provisions of subsection I, (2) of this section shall be permitted:
    1. When building a new fire; and

2. During the start-up, an operational breakdown, or while cleaning air pollution control equipment for any process.
5. Particulate matter from fuel-burning sources:
- a. This regulation applies to installations in which fuel is burned for the primary purpose of producing steam, hot water or hot air or other indirect heating of liquids, gases, or solids and, in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels include those such as coal, coke, lignite, coke breeze, fuel oil, and wood, but do not include refuse. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply;
  - b. The heat content of coal shall be determined according to ASTM method D-271-64 Laboratory Sampling and Analysis Coal and Coke or ASTM method D-2015-62T Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter, which publications are made a part of this ordinance by reference;
  - c. For purposes of this ordinance, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks. The heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premise shall be used for determining the maximum allowable amount of particulate matter which may be emitted;
  - d. The amount of particulate matter emitted shall be measured according to the American Society of Mechanical Engineers Power Test Codes = PTC - 27, dated 1957 and entitled "Determining Dust Concentration in a Gas Stream", which publication is made a part of this ordinance by reference;
  - e. In the IP District, no person shall cause or permit the emission of particulate matter as measured in the flue which exceeds the following weights, as observable from Figure 1:
    1. 0.60 pounds for each million B.T.U. per hour input if the equipment has a capacity rating of 10 million or less. If the capacity rating of the fuel burning equipment is more than 10 million, the amount of particulate matter may be emitted for each million B.T.U. input shall decrease as the capacity rating of the fuel burning equipment increases as follows:
      - a. No more than 0.46 pounds for each million B.T.U. input from equipment having a capacity rating of 50 million;
      - b. No more than 0.40 pounds for each million B.T.U. input from equipment having a capacity rating of 100 million;
      - c. No more than 0.30 pounds for each million B.T.U. input from equipment having a capacity rating of 500 million;
      - d. No more than 0.26 pounds for each million B.T.U input from equipment having a capacity rating of 1,000 million;

- e. No more than 0.23 pounds for each million B.T.U. input from equipment having a capacity rating of 2,500 million;
- f. No more than 0.20 pounds for each million B.T.U. input from equipment having a capacity rating of 5,000 million;
- g. No more than 0.19 pounds for each million B.T.U. input from equipment having a capacity rating of 7,500 million;
- h. No more than 0.18 pounds for each million B.T.U. input from equipment having a capacity rating of 10,000 million or more.

The amount of particulate matter which may be emitted from fuel burning equipment having an intermediate capacity rating shall be determined by linear interpolation. If two or more fuel burning units are connected to a single fuel, the total capacity rating of all fuel burning units connected to the flue shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted. If a single fuel burning unit is manifolded to two or more flues, the capacity rating of the single fuel burning unit shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted.

J. GASES: SULFUR DIOXIDE:

1. No person shall cause or permit the emission into the atmosphere from any existing source, gases containing more than 2,000 parts per million by volume of sulfur dioxide from any new source, except those in which both:
  - a. fuel is burned primarily to produce heat; and
  - b. the sulfur compound emission is due primarily to the sulfur in the fuel burned.
2. No person shall cause or permit the emission of sulfur dioxide from any point as measured along the lot lines in the IP Zone in such manner and amounts that the concentrations and frequencies attributed to such emission exceed the following:
  - a. 0.40 parts per million on a one (1) hour basis;
  - b. 0.18 parts per million on a twenty-four (24) hour basis; and
  - c. 0.05 parts per million for ninety (90) percent of all measurements taken over a calendar year period.
3. The method of measuring sulfur dioxide in the ambient atmosphere shall be:
  - a. Gaseous (502) calorimetric Reference: Selected Methods for the Measurement of Air Pollutants, Public Health Service Publication No. 99-AP-11 (May, 1965), Determination of Sulfur Dioxide: West-Goeke Method, Page A1-5.
  - b. Gaseous (502) Conductometric ASTM Standards on Methods of Atmospheric Sampling and Analysis, 2nd Edition, Method D 1355-60, Method A, Page 11.

4. Emission of other gases, not specified herein, shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive in the IP Zone.

K. RADIATION:

In the IP Zone, all sources of ionizing radiation shall be registered or licensed by the Kentucky State Department of Health and operated in accordance with their regulations.

L. ELECTRICAL RADIATION:

In the IP zone, any electrical radiation shall not adversely affect, at any point on or beyond the lot line, any operation or equipment other than those of the creation of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.

M. STORAGE:

In the IP Zone, no material, products or supplies shall be stored or permitted to remain on any part of the property outside the buildings constructed thereon.

N. FIRE AND EXPLOSIVE HAZARDS:

Storage, utilization, or manufacture of solid materials or products including free burning and intense burning shall not be permitted in any zone, nor shall the storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases be permitted in any zone.

O. WASTE:

Within the IP zone, no waste material or refuse shall be dumped upon or permitted to remain upon any part of the part of the property outside of the buildings constructed thereon. All sewage and industrial waste shall be treated and disposed of in such manner so as to comply with the standards of the appropriate authority. All plans for waste disposal facilities shall be required before the issuance of any building permit.

## **ARTICLE XII - FENCES, WALLS AND OBSTRUCTION TO VIEW REGULATIONS**

### **SECTION 12.0 VISION CLEARANCE AT CORNERS AND RAILROAD CROSSINGS**

No fence, wall, hedge, or other structure or other obstruction above a height of three (3) feet as measured above the curb level shall be erected, placed, maintained, or continued in any zone within that triangular portion of a corner lot formed by measuring fifty (50) feet from the intersection of the rights-of-way line of two (2) streets or of the right-of-way line of a street intersection with a railroad right-of-way line and joining these points with a straight line. No type of tree or planting or other obstruction shall be planted, placed, maintained, or continued in such a manner which would obstruct the vision clearance at corners and railroad crossings.

### **SECTION 12.1 CLASSIFICATION OF FENCES AND WALLS**

- A. The following shall be the classification of fences and walls for this ordinance:
1. Hedges;
  2. Retaining walls;
  3. Other masonry walls;
  4. Ornamental iron (eighty percent (80%) open);
  5. Woven wire-Chain Link (eight percent (80%) open);
  6. Wood or other materials (more than fifty percent (50%) open);
  7. Solid fences - wood or other materials (less than fifty percent (50%) open);
  8. Barbed wire or sharp pointed fences;
  9. Earthen or concrete walls intended to contain or redirect flooding waters, or otherwise serve as a physical barrier.

### **SECTION 12.2 CONSERVATION ZONE AND RIVER PRESERVATION ZONE**

- A. Fences and/or walls within the conservation and river preservation zones shall conform to the following requirements:
1. Section 12.0, except that in front yards class 2,4, or 5 fences may be erected up to a maximum height of eight (8) feet;
  2. Side and rear yard, class 1, 2, 3, 4, 5, 6, 7, or 8 fences and/or walls may be erected up to a maximum height of eight (8) feet;
  3. Class 9 walls shall be permitted but shall conform to requirements of the Corps of Engineers and/or city engineer, whichever is applicable.

### **SECTION 12.3 RESIDENTIAL ZONES**

- A. Fences and/or walls within the Residential Zones shall conform to the following requirements:
  - 1. Section 12.0 and the requirements set forth and depicted on Figure 2 of this ordinance for residential uses only;
  - 2. For all nonresidential uses permitted or conditional use permitted herein:
    - a. Section 12.0 except that in front yards, class 1 or 2 fences may be erected up to a maximum height of six (6) feet;
    - b. Side or rear yards, class 1,2,3,4,5,6, or 7 fences or walls may be erected up to a maximum height of eight (8) feet;

### **SECTION 12.4 COMMERCIAL/PROFESSIONAL OFFICE ZONES**

Fences and/or walls within the GC, HC and PO, CBD Zones, including those permitted with all conditionally permitted uses in these zones shall conform to the following requirements:

- A. Section 12.0, except that in front yards of, GC, HC, and PO, CBD Zones, classes 1, 2, or 3 fences may be erected up to a maximum height of six (6) feet; and except class 6 fences may be erected in front yards of HC zones to a maximum height of four and one (4 1/2) feet.
- B. Side and rear yard, classes 1, 2, 3, 4, 5, 6, or 7 fences and/or walls may be erected up to a maximum height of eight (8) feet except that Section 12.0 shall prevail at all intersections.

### **SECTION 12.5 INDUSTRIAL ZONES**

Fences and/or walls within the IP Zone shall conform to the following requirements:

- A. Section 12.0 except that in front yards, classes 1, 2, or 3 fences may be permitted up to a height of six (6) feet; and except class 6 fences may be erected in front yards of HC and IP zones to a maximum height of four and one half (4 1/2) feet.
- B. Classes 1, 2, 3, 4, 5, 6, 7, or 8 fences and/or walls, up to a height of eight (8) feet, however, such maximum height may be increased at the discretion of the Planning Commission.

### **SECTION 12.6 MEASUREMENT OF ALL FENCE AND/OR WALL HEIGHTS**

- A. All fences and/or wall heights shall be measured from their top edge to bottom edge, except as stated in Section 12.0, and shall be maintained at bottom edge of no greater than 3 inches from the existing grade at any point.
- B. All locations for distance measurements shall be measured from lot lines.

### **SECTION 12.7 HEIGHT OF ANY BARBED WIRE OR SHARP POINTED FENCES**

- A. In zones where permitted, barbed wire or sharp pointed fences, shall not be less than height of six (6) feet.

## **SECTION 12.8 HEIGHT OF FENCES ATOP RETAINING WALLS**

A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to the level of the higher finished grade. The fence portion must be of the class and height permitted within this ordinance for the applicable zone. Said measurement shall be made at the location of the fence and retaining wall. Where difference in grade require "guards" per Kentucky Building Code (KBC), fencing and/or guards shall meet the minimum standards of this ordinance and the KBC.

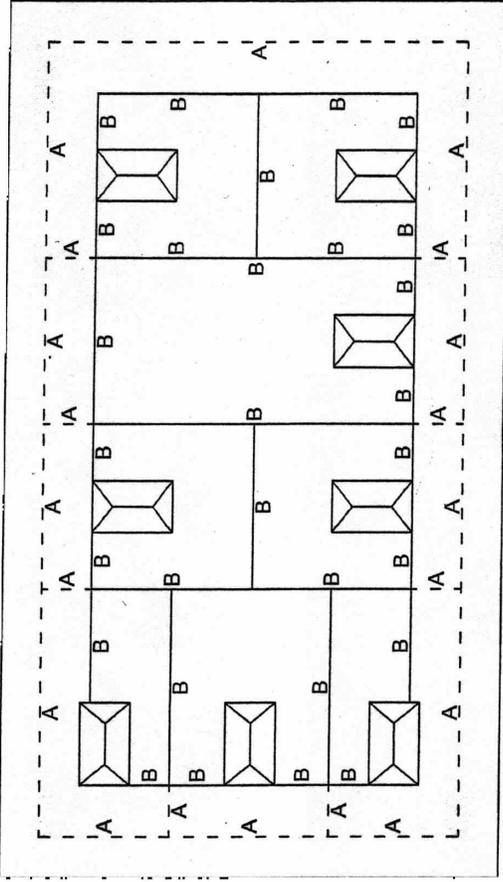
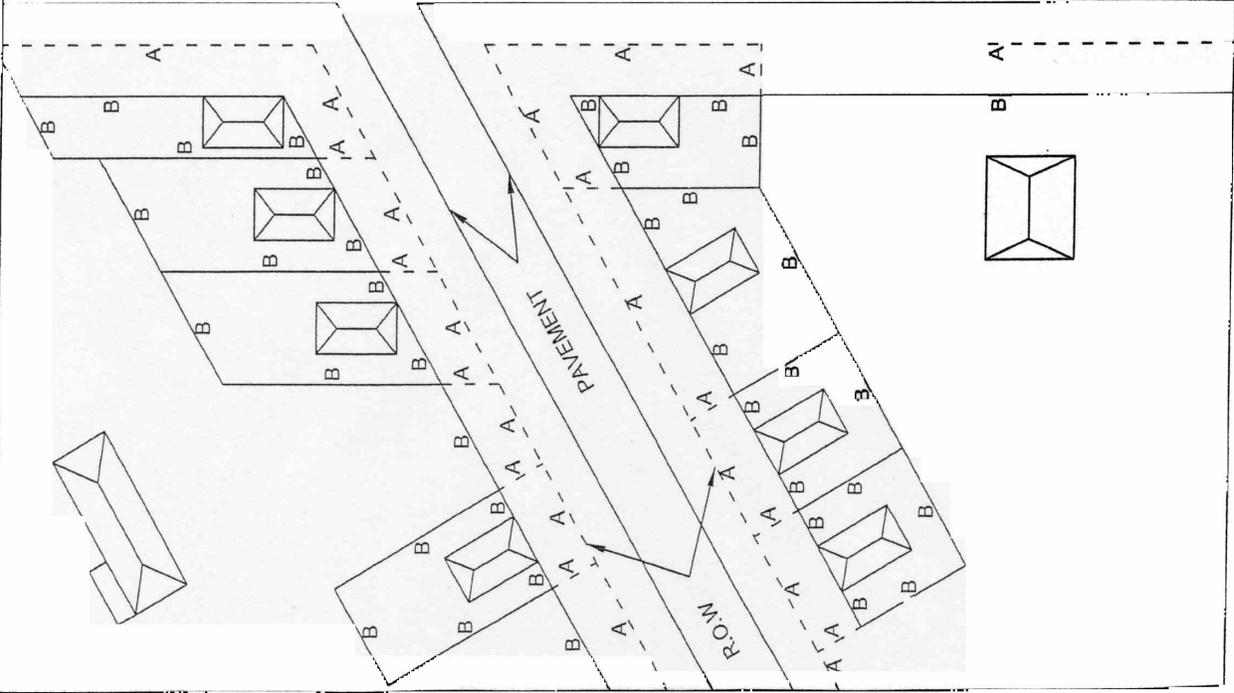
## **SECTION 12.9 ATHLETIC FENCES**

In zones where permitted, public and semi-public athletic fields, ball fields, tennis courts, and similar recreation areas may be fenced with fences of a maximum height of twelve (12) feet. Baseball field backstops may have a maximum height of sixteen (16) feet.

In residential districts, private athletic fields, tennis courts and similar recreation areas may be fenced with Class 4 or Class 5 fences to a maximum height of twelve (12) feet. These fences shall be setback an additional one-foot from the minimum building setbacks established in each zone for each additional foot in height above the foot maximum height established in Section 12.3 of this Ordinance.

## **SECTION 12.10 STRUCTURAL ELEMENTS OF FENCES**

Fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side which faces the property owned by the person building the fence.



**TYPE, CLASS, AND HEIGHT OF FENCES AND WALLS PERMITTED UNDER SECTION 12.3 OF THIS ORDINANCE**

TYPE	SYMBOL	CLASS	MAX. HEIGHT
A	---	1 OR 2	3'-0"
B	—	1, 2, 3, 4, 6 OR 7	6'-0"
B	—	5	4'-0"

NOTE: TYPE B FENCES SHALL NOT BE CONSTRUCTED ANY NEARER TO ANY STREET THAN THE REQUIRED FRONT YARD SETBACK FOR THAT ZONE

## **ARTICLE XIII - OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS**

In all zones, off-street parking facilities for use by occupants, employees, and patrons of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this ordinance, shall be provided and maintained as herein prescribed.

### **SECTION 13.0 GENERAL REQUIREMENTS**

#### **A. COMPUTATION OF PARKING SPACES:**

In determining the number of required off-street parking spaces if such spaces result in fractional parts thereof, the number of said required spaces shall be construed to be the next highest whole number.

#### **B. CHANGE IN INTENSITY OF USE**

Whenever the intensity of use of any building, structure, or premises shall be increased through a change of use, addition of dwelling units, gross floor area exceeding one thousand (1,000) square feet, seating capacity not exceeding ten persons, or other units of measurement specified herein - additional parking spaces shall be provided in the amounts hereafter specified for that use, if the existing off-street parking area is inadequate to serve such increase in intensity of use.

##### **1. Exceptions**

The Planning commission may modify or waive this requirement, for permitted uses within the CBD or GC Zoning Districts, in those circumstances where an owner is physically unable to provide additional off-street parking facilities due to limitations in lot area, building setback, accessibility and other pre-existing hardship conditions. When a waiver or modification to this requirement is requested, the owner or applicant must demonstrate that such waiver or modification will not materially or substantially affect other business uses within the same district.

Any request for a waiver from the parking requirements shall require submission of a parking study pursuant to the provisions of Section 13.2 for "All Other Uses Not Listed Herein." Additionally, the Planning Commission shall make findings supporting a hardship and include those findings with final action of the submitted Development Plan.

#### **C. LOCATION OF OFF-STREET PARKING FACILITIES:**

##### **1. Off-street parking facilities shall be located as follows:**

##### **a. Single-Family Residential Zones**

1. Off-street parking may be permitted in driveways in the front, side, and rear yards of permitted uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking located in the rear yard shall be set back a minimum of ten (10) feet from the rear lot line. Parking spaces shall not cause the ratio of unpaved area to paved area (parking and driveway areas) in the front yard to be less than 3:1.

2. Off-street parking may be permitted in the side and rear yards of conditional uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking, located in the rear yard, shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in the front approved by the Board of Adjustment.

b. Multi-Family Residential Zones:

1. Off-street parking may be permitted in the side and rear yards of permitted uses in these zones, provided that off-street parking facilities shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in required front yards, only if approved according to an approved Development Plan.
2. Off-street parking may be permitted in the side and rear yards of conditional uses in these zones, provided all requirements of this ordinance are met. Additionally, off-street parking, located in the rear yard, shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in the front yard, only if approved by the Board of Adjustment.

c. Special Development Zones: Off-street parking shall be located as designated on the approved plan

d. Commercial (excluding CBD Zone), Professional Office, and Industrial Zones:

1. Except as herein provided, off-street parking may be permitted in minimum front, side and rear yards of these zones, provided that all off-street parking facilities shall be set back a minimum of five (5) feet from any street right-of-way line.
2. Off-street parking may be permitted in the front yard area of permitted uses within the CBD zone only upon special approval by the Planning Commission. The owner or applicant must demonstrate, by submission of a site plan, that required off-street parking cannot be satisfied within rear and side yard areas and parking facilities in front yard areas will not materially or substantially affect adjacent properties and is consistent with other yard and landscaping conditions/standards within the same district.
3. IP Zone: Off-street parking may be permitted in the side and rear yards, provided that all off-street parking facilities shall be set back a minimum of ten (10) feet from the rear lot line, and shall not be permitted in the minimum required side yards. Off-street parking may be permitted in front yards, provided all minimum front and side yard requirements are maintained.

D. COLLECTIVE PARKING PROVISION:

Collective off-street parking facilities may be provided; however, such facilities shall be no less than the sum of such facilities as would otherwise be individually required.

E. SHARED PARKING PROVISION:

When any land or building is under the same ownership, or upon submission of documentation recorded in the Campbell County Clerk's Office of satisfactory guarantees of the continued operation and proper maintenance of the shared parking facility, and proposed development is for two (2) or more land uses, excluding residential uses, the number of required off-street parking spaces shall be computed by multiplying the minimum number of parking spaces normally required for each land use by the appropriate percentage, as shown in the following shared parking credit table, for each of the five (5) time periods. The number of required off-street parking spaces is then determined by adding the results in each column. The column total that generates the highest number of parking spaces becomes the minimum parking requirement.

TABLE 6: Shared Parking Credit Table

LAND USE TYPE	TIME OF OPERATION				
	WEEKDAY		WEEKEND		NIGHTTIME
	DAYTIME (6AM-6PM)	EVENING (6PM-12AM)	DAYTIME (6AM-6PM)	EVENING (6PM-12AM)	12AM-6AM
Office/Industrial	100%	10%	10%	5%	5%
Retail/Personal Service	60%	90%	100%	70%	5%
Hotel/Motel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Indoor Theater/ Commercial Recreational Establishment	40%	100%	80%	100%	10%

1. The following requirements shall apply to any shared parking facility:
  - a. The shared parking facility must be located within five hundred (500) feet walking distance of the entrance of the establishment to be served. Said walkway access shall provide a safe means of pedestrian access to and from the establishment being served.
  - b. Reserved spaces shall not be shared.
  - c. It shall be determined at the time of parking facility plan approval that shared parking is possible and appropriate at the location proposed. Particular attention is needed to assure that sufficient and convenient short-term parking will be available to commercial establishments during the weekday daytime period. The short-term shared parking spaces must be located in the most convenient and visible area of the parking facility nearest the establishment being served.
  - d. Any subsequent change in use shall require the issuance of a new zoning permit and proof that minimum parking requirements, per these regulations, will be met.
  - e. Shared parking may be utilized for other uses, which are not shown in the parking credit table, the applicant shall prepare a similar calculation for the proposed uses, indicating the estimated percentage of each time period, based upon current parking

information. Documentation shall be submitted by the applicant to demonstrate that the normal and regular operating hours of the uses proposing a shared parking arrangement do not coincide or overlap in any manner.

- f. The property owners involved in the joint use of off-street parking facilities shall submit a legal agreement approved by the attorney for the City of Fort Thomas guaranteeing that the parking spaces shall be maintained so long as the use requiring such parking is in existence or unless the required parking is provided elsewhere in accordance with provisions of this chapter. Such instruments shall be recorded by the property owners in the Campbell County Clerk's Office and a copy shall be filed with the City of Fort Thomas Zoning Administrator.

F. APPROVAL OF CURB CUTS REQUIRED IN COMMERCIAL, INDUSTRIAL, AND MULTI-FAMILY ZONES:

Detailed plans shall be submitted to the Planning Commission for approval of all curb cuts or driveway openings in commercial and industrial zones before a building permit may be obtained therefore.

G. DRIVEWAYS NOT COMPUTED AS PART OF REQUIRED PARKING AREA:

Entrances, exits, or driveways shall not be computed as any part of a required parking lot or area.

H. OFF-STREET PARKING SPACE TO BE USED FOR PARKING ONLY:

Any vehicle parking space shall be used for parking only. Any other use of such space, including repair work or servicing of any kind other than in an emergency, shall not be permitted.

I. NO BUILDING SHALL BE ERECTED IN OFF-STREET PARKING SPACE:

No building of any kind shall be erected in any off-street parking lot except a parking garage containing parking spaces equal to the requirements set forth in this section of the ordinance or a shelter house booth for a parking attendant providing the number of spaces required are not reduced.

J. OFF-STREET PARKING SPACE SHALL NOT BE REDUCED:

The required parking area on any lot, as set forth and designated in this ordinance, shall not be reduced or encroached upon in any manner.

K. PARKING PLAN APPROVAL REQUIRED:

Plans for all parking lot facilities, including parking garages, excepting that required for single- and two-family development, shall be submitted to the Zoning Administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the City of Fort Thomas. Such plans shall show the number of spaces and arrangements of parking aisles, location of driveway entrances and exits, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location of shelters for parking attendant, locations of signs, typical cross-sections of pavement, base and sub-base, in accordance with Article XIII, Section 13.0, M of this ordinance, proposed grade of parking lot, storm drainage facilities, location of lighting facilities and such other information or plans as the circumstances may warrant.

## SECTION 13.1 DESIGN AND LAYOUT OF OFF-STREET PARKING AREAS

### A. SIZE OF OFF-STREET PARKING SPACES:

For the purposes of this ordinance, one (1) parking space shall be a minimum of one hundred and sixty-two (162) square feet in area, exclusive of access drives or aisles and shall be a minimum of nine (9) feet in width and eighteen (18) feet in length. Such parking space shall have a vertical clearance of at least seven (7) feet.

The Zoning Administrator may permit a maximum of twenty-five (25) percent of the total parking spaces of a parking lot facility to be seven and one-half (7-1/2) feet in width and fifteen (15) feet in length, in order to accommodate compact cars.

### B. WIDTH OF ACCESS DRIVES

1. All parking lots shall be laid out with the following minimum access drive or aisle width:
  - a. Ninety (90) degree (perpendicular) parking - Twenty-four (24) feet (either one or two way circulation);
  - b. Sixty (60) degree (angle) parking - Eighteen (18) feet (one way circulation); twenty (20) feet (two-way circulation);
  - c. Forty-five (45) degree (angle) parking - Thirteen (13) feet (one way circulation); twenty (20) feet (two-way circulation);
  - d. Thirty (30) degree (angle) parking - Eleven (11) feet (one way circulation); twenty (20) feet (two-way circulation);
  - e. Zero (0) degree (parallel) parking - Twelve (12) feet (one-way circulation).
2. Except as herein provided, the minimum width of access drives or aisles, as provided for in Section 13.1.b.1. of this ordinance, shall be required whether the access drive or aisle provides access to an off-street parking area or individual off-street parking spaces.
3. When any combination of these types of parking is used (facing the same aisle) the most restricted aisle or access drive width requirements shall prevail.

### C. PAVING OF NEW OFF-STREET PARKING AREA:

1. All new off-street parking facilities available for public use, shall be surfaced with asphalt concrete or Portland Cement concrete and shall be designed and constructed in accordance with the specifications, standards, and procedures of the City of Fort Thomas or the Kentucky Department of Highways, to be determined by the City Engineer.
2. All off-street parking areas and driveways shall be paved with hard-surface pavement materials pursuant to the subdivision regulations, an approved Development Plan or in accordance with the specifications, standards and procedures of the Kentucky Department of Highways for a minimum distance equal to the established or required front yard setback in the zoning district the property is located.

3. Alternative hard surface paving systems, including decorative pavers, may be used, provided that the system and materials used will have the same or greater load-bearing strength as the equivalent asphalt concrete or cement concrete specified above.

D. ACCESS:

Parking lots or areas adjacent to streets, roads, highways, or deeded rights-of-way shall have driveways or openings not less than twelve (12) feet in width and no more than thirty (30) feet in width at the curb line. These curb cuts shall be so located as to minimize traffic hazards and congestion. There shall not be more than two (2) accesses from any one property to a public street, road, highway or deeded right-of-way for each four hundred (400) feet of street frontage. All such parking lots or areas shall have a protective wall or bumper block around each parking lot and said parking lots shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic.

No residential driveway width at street, road, highway, or deeded rights-of-way junctions shall be more than twenty four (24)feet.

E. DESIGN AND MAINTENANCE:

1. Screening and Landscaping:

All open automobile parking areas shall be effectively screened on each side adjoining or fronting on any property line for more than eighty (80) feet situated in a residential zone by a solid wall, fence or densely planted compact hedge, as regulated by Section 9.17 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

2. Any lighting used to illuminate off-street parking areas shall comply with Section 9.14 and be directed onto usable parking areas and away from adjoining property in such a way as not to create a glare or nuisance as determined by the zoning administrator.
3. Ingress and egress to parking areas shall be limited to driveway entrances and exits specified in parking area plans as approved by the Zoning Administrator. Each required parking space shall be connected with a deeded public right-of-way (by means of adequate aisles as required in Section 13.1 D) which offers adequate ingress and egress for automobiles.
4. Parking lots, garages and storage areas shall be so designed and constructed so that all maneuvering into and out of each parking space takes place entirely within property lines of lots, garages, and/or storage areas.

## **SECTION 13.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS**

The amount of required off-street parking space for uses, buildings, or additions thereto shall be determined according to the following requirements, and the space, so required, shall be reserved for such use. Where more than one use is located in the same building, each individual use shall be in accordance with the off-street parking requirements of this section of the ordinance, except as provided for under Section 13.0.E of this Ordinance.

<b>TYPES OF USES</b>	<b>REQUIRED NUMBER OF PARKING SPACES</b>
Airport, railroad passenger And bus terminals	One (1) parking space per each four (4) seating accommodations for waiting passengers, plus One (1) parking space per each two (2) employees on shift of largest employment
Automobile or Truck Wash	See conditional use requirements in Section 10.13
Automobile service stations	One (1) space for each gas pump plus two (2) spaces for each Working bay, plus one (1) parking space for each employee on largest shift
Beauty parlors and barber shops	Two (2) parking spaces per barber and/or beauty shop operator
Bowling establishments	Five (5) parking spaces for each lane; plus one (1) space for each two (2) employees on shift of largest employment
Commercial or trade schools	One (1) parking space for each two (2) Students based on design capacity of School, plus one (1) parking space for each employee
Congregate housing and orphanages	One (1) parking space for each two (2) beds, plus one (1) space for each two (2) employees or staff members, including nurses, on the shift of largest employment, plus one (1) parking space per doctor.
Dormitories, Fraternities	One (1) parking space per sleeping and sorority Houses guest or member, plus one (1) parking space per owner of operator plus one (1) parking space per employee.
Dwellings: One and Two-Family	Two (2) parking spaces for each dwelling unit.
Dwellings: Multi-Family	One and one-half (1 ½) parking spaces for each dwelling unit containing not more one (1) bedroom and two (2) parking spaces per each dwelling unit containing more than one bedroom.
Establishments for sale and consumption on the premises of alcoholic beverages, food or refreshments.	One (1) parking space for each: <ul style="list-style-type: none"> <li>a. 50 square feet of gross floor area for taverns and bars (i.e. businesses with less than 50% of gross income from sale of food)</li> <li>b. 65 square feet of gross floor area for fast food restaurants</li> <li>c. 150 square feet for sit-down restaurants</li> </ul>
Fire, police stations, and other government uses (excluding offices)	One parking space for each person on duty on largest shift.
Hospitals	One (1) parking space for each two (2) beds, plus one (1) space for each employee.

Industrial establishments, including manufacturing, research and testing laboratories	Two (2) parking spaces for each three (3) employees-the total number of parking being the total number of employees on any two (2) consecutive shifts having the largest number of employees based on design capacity, plus one (1) parking space for each company vehicle operating from the premises.
Laundromats	One (1) parking space for each two (2) washing machines plus one (1) for each employee
Libraries, museums and art galleries	One (1) parking space for each four (4) seats in rooms for public assemble or one (1) parking space for each fifty (50) square feet of net floor area for use by the public, whichever is greater, plus one (1) space for each two (2) employees on shift of largest employment.
Medical offices and/or clinics	Five (5) parking spaces per each practitioner plus one (1) parking space for each two (2) employees, or one (1) parking space per each two hundred (200) square feet of gross floor area in the building plus one (1) parking space for each two (2) employees, whichever is greater.
Mortuaries or funeral homes	One (1) parking space for each four (4) seats in the main chapel or public assembly area based on maximum seating capacity, plus one (1) parking space for each fifty (50) square feet of floor area in parlors or service rooms, or one (1) parking space for each four (4) persons, based on designed capacity of the building, whichever is greater, plus one (1) parking space for each funeral vehicle and employee.
Office for professional, business, financial, real estate and business purposes other than medical offices and/or clinics	One (1) parking space for each three hundred (300) square feet of gross floor area
Post Offices	One (1) parking space for each four hundred (400) square feet of gross floor area, plus one (1) parking space for each two (2) employees on the shift of largest employment plus one (1) space for every vehicle operating from the premises.
Private clubs and lodge halls	One (1) parking space for each four (4) persons, based on design capacity of the building, plus one (1) parking space for each two (2) employees.
Retail and personal services stores	One parking space for each three hundred (300) feet of gross leasable area.
Retail sales-bulky items, furniture, etc.	One (1) parking space for each four hundred (400) square feet of gross floor area plus one (1) parking space for each two (2) employees.

Schools-Elementary, junior high and equivalent, private or parochial schools	One (1) space per teacher and administrator, or one (1) space for each four (4) seats in the auditorium, stadium and other places of assembly or facilities available to the public, based on maximum seating capacity.
Schools-Senior high, trade and vocational, colleges and universities, and equivalent private or parochial schools	Six (6) spaces per each room to be used for class instruction or administrative office or one (1) space for each four (4) seats in the auditorium, stadium, and other places of assembly or facilities available to the public, based on maximum seating capacity, whichever is greater.
Shopping Centers	Five and one half (5 ½) spaces for every 1,000 feet of gross leasable area.
Stadium and sports arenas	One (1) parking space for each four (4) seats, based on a maximum seating capacity, plus one (1) space for each two(2) employees on shift of largest employment.
Theaters, auditoriums, churches and places of assembly with fixed seats.	One (1) parking space for each four (4) seats based on a maximum seating capacity, plus one (1) space for each (2) employees on shift of largest employment.
Tourist homes, cabins, motels, hotels, or boarding houses	One (1) parking space for each sleeping room or suite, plus one (1) space per each two (2) employees on shift of largest employment.
Wholesale establishments, warehouses and storage buildings	One (1) parking space for each employee, plus one (1) parking space for each company vehicle operating from the premises.
All Other Uses Not Listed Herein	Based on study to be prepared by owner or operator; number of spaces to be required determined according to: <ul style="list-style-type: none"> <li>a. Type of use and estimated number of total trips generated during peak conditions (inbound and outbound)</li> <li>b. Estimated parking duration per vehicle trip (turn-over rates)</li> <li>c. Based on estimated number of trips generated and average parking duration per trip, calculate number of spaces required.</li> <li>d. Estimated number of employees-one (1) space to be provided for each two (2) employees based on shift of maximum employment.</li> </ul>

### SECTION 13.3 ACCESS CONTROL REGULATIONS

In order to promote greater safety of passage between highway and land; improve the convenience and ease of movement of travelers on the highway; permit reasonable speeds and economy of travel; and increase and protect the capacity of the highway, the location and design of access points shall be in accordance with the following access control requirements. These requirements shall apply to all arterial and collector type streets, as identified in the adopted comprehensive plan:

A. PROVISION OF RESERVED TURNING LANES:

At those access points where vehicles turning to and from the arterial and collector streets will affect the roadway capacity, reserved turn lanes shall be constructed by the developer.

B. PROVISION OF FRONTAGE ROAD:

Where possible, provision for the construction of a frontage road shall be made. However, access to the arterial or collector streets via an intersecting street or a common driveway shall be investigated if such a design is not reasonable.

C. COORDINATION OF ACCESS POINTS:

Major access points on opposite sides of the arterial and collector streets shall be located opposite each other, otherwise turning movement restrictions may be imposed by the Planning Commission or Zoning Administrator, whichever is applicable. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with and between adjacent properties developed (present or future) for similar uses. As a condition of approval for construction, use, or re-use of any access road, the zoning administrator may require that unobstructed and unencumbered access, in accordance with the provisions of this ordinance, be provided from any such access point to adjacent properties.

D. SPACING RESTRICTIONS FOR SIGNALIZED ACCESS POINTS:

Access points which will warrant signalization shall be spaced a minimum distance of one quarter mile apart. The exact location of the signal light shall be determined by a traffic engineering study which shall at least account for the following variables:

1. Speed;
2. Traffic signal phasing;
3. Traffic signal cycle length;
4. Roadway geometries; and
5. Accident experience.

Provision for all turning movements to maintain the design capacity of the roadway shall be required.

E. SIGHT DISTANCE:

The location of access points shall comply with safe sight distance requirements as provided in Table 1. The centerline of all access points shall intersect as nearly at a ninety (90) degree angle as possible, but in no case shall the angle of intersection be less than seventy-five (75) degrees or greater than one hundred five (105) degrees, unless approved by the Planning Commission or Zoning Administrator, whichever is applicable, due to certain exceptional conditions.

F. LOCATION OF UNSIGNALIZED ACCESS POINT:

6. Arterial Streets

- a. Unsignalized access points shall be spaced a minimum distance of six hundred (600) feet apart. Turning restrictions and/or reserved turn lanes may be required.
- b. One access point per existing tract will be permitted; however, if the spacing requirements for a direct access point onto an arterial street (as provided in F,1, a, above) cannot be met, then an access point may be located on a frontage road or on an intersecting local street, or share a common driveway that meets the spacing requirements. In order for the intersecting local street or frontage road to function properly, access onto them should be controlled as follows:
  1. Access points onto local streets intersecting an arterial street shall be spaced a minimum distance of one hundred (100) feet, measured from point of curb return to point of curb return, from the arterial street.
  7. In areas zoned to permit commercial, industrial, or multi-family residential use, access points from adjacent properties onto frontage roads, shall be no less than one hundred (100) feet measured from point of curb return to point of curb return from intersections of the frontage road with local or collector streets.
- c. Where the frontage of a tract is greater than five hundred (500) feet an additional access point may be permitted; however, the type of access will depend on the spacing requirements in F, 1, a.
  1. If the frontage of the tract is large enough, then at least one of the access points may have direct access onto the arterial street, provided the spacing between the adjacent access points meet the requirements of Section F, 1, a, and all other requirements of this section of the ordinance. In the case where the frontage allows only one point of direct access due to spacing restrictions as provided herein, the second access point will be via a frontage road or an intersecting local street, or share a common driveway that meets the spacing restrictions as provided along the arterial street.
- d. If a tract of land has no means of access that would meet the requirements of this section of the ordinance, one access point shall be provided. However, all such access points shall be considered a temporary right-of-way and may be terminated, reduced, limited to certain turning movements or caused to be relocated by the Zoning Administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road or an intersecting local street or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as "temporary", such designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

2. Collector Streets

- a. On two lane roadways, one access point per existing tract will be allowed; however, if the frontage is greater than five hundred (500) feet, an additional access point may be permitted. Furthermore, the minimum spacing between adjacent access points on this type of facility shall be one hundred (100) feet, measured from point of curb return to point of curb return, except in the case where the street intersects another collector street or arterial street, then said access points shall be spaced a minimum of three hundred (300) feet from the intersection.
- b. On multi-lane roadways the spacing is dependent on whether or not a barrier median exists (prohibiting left turn movements). If a barrier median exists, access points may be spaced as close as three hundred (300) feet; however, certain turning movements will be prohibited. If a barrier median does not exist, then the minimum spacing of access points shall be six hundred (600) feet. In addition, some turning movements may be prohibited.
- c. One access point per existing tract will be allowed; however, if the spacing requirements for a direct access point, as provided in F, 2, a, cannot be met, then an access point may be located on a frontage road or on an intersecting street or share a common driveway that meets the spacing requirements.
- d. If a tract of land has no means of access that would meet the requirements of this section of the ordinance, one access point shall be provided. However, all such access points shall be considered a temporary right-of-way and may be terminated, reduced, limited to certain turning movements or caused to be relocated by the zoning administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road or an intersecting local street or share a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as "temporary", such designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

G. WIDTH OF ACCESS POINTS:

1. In single-family residential zones, no access point width shall be less than nine (9) feet, nor more than twenty-four (24) feet. In all other zones, access points shall not be less than twelve (12) feet, nor more than forty-eight (48) feet in width. The width shall be as measured from the point of curb return to point of curb return (or edge of pavement if no curb exists) excluding the curb radius.
2. The Zoning Administrator may modify (enlarge or reduce) the width to provide for a more efficient and safe channelization and/or flow of traffic.

H. EXCEPTIONS TO ACCESS POINT REQUIREMENTS:

Where situations develop that may require special treatment, the requirements as provided in Section 13.1, A-G, may be varied by the Planning Commission, provided evidence is presented establishing that the special treatment will have no adverse effects on the roadway safety and capacity, pedestrian

safety, or existing parking needs. The Commission may require a traffic engineering report, prepared by a licensed engineer, which addresses issues of safety and capacity.

I. ACCESS POINT PROBLEM AREAS:

If after special study, it is determined that the type of use or activity proposed would have an adverse effect on the safety and capacity of the adjacent roadway, the access point spacing requirements as contained in this section, may have to be increased in order to adequately solve the traffic movement.

J. APPROVAL OF ACCESS POINTS:

Plans for all access points and modifications thereto, (including plans to use existing access points where a change of use for any tract of land would generate more traffic than the previous use, thus producing an adverse effect on the adjacent roadway) shall be submitted to the Zoning Administrator, at a scale not less than one (1) inch equals fifty (50) feet. Such plans shall show the location of all access points, and access points within 600 feet in either direction. The proposed access point shall include typical cross sections of pavement, the base and sub base, proposed grade and storm drainage and such other information or plans as the circumstances may warrant. If such access points are being located in conjunction with off-street parking and/or loading and unloading facilities, then said plans shall also include parking and off-street loading and/or unloading plans, in accordance with Sections 13.0 and 14.0 of this ordinance.

K. APPROVAL OF ACCESS POINTS ALONG STATE-MAINTAINED ROUTES BY KENTUCKY DEPARTMENT OF TRANSPORTATION:

A copy of the plans for all access points to be constructed along a state-maintained route shall also be submitted to the Kentucky Department of Transportation for review and approval during the same time as plans are submitted to the Zoning Administrator, as provided for in Section 13.1. No access point plans shall be approved or permits issued for construction by the zoning administrator, until said access point plans have been approved by the Kentucky Department of Transportation.

L. SIGHT DISTANCE REQUIREMENTS:

Proposed access points on to adjacent roads shall be required to be reviewed by the City Engineer for compliance with standards provided in the ITE Transportation and Land Development Manual, the American Association of State Highway Transportation Officials (AASHTO) Policy for Geometric Design and/or other generally accepted engineering design manuals.

FIGURE 1A

SIGHT DISTANCE FOR VEHICLES EXITING FROM ACCESS POINTS  
refer to Table 1A

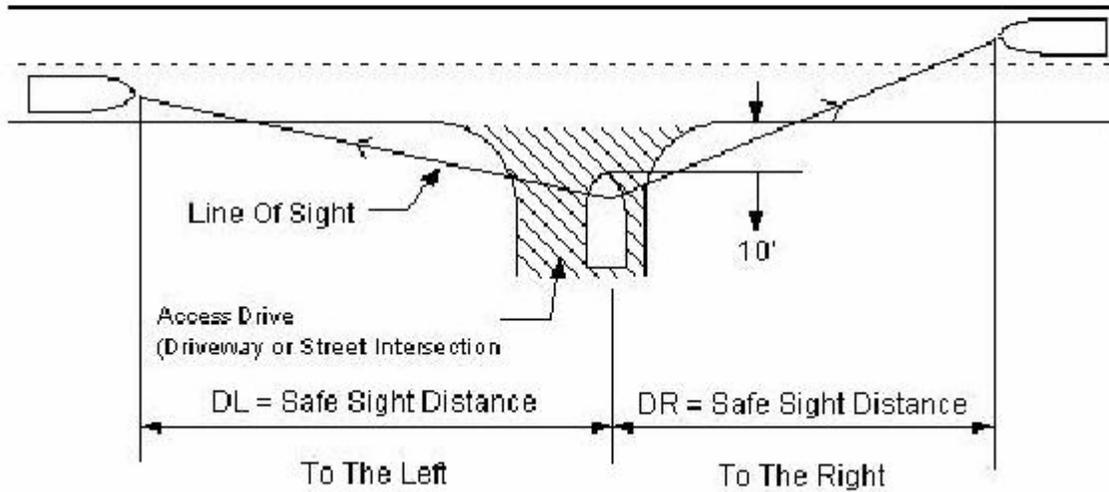
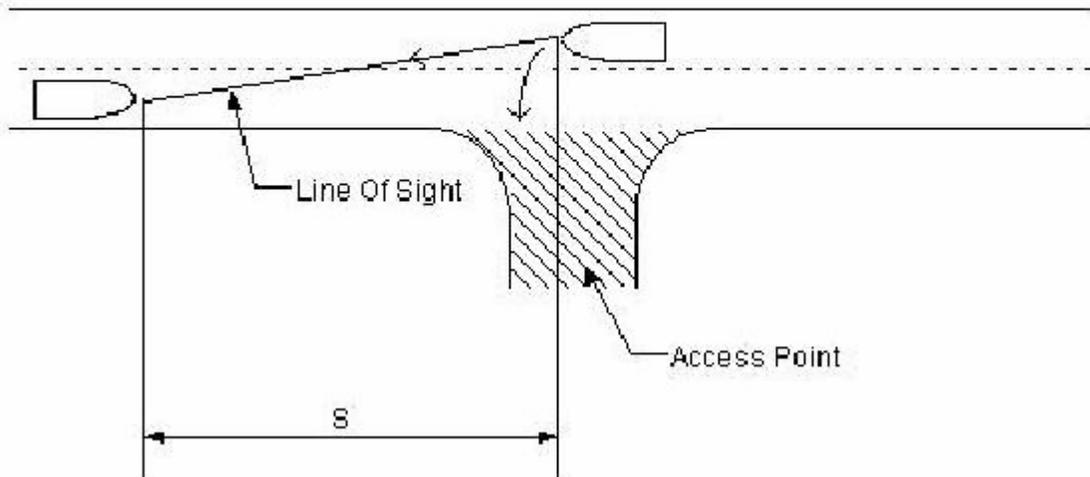


FIGURE 1B

LEFT TURN SIGHT DISTANCE FOR VEHICLES ENTERING ACCESS POINTS  
refer to Table 1B



## **ARTICLE XIII - STREET LOADING AND/OR UNLOADING REGULATIONS**

### **SECTION 14.0 GENERAL**

For all buildings and structures erected, altered, or extended, and all uses of land established as specified herein, after the effective date of this ordinance, off-street loading and/or unloading facilities shall be provided as required by the regulations herein.

### **SECTION 14.1 OFF-STREET LOADING AND/OR UNLOADING**

Off-street loading and/or unloading facilities shall be provided in accordance with the following regulations:

**A. SPACES REQUIRED:**

Every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehousing, department stores, wholesale stores, retail stores, market, hotel, hospital, laundry, dry cleaning, dairy, mortuary and other uses similarly involving the receipt or distribution of vehicles, materials, or merchandise and having up to 5,000 square feet of gross floor area shall be provided with at least one loading and/or unloading space. One additional loading and/or unloading space shall be provided for every additional 10,000 square feet, or fraction thereof, of gross floor area in the building.

If sufficient proof can be shown that less than these requirements will be satisfactory for the operation in question, the Planning Commission may reduce these requirements.

**B. SIZE OF OFF-STREET LOADING AND/OR UNLOADING SPACE:**

Each off-street loading and/or unloading space shall be at least twelve (12) feet in width and at least forty-eight (48) feet in length, exclusive of aisle and maneuvering spaces, and shall have a vertical clearance of at least fourteen (14) feet; provided; however, that when it is demonstrated that a particular loading and/or unloading space will be used by shorter trucks, the Planning Commission may reduce this minimum length.

**C. LOCATION:**

All required loading and/or unloading spaces shall be located on the same zoning lot as the use served. No loading and/or unloading space for vehicles over two-ton capacity shall be closer than fifty (50) feet to any property in a residential zone unless completely enclosed by a fence, wall or screen, as regulated by Article XII of this ordinance. No loading and/or unloading space shall be located in any required yards abutting a street right-of-way except as herein provided.

**D. ACCESS:**

Each required off-street loading and/or unloading space shall be designed with direct access via an approved access drive, to a deeded right-of-way that offers satisfactory ingress and egress for trucks. Access drives or aisles shall be laid out with a width of at least twelve (12) feet for one-way circulation and at least twenty-four (24) feet for two-way circulation.

Off-street loading and/or unloading space shall be so designed and constructed so that all maneuvering for loading and/or unloading can take place entirely within the property lines of the

premises. Such off-street loading and/or unloading space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street, road, highway, or deeded right-of-way.

E. ENLARGEMENT OF BUILDING:

The off-street loading and/or unloading requirements, as listed in this article of the ordinance, shall apply at any time any building is enlarged or increased in capacity by adding floor area.

F. DESIGN AND MAINTENANCE:

1. Surfacing:

All open off-street loading and/or unloading spaces shall be paved subject to the provisions in Article XIII, Section 13.0, M, of this ordinance.

2. Lighting:

Any lighting used to illuminate off-street loading and/or unloading areas shall comply with Section 9.14 and be directed away from property in any residential zone in such a way as not to create a nuisance.

3. Space allocated to any off-street loading and/or unloading space:

Shall not be used to satisfy the space requirements for any off-street parking facilities or portion thereof.

G. Off-Street Loading and/or Unloading Plan Approval Required - Plans for all loading and/or unloading facilities shall be submitted to the Zoning Administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the City of Fort Thomas. Such plans shall show the exact proposed layout of all loading and/or unloading areas, drives and accessories, entrances and exits, type of surface to be used, typical cross sections of pavement, base and sub-base, location of lighting facilities, storm drainage facilities, proposed grade of off-street loading and/or unloading area, and such other information or plans as the circumstances may warrant.

## **ARTICLE XIV - SIGN REGULATIONS**

### **SECTION 15.0 SCOPE OF REGULATIONS**

The purpose of the Sign Ordinance is to encourage the effective use of signs as a means of communications in the City of Fort Thomas; to maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these Sign Regulations.

#### **A. APPLICABILITY:**

A sign may be erected, placed, established, painted, created or maintained in the City only in conformance with the standards, procedures, exemptions and other requirements of this Ordinance.

The effect of this Ordinance as more specifically set forth herein is:

1. To establish a permit system to allow a variety of types of signs in commercial and industrial areas and a limited variety of signs in residential areas, subject to the standards and the permit procedures of the Ordinance;
2. To allow certain signs that are small, unobtrusive and incidental to the principle use of the respective lots on which they are located, subject to the substantive requirements of this Ordinance, without the requirements of a permit;
3. To prohibit all signs not expressly permitted by this Ordinance;
4. To establish a reasonable fee; and
5. To provide for the enforcement of the provisions of this Ordinance.

### **SECTION 15.1 GENERAL PROVISIONS**

The information contained in this Chapter is intended to be used as criteria in all other Chapters and Sections of this Ordinance; however, there may be areas that need more detail or explanation. In those cases, the information in those Chapters or Sections shall be used.

#### **A. ORDINANCE INTERPRETATION:**

The Zoning Administrator of the City of Fort Thomas is charged with issuance of permits and the enforcement of this Ordinance. Appeal of decisions of the Zoning Administrator shall be made through the Fort Thomas Board of Adjustment pursuant to Article XVIII.

#### **B. GENERAL REGULATION:**

Signs shall be erected maintained or continued in compliance with the regulations for the zone in which they are located, all applicable provisions and regulations of this ordinance or any applicable laws, codes, including the Kentucky Building Code, or ordinances of the City of Fort Thomas.

#### **C. PLACEMENT OF SIGNS:**

It shall be unlawful and a violation of this ordinance for any person to fasten, place, paint or attach in any way any sign, handbill, poster, advertisement, or notice of any kind, whether political or otherwise, or cause the same to be done in or upon any curbstone, lamp post, utility pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest station building, tree, or in or upon any portion of any public sidewalk, street or sign, except as specifically permitted within this ordinance.

D. OTHER SIGNS FORFEITED:

Any sign installed or placed on or over public property or right-of-way after adoption of this Ordinance, except in conformance with these requirements, shall be subject to removal by the City without notice. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full cost of removal and disposal of the sign.

E. SIGN LIMITATIONS:

All signs shall be limited to the following standards:

1. Is erected and maintained to advertise a use specifically permitted in the zone in which the sign is located or for a non-conforming use;
2. Is clearly incidental, customary to and commonly associated with the operation of the use being advertised;
3. Is established and controlled under and by the same ownership as the use being advertised;
4. Is limited in location to the premises on which the use being advertised is located;
5. Is limited in the subject matter to the name, design, picture or phone number and address of the owner, operator, builder, sales agent, managing agent, lessor, lessee, of the premises or of the activities (including merchandise handled or services rendered) on the premises on which such sign is located and does not include any general commercial advertising unrelated to or extending in substantial degrees beyond the specifically permitted subject;
6. The following visual elements, intended to attract attention to a business or activity, or to convey a message concerning a business or activity and thus are a substitute for additional signs, are not allowed. These visual elements are prohibited in all circumstances whether added to a sign or simply displayed on the property on which the business is located or on any other property. Visual elements prohibited are:
  - a. Pennants and streamers, with or without a message.
  - b. Flashing lights, flashing arrows or other pulsating fixtures or items.
  - c. Large displays; inflatable or of permanent construction fixed or portable, that indicate through direct representation or through symbolism, a product or activity undertaken on-site and that are larger than three (3) feet in height and/or width.
  - d. Wording or any messages or commercial depiction on the exterior of a building or any structural element thereof, any independent structure or any other article or item on the property. This includes automobiles and other

vehicles unless the message is permanently painted on the vehicle and the vehicle retains its mobility and it is moved frequently throughout the day, so as not to provide a stationary sign.

#### F. COMPUTATIONS:

The following principles shall control the computations of sign area and sign height:

1. Computation of Area of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face), shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall is clearly incidental to the display itself.
2. Computation of Area of Multi-faced Sign. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back-to-back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.
3. Computation of Height. The height of a sign shall be the vertical distance measured from average elevation of the finished grade to the highest attached component of the sign exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating or elevating the sign.

#### G. CONSTRUCTION AND MAINTENANCE STANDARDS:

All signs shall be constructed and maintained in compliance with the appropriate detailed provisions of the Kentucky Building Code, the National Electric Code and other provisions of the Code of Ordinances of the City of Fort Thomas.

#### H. REMOVAL OF CERTAIN SIGNS:

In the event a business ceases operation for a period of thirty (30) days, the sign owner or lessee, or the property owner, shall immediately remove any non-conforming signs identifying or advertising the business or any product. This requirement shall not apply where, under the provisions of this Ordinance, an existing, conforming sign may be altered to advertise a new business or product, and there is evidence that a new business will be in operation on the premises within thirty (30) days. Where no such evidence exists, the sign face shall be removed or the message shall be painted over in such a manner as to completely cover up and hide from sight the message. Upon failure of sign owner or lessee, or property owner, to comply with this Section, the Zoning Administrator shall issue a written notice to the owner. The notice shall state that the sign shall be removed within ten (10) days. If the owner fails to comply with the written notice to remove the sign, the Zoning Administrator is hereby authorized to cause removal of the sign. Any expense incidental to the removal of the sign shall be charged to the owner of the property upon which the sign is located and shall constitute a lien upon the property. For the purpose of dealing with non-conforming signs in this Section, the word "remove" shall mean:

1. The sign face, along with posts, columns, or supports of free-standing signs, shall be taken down and removed from the property.
2. The sign face and supporting structures of "projection", "roof" or "wall" signs shall be taken down and removed from the property.
3. The sign face of "painted wall signs" shall be removed by painting over the wall sign in such a manner as to completely cover up and hide from sight the sign in question.

I. OTHER LIMITATIONS:

1. No sign shall be erected maintained or continued in any zone which is:
  - a. Constituting a nuisance, because of light, glare, focus, noise, animation, flashing, intensity of illumination as to unduly disturb the use of surrounding properties.
  - b. Misleading, nor advertising a defunct business establishment or occupant, fraudulent obscene, immoral, indecent or unsightly in character.
  - c. Located upon the inside curve of a street which causes any interference to sight distance.
  - d. A courtesy bench.
2. Any sign proposed in a location that is within 100 feet of a residential zoning district shall be subject to review by the Design Review Board. The Design Review Board may restrict the maximum permitted size, height, and area of a sign by not more than 50%; may increase the minimum required set-back of a sign by not more than 100%; may restrict the hours of illumination of a sign; and may restrict the materials used in construction or fabrication of a sign.

The intent of this section is to allow for a greater transition from a commercial zoning district to a residential zoning district.

**SECTION 15.2 TEMPORARY SIGNS**

A. ELECTION SIGNS:

Election signs not exceeding twelve (12) square feet are permitted to be placed on private property, subject to the following conditions:

1. Where signs are otherwise permitted, an election sign may be erected no sooner than sixty (60) days before the election and the sign shall be removed within ten (10) days following the election to which it applies; the owner of the property on which the sign is placed shall be responsible for its removal.
2. Election signs may not be erected or placed on public property, or on rocks, trees, public fences, sign posts, light poles, or utility poles on public property

B. SPECIAL EVENTS SIGNS:

One (1) banner not exceeding twenty (20) square feet in size as well as balloons may be erected on the premises of an establishment, business or activity having a grand opening, or special event,

provided that such sign be displayed for a period not to exceed seven (7) consecutive calendar days. Two (2) such periods are allowed during a calendar year for each business unit or activity. A sign permit shall be obtained for these signs stating the beginning and ending days for display.

**C. REAL ESTATE SIGNS:**

1. Real estate signs which advertise the sale, rental or lease of the premises on which said sign is located. Said sign shall not be animated, may be illuminated by only by concealed lighting and only until 10:00 p.m. Such signs shall be removed by owners or agent within ten consecutive calendar days after the sale, rental or lease of the premises. Individual lot signs cannot exceed twelve (12) square feet in outside area, single or double faced, maximum height of five (5) feet.
2. One open house sign may be placed simultaneous to the placement of a for sale sign, on the lot being advertised for sale only, for a period not to exceed seventy-two (72) hours.
3. Acreage tract signs cannot exceed twelve (12) square feet in outside area per acre, single or double faced, maximum height of eight (8) feet and maximum area of one-hundred (100) square feet.

**SECTION 15.3 PERMITS, PLANS AND FEES**

**SIGNS REQUIRING PERMITS:**

A sign may be erected, placed, established, painted or created in the City only after obtaining a sign permit from the Zoning Administrator except where specifically exempted by this Ordinance.

**A. PERMITS:**

If a sign requiring a permit under the provision of this Ordinance is to be placed, constructed, erected or modified on a lot, the owner of the lot or sign shall secure a sign permit prior to the construction, placement, erection, or modification of the sign.

No sign shall be erected in the public right-of-way except in accordance with this Ordinance.

No sign permit of any kind shall be issued for an existing or proposed sign unless the sign is consistent with the requirements of this Ordinance (including those protecting existing signs) in every respect and with the Sign Plan in effect for that property.

The following procedures shall govern the application for and issuance of all sign permits under this Ordinance and the submission and review of Sign Plans.

**B. SIGN PLAN REQUIRED:**

No permit shall be issued for an individual sign requiring a permit until a Sign Plan for the lot on which the sign will be erected has been submitted to and approved by the Zoning Administrator as conforming with this section.

**C. SIGN PLAN CONTENTS:**

For any lot on which the owner proposes to erect one (1) or more signs requiring a permit, the owner shall submit to the Zoning Administrator a Sign Plan containing the following:

1. An accurate site plan of the property, at such a scale as the Zoning Administrator may reasonably require, illustrating the location of all buildings, parking and circulation areas, and landscaped areas.
2. The site plan shall include the location of each existing and proposed sign of any type, whether requiring a permit or not.
3. Elevation drawings indicating the type of sign, locations, dimensions, total sign area, height and number of signs.
4. For signs in the CBD requiring approval of the Design Review Board, additional information must be submitted including scaled drawings illustrating the design, typography, color, logos, placement on the building, lighting, sign materials and mounting hardware.

**D. SIGNS ALLOWED ON PRIVATE PROPERTY WITHOUT PERMITS:**

Except as noted, no commercial messages are allowed on any of the signs not requiring a permit. All such signs shall be located a minimum of five (5) feet from any property line and shall not exceed a height of six (6) feet. Shall be neither animated nor illuminated.

1. House or building identification signs, such as address and building markers, no more than two (2) square feet in area, and attached to the referenced building.
2. For approved home based business operations, professional nameplates not exceeding two (2) square feet in area, single or double faced. Said sign shall not be animated nor illuminated.
3. One sign per residential subdivision lot not exceeding twelve (12) square feet in area or six (6) feet in height.
4. Signs not over one hundred (100) square feet in outside area, single or double faced, maximum height of ten (10) feet denoting the (person/firm), architect, engineer or contractor, when placed upon the premises where construction work is being performed. Said sign shall be removed by owner or agent within ten (10) consecutive calendar days after completion of the project or that person's/firm's part of the project.
5. Any informational, directional or historic marker or sign erected by a public agency is allowed. Identification signs containing the name of a community are allowed provided that no message referring to any specific business or commercial activity is included.
6. Memorial signs or tablets, containing the name of a building and/or the date of erection when built into the walls of the building and constructed of bronze, brass, marble, stone or other noncombustible materials.

**SECTION 15.4 SIGNS EXEMPT FROM REGULATION UNDER THIS ORDINANCE**

**A. EXEMPTIONS:**

The following signs shall be exempt from regulation under this Ordinance:

1. Any traffic sign, public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.

2. Holiday lights and decorations on residential lots with no commercial message.
3. Traffic control signs on private property, such as Stop, Yield, and similar signs, and which contain no commercial message.
4. Window signs, except in the CBD where signs are subject to approval of the Design Review Board.
5. Signs inside a building and not visible from the exterior, but shall not include signs within open malls or open courts.

## **SECTION 15.5 SIGNS BY TYPE**

Any request for sign permits within the CBD zone shall be submitted to the Fort Thomas Design Review Board. The color, materials, support structure and appearance of signs in the CBD will be controlled by the Design Review Board through their regular review process.

Any sign not previously approved by the Design Review Board will be considered nonconforming as of the enactment of this Ordinance until found to be appropriate by subsequent action of the Design Review Board. All non-conforming signs will be subject to Section 15-6.

Two of any of the following signs types shall be permitted per building or use, as defined herein. One sign type may be chosen as the “primary” sign and a different sign type shall be chosen for the “secondary” sign. Primary signs shall conform to the size requirements stated herein by sign type, and associated “secondary signs shall not exceed 1/4 the size of the chosen primary sign and shall not exceed the maximum size as stated by sign type. Additionally, corner lots shall be permitted an additional sign, (of any Type), not to exceed 1/3 the size of the primary sign or the maximum size as stated by sign type.

### **A. BUILDING MOUNTED SIGNS**

1. **SINGLE FACED ONLY: CABINET STYLE, INDIVIDUAL LETTERS, AND AWNINGS**  
Permitted in PO, GC, CBD, HC, IP, CO, RP and Multi-family residential zones.
  - a. Maximum size: One square foot of area for each horizontal linear foot of building wall upon which sign is to be located;
  - b. The entire sign should be affixed to one continuous, flat vertical, opaque surface or the sign may consist of individually mounted letters.
  - c. Attached to the building, but shall not extend above the top or ends of the wall surface on which the sign is placed and shall not extend more than twelve (12) inches beyond the wall surface.
  - d. Illumination may be internal (letters only) or external, no flashing or animation;
  - e. Shall be business identification only, in accordance with section 15.1.E of this ordinance.
  - f. Cannot extend higher than the bottom of the sill of the second story window, or above the lowest point of the roof, or over 25 feet above grade (whichever is lowest) unless otherwise approved by the Design Review Board.

- g. Where a single building or complex of buildings contains two (2) or more separate activities or establishments with their own separate exterior entrances, the individual establishment located therein shall be permitted wall signs and wall sign areas based on the portion of the building frontage used by the establishments as though they were individual buildings with individual street frontages.
- h. In those instances where the street level frontage is limited to a doorway or similarly dimensioned access point for an upper floor business, one sign with maximum dimensions of twelve (12) square feet may be placed on or above the door/entry, provided the placement complies with item six (6) above.

2. PROJECTING SIGNS

Permitted in CBD, PO, GC, HC, IP, CO, RP

- a. Shall be limited to twelve (12) square feet in area
- b. Shall only have two sides
- c. Must have seven (7) feet of clearance above sidewalk
- d. May not project more than six feet from the building nor be closer than eighteen (18) inches from curb.
- e. External illumination only
- f. No exposed guy wires or turnbuckles allowed
- g. The top of the sign may not extend higher than the lowest of:
  - a. The bottom of the sills of the second story window
  - b. The lowest point of the roof
  - c. Twenty (20) feet above grade

3. AWNING/CANOPY SIGNS:

Permitted in CBD, PO, GC, HC, IP, CO, RP

- a. Shall be limited to one (1) square foot of area for each horizontal linear foot of building wall upon which sign shall be affixed, except in the CBD where such signs shall be limited to ½ square foot for each horizontal foot of building wall.
- b. May project no more than six (6) feet from the face of the building and be no closer than eighteen (18) inches from the curb.
- c. May be internally illuminated only, (letters only)
- d. Awning signs may only be displayed on the front valance of the awning.
- e. Signs may be displayed directly above a plain awning as long as it still clears the bottom lintel of the second story by 6" and conforms to item six (6) for building mounted signs.
- f. Must provide clearance of seven (7) feet from sidewalk/grade.

## **B. FREE STANDING SIGNS**

### **1. MONUMENT SIGNS**

(CBD, GC, PO, IP, CO, RP, R-3, R-5 and Conditional Uses in Residential Zones)

- a. Only one monument sign per parcel;
- b. Shall be limited to forty (40) square feet per side; except in the CBD where such signs shall be limited to ½ square foot per linear foot of lot frontage with a maximum of 40 square feet.
- c. Shall only have two sides
- d. Setback to be no less than five (5) feet from any property line.
- e. Illumination may be internal (letters only) or external;
- f. Shall be landscaped in accordance with section 9.17
- g. Shall not exceed ten (10) feet in height.

### **2. POLE SIGNS (single or double pole mounted)**

Permitted in CBD, PO, IP, CO, RP, R-3, R-5 and Conditional Uses in Residential Zones

- a. Only one pole mounted sign per parcel;
- b. Shall be limited to twelve (12) square feet per side;
- c. Shall only have two sides;
- d. Setback to be no less than five (5) feet from any property line;
- e. Sign may only be externally illuminated;
- f. Shall be landscaped in accordance with section 9.17; and
- g. Shall not exceed seven (7) feet in height.

### **3. SANDWICH BOARD SIGNS (“A” frame signs)**

Permitted in CBD, GC, PO

- a. Single or double faced not permanently attached to the ground
- b. Limited to two (2) feet wide and four (4) feet high
- c. One sign per store front.
- d. Sign shall only be displayed during hours business is open, allow six (6) foot clear width on sidewalk, be placed within 6 inches of the face of the curb, not extend over curb line, and not restrict ingress/egress for vehicles.
- e. Sign shall not be illuminated or animated.

4. OFF STREET PARKING SIGNS

Permitted in CBD, PO, GC, HC, IP, CO, RP, R-3, R-5 and Conditional Uses in residential zones.

- a. Flat, ground or pole sign; not to exceed six (6) square feet.
- b. Maximum height above grade at top of signs: five (5) feet;
- c. Limitation on number of signs: One (1) sign for each curb cut plus any number within the off-street parking areas, as approved by the Zoning Administrator;
- d. May be illuminated but only from a concealed light source and shall not be flashing, glaring, nor animated;
- e. Shall be limited in subject matter to off street parking direction and instructions and shall have no merchandise, manufacturing, service or other advertising;

5. POLE SIGNS

Permitted in GC and I-1 (See Illustration 1)

- a. One pole sign for identification of an industrial park or shopping center as regulated in Illustration 1.
  1. Criteria for control of business or identification signs (including logos) set forth in Chapter 99.03 of Ky. Administrative Regulations as applicable to commercial activities in a General Commercial zone located adjacent to an Interstate Highway with principal access from a federal aid primary highway.
  2. One (1) pole sign, not to exceed 400 square feet and 50 feet maximum height, shall be permitted on the owned/leased premises (for each free standing building) where a qualified business activity is conducted; said sign shall be located within 50 feet of the building in which the business activity is conducted; however, in no case shall there be more than three (3) pole signs permitted within a G.C. development, regardless of the number of free standing buildings. Property subdivisions and/or outtakes of a General Commercial tract, approved by the Planning Commission, shall not constitute a separate general commercial development for the purposes of this section.
  3. One (1) ground sign not to exceed 200 square feet with a maximum height of 20 feet for the purpose of identifying a commercial area. The sign shall be located at the entrance from an arterial highway into a general commercial development with multiple uses within the site.
    - a. Additionally, one (1) electronic message sign used as an integral part of the above permitted ground sign shall be permitted provided it complies with the following requirements:
    - b. said sign shall not exceed one hundred (100) square feet and shall not exceed a maximum height of twenty (20) feet;
    - c. The messages permitted on said sign shall be limited to the uses operating within the development site and/or for public service announcements;
    - d. Said sign shall be located no closer than 450 feet to a residential zone;

- e. The operation of said sign shall be limited to the hours between 6:00 A.M. and 11:00 P.M., Sunday through Saturday;
- f. The illumination of said sign shall not glare on to adjacent residential zones;
- g. The flashing or changing of intermittent messages shall not be less than five (5) second intervals.
- h. Other limitations:
  - 1. Shall be neither flashing nor animated;
  - 2. May only be illuminated from a concealed light source;
  - 3. No part of any ground or pole sign shall be closer than five (5) feet from any property line;
  - 4. No pole sign shall be, at its lowest point, less than ten (1) feet from the ground;
  - 5. Shall be landscaped in accordance with Section 9.17.

**C. SUBDIVISION ID SIGNS**

One (1) externally illuminated subdivision identification sign face (per entrance) is allowed not exceeding twenty (20) square feet in area for each side of an entrance to the subdivision. The sign structure shall not exceed twenty-five (25) feet total in length for each side of an entrance and shall not exceed eight (8) feet in height.

**D. CONDITIONAL USES**

One (1) sign, which may be indirectly or internally illuminated, not exceeding twenty-five (25) square feet in area, and eight (8) feet in height indicating the name of the approved use is allowed. In addition, for any church, school, community center or other public or semi-public institution, the sign area may be increased to a maximum forty square feet when used in combination with a bulletin board.

**E. MULTI-FAMILY ID SIGNS – DIRECTIONALS – CONDITIONAL USES**

**1. MULTI-FAMILY DEVELOPMENT IDENTIFICATION SIGNS:**

One (1) sign for multi-family structures or developments, illuminated by external lighting, indicating only the name of the building or development and not exceeding twenty-five (25) square feet in area is allowed. The sign must be either wall or ground-mounted and must be set back at least five (5) feet from the right-of-way line or property line and shall not exceed eight (8) feet in height.

**2. MULTI-FAMILY DEVELOPMENT DIRECTIONAL SIGNS:**

One (1) additional directional sign indicating ingress/egress per each separate street frontage providing access to the lot on which the use is located for multi-family structures or developments illuminated by indirect or diffused lighting is allowed. The sign shall not

exceed three (3) square feet in size and shall be wall-mounted or set back at least five (5) feet from the right-of-way line or property line.

3. **CONDITIONAL USES:**

One (1) sign, which may be indirectly or internally illuminated, not exceeding twenty-five (25) square feet in area, and eight (8) feet in height indicating the name of the approved use is allowed. In addition, for any church, school, community center or other public or semi-public institution, the sign area may be increased to a maximum forty square feet when used in combination with a bulletin board.

**SECTION 15.6 NON-CONFORMING SIGNS**

A. **NON-CONFORMING SIGNS:**

For the purpose of this Section, a non-conforming sign shall be defined as a sign existing at the effective date of this Ordinance, which could not be built under the terms of this Ordinance or under the terms of other City Ordinances.

1. The following are to be removed or made to conform to this ordinance within 90 days:
  - a. Non-conforming signs made of paper, cloth, or other non-durable material.
  - b. All temporary signs other than those permitted herein.
2. All such signs which are made non-conforming by a subsequent amendment to this Ordinance or extension of area in which this Ordinance is applicable shall be discontinued and removed or made conforming (amortized) within six (6) years after the date of such amendment or extension.
3. Where a change in use, occupancy or ownership occurs which necessitates the altering of a sign in any manner, the altered or changed sign shall be brought into conformance with the requirements of this Ordinance.
4. Existence of any non-conforming wall sign on the premises will prohibit issuance of further wall sign permits while the non-conforming sign exists.
5. Existence of any non-conforming freestanding sign on the premises will prohibit issuance of further freestanding sign permits while the non-conforming sign exists.
6. Upon failure to comply within the time specified, the Zoning Administrator is hereby required to cause removal of any non-conforming sign. Any expense incident thereto shall be paid by the owner, agent, or lessee of the sign or of the property upon which the sign is located.
7. Nothing in this section shall prevent the ordinary maintenance or repair of a non-conforming sign or replacement of a broken part of a non-conforming sign. Replacement of broken parts of a non-conforming sign is permitted so long as it does not change the dimensions, location, or size.

## **SECTION 15.7 VIOLATIONS AND ENFORCEMENT**

### **A. VIOLATIONS:**

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Ordinance and by state law:

1. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the lot on which the sign is located.
2. To install, create, erect or maintain any sign requiring a permit without such a permit.
3. To fail to remove any sign that is installed, created, erected, or maintained in violation of this Ordinance, or for which the sign permit has lapsed.

Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this Ordinance.

### **B. ENFORCEMENT:**

Any violation or attempted violation of this Ordinance or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law. The remedies of the City shall include, but are not limited to the following.

1. Issuing a stop-work order for any and all work on any signs on the same lot;
2. Seeking an injunction or other order of restraint or abatement that requires the removal of the sign(s) or the correction of the non-conformity.
3. In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the City under the applicable building codes or other ordinances.

All the remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part hereof, the remedy shall remain available for other violations or other parts of the same violation.

## **ARTICLE XV - ADMINISTRATION**

### **SECTION 16.0 ENFORCING OFFICER**

A Zoning Administrator (official or officials appointed by the City of Fort Thomas, Commonwealth of Kentucky, for carrying out the provisions and enforcement of this ordinance) shall administer and enforce this ordinance. He may be provided with assistance of such other persons as the City of Fort Thomas directs.

If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he shall notify, in writing, the person responsible for such violation and order the action necessary to correct it. If, within thirty (30) days or a specified number of consecutive days, as designated herein, the violation has not been corrected, a second written notice shall be sent to the person responsible informing him that as of a specified date he shall be considered to be in violation of this ordinance and liable to be penalized as per Section 16.9 of this ordinance. A second notice shall provide one-half (1/2) the number of days provided in the original notice for the violation to be remedied.

The Zoning Administrator shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences or additions, alterations, or structural changes thereto, discontinuance of any illegal work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The Zoning Administrator shall have the authority to schedule public hearings when public hearings can be held at regular or announced meetings of the Planning Commission.

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by State Statutes, Commonwealth of Kentucky.

It is further the intent of this ordinance that the duties of the Zoning Administrator in connection with this ordinance shall not include hearing and deciding questions or interpretation and enforcement that may arise. The procedure for such questions shall be as stated in KRS Chapter 100. Under this ordinance, the Board of Council shall have only the duties of (1) considering and adopting or rejecting this ordinance, proposed amendments or the repeal of this ordinance, as provided by law, and (2) establishing a schedule of fees and charges as stated in Section 19.0 of this ordinance.

### **SECTION 16.1 ZONING PERMITS**

Zoning permits shall be issued in accordance with the following provisions:

#### **A. ZONING PERMIT REQUIRED:**

No public or private building or other structure shall be erected, moved, added to, structurally altered, or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit issued by the Zoning Administrator. No zoning permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the Board of Adjustment.

#### **B. APPLICATION FOR ZONING PERMITS:**

All applications for zoning permits shall be accompanied by:

1. A completed application form provided by the Zoning Administrator;
2. The required fee for a zoning permit as provided for in Section 19.0 of this ordinance;
3. A Development Plan if required by this ordinance; or
4. A plat plan in duplicate (2) drawing at a scale of not less than one (1) inch to fifty (50) feet, showing the following information as required by this ordinance and prepared by a registered engineer or surveyor, based on a field survey:
  - a. The location of every existing and proposed building, with number of floors and gross floor area, the use of uses to be contained therein, the number of structures, including dimensions and height, and the number, size, and type of dwelling units;
  - b. All property lines, shape and dimensions of the lot to be built upon;
  - c. Lot width at building setback line;
  - d. Minimum front and rear yard depths and side yard widths;
  - e. Total lot area in square feet;
  - f. Location and dimensions of all curb cuts, driving aisles, off-street parking and loading and/or unloading spaces including number of spaces, angle of stalls, and illumination facilities;
  - g. Layout, type of surfacing, cross section and drainage plans for all off-street parking facilities as required by the Zoning Administrator;
  - h. All sidewalks, malls and open spaces;
  - i. Location, type and height of all walls, fences and screen plantings;
  - j. Location, size, height, class, and orientation of all signs;
  - k. Location of all existing and proposed streets, including rights-of-way and pavement widths;
  - l. All existing and proposed water, storm sewer and sanitary sewer facilities, indicating all pipe sizes, types and grades;
  - m. And such other information as may be required by the Zoning Administrator to determine conformance with and provide for enforcement of this ordinance and State Statutes of the Commonwealth of Kentucky.
5. A permit from the Planning Commission indicating compliance with performance standards (where applicable, see Article XI).
6. A field survey performed by a registered professional land surveyor/engineer may be required by the Zoning Administrator at any time during construction to verify lot lines, building locations, and/or building setbacks distances.

C. ISSUANCE OF ZONING PERMIT:

After thorough study of the submitted information, the Zoning Administrator shall either approve or disapprove the application (when required by this ordinance -- e.g., Development Plan submitted required -- Planning Commission, approval or disapproval shall also be required). If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the Zoning Administrator's signature. The other copy, similarly marked, shall be retained by the Zoning Administrator.

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

D. FAILURE TO COMPLY:

Failure to obtain a zoning permit shall be a violation of this ordinance and punishable under Section 16.9 of this ordinance.

E. EXPIRATION OF ZONING PERMIT:

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

If a building permit has been obtained, but substantial construction is not begun within one (1) year from date of approval thereof, or if construction has begun but has lapsed, the zoning permit shall expire and be canceled by the Zoning Administrator and construction shall not then proceed until a new permit shall be issued. A new permit shall be issued only if the proposed development is in complete accord with all provisions of this ordinance.

**SECTION 16.2 BUILDING PERMITS**

Building permits shall be issued in accordance with the following provisions:

A. BUILDING PERMITS REQUIRED:

No public or private building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Building Inspector. No building permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the Board of Adjustment.

B. APPLICATION FOR BUILDING PERMITS:

All applications for building permits shall be accompanied by:

1. A completed application form provided by the Building Inspector;
2. An approved zoning permit and approved plan if applicable;
3. The required fee for a building permit as provided for in Section 19.0 of this ordinance;
4. A Development Plan if required by this ordinance; or
5. Plans in duplicate approved by the Zoning Administrator and including any additional information required by the Building Inspector, as may be necessary to determine conformance with and provide for the enforcement of the building code and the State Statutes of the Commonwealth of Kentucky.
6. A field survey performed by a registered land surveyor/engineer may be required by the Zoning Administrator at any time during construction to verify lot lines, building locations, and/or building setback distances.

C. ISSUANCE OF BUILDING PERMIT:

After thorough study of the submitted information, the Building Inspector shall either approve or disapprove the application. If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the Building Inspector's signature. The second copy similarly marked, shall be retained by the Building Inspector.

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

D. COMPLIANCE:

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

E. BUILDING PERMITS ISSUED PRIOR TO THE ADOPTION OF THIS ORDINANCE:

Building permits issued in conformance with the building code of the City of Fort Thomas prior to the date of adoption of this ordinance, whether consistent or inconsistent with this ordinance, shall be valid for a period of ninety (90) consecutive calendar days from time of issuance of the permit. If construction in connection with such a permit has not been started within such a 90 consecutive calendar day period, the permit shall be void and a new permit, consistent with all provisions of this ordinance and the building code shall be required. For purposes of this section, substantial construction shall be deemed to have been started at the time of completion of the foundation.

F. CONSTRUCTION AND USE:

To be provided in application, plans, permits, zoning permits and building permits issued on the basis of plans and applications approved by the Zoning Administrator and/or Building Inspector authorize only the use, arrangement, and construction set forth in such approved plans and

applications, and no other use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction.

Use, arrangement or construction at variance with that authorized shall be deemed in violation of this ordinance and punishable as provided by Section 16.9 of this ordinance.

**G. EXPIRATION OF BUILDING PERMIT:**

If the work described in a building permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire and be canceled by the Building Inspector and no construction shall be permitted until a new building permit has been obtained, except an extension may be permitted if sufficient evidence can be demonstrated why the work described in the building permit was not begun.

For purposes of this section, substantial construction shall be deemed to have been started at the time of completion of the foundation. If after the work described in the building permit has been started and later ceases, the building permit shall expire after a period of 12 months of inactivity, providing that an extension may be permitted if sufficient evidence can be demonstrated why the work described in the building permit was not completed as herein specified.

**SECTION 16.3 CERTIFICATE OF OCCUPANCY**

It shall be unlawful for an owner to use or permit the use of any building or premises or part thereof, hereafter created, changed converted or enlarged, wholly or partly, until a Certificate of Occupancy shall have been issued by the Building Inspector. Such certificate shall show that such building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this ordinance. It shall be the duty of the Building Inspector to issue a Certificate of Occupancy, provided that he has checked and is satisfied that the building and the proposed use thereof conform with all the requirements of this ordinance, the building code and the existing structures code.

**SECTION 16.4 CERTIFICATE OF OCCUPANCY FOR EXISTING BUILDING**

The Building Inspector shall issue a Certificate of Occupancy for any building or premises existing at the time of enactment of this ordinance, certifying, after inspection, the extent and kind of use made of the building or premises, and whether such use conforms with the provisions of this ordinance and/or the BOCA Existing Structures Code.

**SECTION 16.5 CERTIFICATE OF OCCUPANCY FOR LAWFUL NONCONFORMING USES AND STRUCTURES**

A Certificate of Occupancy shall be required of all lawful nonconforming uses of land or buildings created by this ordinance. A fee as provided for in Section 19.0 of this ordinance shall be charged for said certificate.

Applications for such certificates of occupancy for nonconforming uses of land and buildings shall be filed with the Building Inspector by the owner or lessee of the land or building occupied by such nonconforming uses within thirty-six (36) consecutive calendar months of the effective date of this ordinance. Failure to apply for such certificate of occupancy will place upon the owner and lessee the entire burden of proof that such use of land or buildings lawfully existed on the effective date of this ordinance.

It shall be the duty of the Building Inspector to issue a Certificate of Occupancy for lawful nonconforming uses upon application and such certificate shall identify the extent to which the nonconforming use exists at the time of issuance of such certificate.

#### **SECTION 16.6 DENIAL OF CERTIFICATE OF OCCUPANCY**

Except as herein stated, a Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance and to plans for which the building permit was issued.

#### **SECTION 16.7 CERTIFICATE OF OCCUPANCY RECORDS**

A record of all Certificates of Occupancy shall be kept on file in the offices of the Building Inspector and copies shall be furnished, for a nominal charge, on request, to any person having proprietary building affected by such Certificate of Occupancy.

#### **SECTION 16.8 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and bases thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance and the State Statutes, of the Commonwealth of Kentucky.

#### **SECTION 16.9 PENALTIES**

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

Furthermore, any repeated violation of any provision of Article 9.26 of this Ordinance by any person, firm, organization, or corporation shall be grounds for the revocation or suspension by the Building Inspector of any permit for the grading, construction, remodeling, or demolitions of any site, building, or structure on a site so involved. Upon the revocation or suspension, the person, firm, organization, or corporation shall not be granted any new permit for the site in question for a period of one (1) year from the date of said revocation or suspension.

#### **SECTION 16.10 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS**

It is the intent of this ordinance that:

- A. Where investigation can be made by the Zoning Administrator or other designated city employee, at the request of the Zoning Administrator, using equipment normally available to the city or obtainable without extraordinary expense, such investigation shall be so made before notice of violation is issued.
- B. Where technical complexity, non-availability of equipment, or extraordinary expense makes it unreasonable, in the opinion of the Zoning Administrator, for the city to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be established for:
- C.

1. Causing corrections in apparent violations of performance standards;
  2. For protecting individuals from arbitrary, capricious and unreasonable administration and enforcement of performance standard regulations; and
  3. For protecting the general public from unnecessary costs for administration and enforcement.
- D. If the Zoning Administrator finds, after investigations have been made by qualified experts, that there is a violation of the performance standards, he shall take or cause to be taken lawful action to cause correction to, within limits set by such performance standards.

#### **SECTION 16.11 DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE STANDARDS**

If, in the judgment of the Zoning Administrator, there is probable violation of the performance standards as set forth, the following procedures shall be followed:

- A. The Zoning Administrator shall give written notice to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the Zoning Administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the zoning administrator within a specified number of consecutive days, designated herein, of the receipt of such notification. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the Zoning Administrator within a specified number of consecutive days, as designated herein, of receipt of said notice constitutes admission of violation of the terms of this ordinance.
- B. The notice shall further state that upon request of those to whom said notice is directed, a technical investigation will be made by a qualified expert or experts and that if violations as alleged are found, costs of such investigations shall be charged against those responsible for the violations, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the investigation will be paid by the city.
- C. If there is no reply within the specified number of consecutive days, as designated herein, of receipt of said notice, but the alleged violation is corrected to the satisfaction of the Zoning Administrator, he shall note "violation corrected" on his copy of the notice, and shall retain it among his official records, taking such other action as may be warranted.
- D. If there is no reply within the specified number of consecutive days, as designated herein, of receipt of said notice and the alleged violation is not corrected to the satisfaction of the Zoning Administrator within the established time limit, a second notice shall be sent by registered or certified mail allowing one half (1/2) the time period provided in the original notice.
- E. If there is no reply within the specified number of consecutive days, as designated herein, of said second notice, or the alleged violation is not corrected to the satisfaction of the Zoning Administrator within the established time period of said second notice, the Zoning Administrator shall proceed to take or cause to be taken, such actions as is warranted by continuation of a violation after the second notice to cease.
- F. If a reply is received within the specified number of consecutive days, as designated herein, of the

receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the Zoning Administrator may grant an extension if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.

## **ARTICLE XVI - ZONING AMENDMENT PROCEDURE**

### **SECTION 17.0 DECLARATION OF PUBLIC POLICY**

This ordinance, and as herein used the term ordinance shall be deemed to include the official zoning map or maps, may be amended, to correct a manifest error in the ordinance, or, because of changed or changing conditions in a particular area or in the city generally, to rezone an area or to extend the boundary of an existing zone in accordance with the adopted Comprehensive Plan for the City of Fort Thomas or to change the regulations and restrictions thereof, only as necessary to the promotion of the public health, safety or general welfare. An amendment to the text of this ordinance may be initiated by the Board of Council or the Planning Commission. An amendment to the zoning map may be initiated by the Board of Council, the Planning Commission or by an owner of the property in question.

### **SECTION 17.1 LIMITATIONS ON ALL PROPOSED AMENDMENTS**

All proposed amendments to this ordinance regardless of how or by whom initiated, shall be subject to the following limitations:

#### **A. ADMINISTRATIVE EXAMINATION:**

No amendment to this ordinance shall be adopted until the amendment has been examined by the Planning Commission as hereinafter set forth and pursuant to KRS Chapter 100. Before any map amendment is granted, the Planning Commission and the Board of Council must find that the amendment is in agreement with the adopted comprehensive plan for the City of Fort Thomas, or, in the absence of such a finding, that one or more of the following apply and such finding shall be recorded in the minutes and records of the Planning Commission and the Board of Council:

1. That the existing zoning classification given to the property was inappropriate and that the proposed zoning classification is appropriate;
2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

#### **B. UNIFORMITY OF ZONE REGULATIONS AND RESTRICTIONS:**

No amendment to this ordinance shall be adopted whereby the regulations and restrictions established thereby are not uniform for each zone having the same classification and bearing the same symbol or designation on the official zoning map.

### **SECTION 17.2 PUBLIC HEARING REQUIRED, NOTICE GIVEN**

No amendment, including but not limited to, changes of zoning to this ordinance, shall become effective until after a public hearing has been held by the Planning Commission in relation thereto at which hearing parties in interest and citizens shall have an opportunity to be heard. Where a map amendment originates with the Board of Council or the Planning Commission, notice of the public hearing shall be given at least thirty (30) days in advance of the hearing by first-class mail to an owner of every parcel of property proposed to be changed. Notice of a public hearing in all other cases shall be provided in accordance with KRS Chapters 100 and 424 respectively.

### **SECTION 17.3 APPLICATION FOR AMENDMENTS**

#### **A. BY WHOM MADE:**

The Planning Commission, Board of Council, owner, or other authorized representative (with verification of owner's consent) may apply for a zoning map amendment.

The Planning Commission or Board of Council may apply for a text amendment to this ordinance.

#### **B. FILING OF APPLICATION:**

All applications for amendments to this ordinance shall be filed, in writing, with the Zoning Administrator, to be transmitted to the Planning Commission on forms furnished by the Zoning Administrator. The fee required for applying for such amendment shall be as provided in Section 19.0 of this ordinance.

### **SECTION 17.4 EXAMINATION OF APPLICATIONS**

#### **ADMINISTRATIVE EXAMINATION:**

Upon receipt of an application for an amendment, properly and fully completed as herein set forth, the Zoning Administrator shall submit the application to the Planning Commission, which after examination of the application, may require, if considered necessary, that the applicant furnish additional information of a pertinent and reasonable nature.

### **SECTION 17.5 DISPOSITION OF APPLICATIONS**

#### **ADMINISTRATIVE DISPOSITION:**

Upon receipt of an application for an amendment from the Zoning Administrator, the Planning Commission shall hold at least one (1) public hearing on the proposed amendment, the Planning Commission shall forward written notice of its findings and recommendations concerning the application to the Board of Council.

### **SECTION 17.6 SUBMISSION OF DEVELOPMENT PLAN AS CONDITION TO COMMERCIAL, MULTI-FAMILY RESIDENTIAL OR INDUSTRIAL ZONING MAP AMENDMENT**

Any request for a zoning map amendment excluding those submitted by the Board of Council (other than for a zone change for land under city ownership that the city intends to develop) to any commercial (i.e., NSC, GC, HC, PO, COR, etc.), multi-family residential zone (i.e., R-3, RCD, R-5), or industrial zone (IP), shall be made in accordance with all applicable requirements of this ordinance, including the following:

#### **A. APPLICATION AND PROCESSING:**

Application for a zoning map amendment shall be processed as follows:

1. Application for a zoning amendment shall be filed with the Zoning Administrator as required

by Section 17.3, B, and shall include a Stage I Development Plan in accordance with the applicable requirements of Section 9.20, B, of this ordinance. The Zoning Administrator may waive the submission of data involving detailed engineering study until such time as the zoning amendment has been granted.

2. The Planning Commission shall hold a public hearing on the proposed application and review said application with regard to the required elements of the Development Plan, and other applicable requirements of this section. Upon holding such a hearing, the Planning Commission shall make one of the following recommendations to the Board of Council: approval, approval with condition(s), or disapproval. The Planning Commission shall submit, along with their recommendations, a copy of the Development Plan and the basis for their recommendation.
3. The Board of Council shall take final action upon a proposed zoning map amendment within ninety (90) days of the date upon which the Planning Commission takes its final action upon such proposal.
4. If the requested amendment is approved, the Board of Council shall forward a copy of the approved Development Plan to the Zoning Administrator or the city's duly authorized representative, for further processing and enforcement in accordance with the applicable requirements of this ordinance.
5. If the detailed engineering data required under 9.20, B, had been waived by the Zoning Administrator in the initial submission of the Development Plan, then such data shall be submitted for review in accordance with the Stage II Development Plan requirement of Section 9.20 before a permit may be issued for construction.
6. The Zoning Administrator, in reviewing the Stage II Development Plan, may authorize minor changes from the approved Development Plan, provided that the adjustments do not: substantially affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance. However, any major changes, as defined below, shall require Planning Commission review.
  - a. Greater than ten percent (10%) increase in the total impervious surface area, or floor area, as previously approved for the entire proposed development,
  - b. An increase in the number of approved residential units,
  - c. Changes in the perimeter boundaries of the land included in the total proposed development which requires subdivision approval,
  - d. A change greater than ten percent (10%) in the amount of land in the total proposed development designated for a specific use of the land, or
  - e. Changes that reduce the distance between any internal paved surfaces or building and adjacent residentially zoned land by more than ten percent (10%).

B. AMENDMENTS:

Any amendments to plans, except for the minor changes which may be permitted by the Zoning Administrator as noted above, shall constitute a major change, and shall only be made in accordance with the procedure required by this ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.

C. EXPIRATION:

The zoning map amendment shall be subject to the time constraints as noted below. Upon expiration of said time period and any extensions thereto, the Board of Council or Planning Commission may initiate a public hearing, to be conducted by the Planning Commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said zoning map amendment should revert to its original designation. A public hearing may be initiated if substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Development Plan by the Board of Council, provided that an extension may be permitted upon approval of the Board of Council or Planning Commission, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Development Plan obsolete. In any case, if the time constraints contained herein expire and extension has not been granted by the Board of Council or Planning Commission, said Development Plan approval shall be null and void.

## **ARTICLE XVII - BOARD OF ADJUSTMENT**

### **SECTION 18.0 ESTABLISHMENT OF BOARD OF ADJUSTMENT: MEMBERSHIP; APPOINTMENT; TERMS; VACANCIES; OATHS; COMPENSATION; REMOVAL; OFFICERS**

- A. A Board of Adjustment has been established for the City of Fort Thomas by ordinance 0-3-67 adopted on February 6, 1967, and amending ordinance 0-17-69 adopted October 20, 1969.
- B. The Board of Adjustment shall consist of seven (7) members all of who must be citizen members and not more than two (2) of whom may be citizen members of the Planning Commission.
- C. The mayor shall be the appointing authority of the Board of Adjustment, subject to the approval of the Board of Council.
- D. The term of office for the Board of Adjustment shall be four (4) years.
- E. Vacancies on the Board of Adjustment shall be filled within sixty (60) calendar days by the mayor. If the mayor fails to act within that time, the Planning Commission shall fill the vacancy. When a vacancy occurs, other than through expiration of the term of office, it shall be filled for the remainder of that term.
- F. All members of the Board of Adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, county judge executive, notary public, clerk of court, or justice of the peace, within the district or county in which they reside.
- G. Reimbursement for expenses or compensation or both may be authorized for members on the Board of Adjustment.
- H. Any member of the Board of Adjustment may be removed by the Mayor, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The mayor exercising the power to remove a member from the Board of Adjustment shall submit a written statement to the Planning Commission setting forth the reasons and the statement shall be read at the next meeting of the Board of Adjustment which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the circuit court of the county in which he resides.
- I. The Board of Adjustment shall elect annually a chairman, vice-chairman, and secretary, and any other officers it deems necessary, and any officer shall be eligible for re-election at the expiration of this term.
- J.

### **SECTION 18.1 MEETINGS OF BOARD: QUORUM; MINUTES; BYLAWS; FINANCES; SUBPOENA POWER; ADMINISTRATION OF OATHS**

- A. The Board of Adjustment shall conduct meetings at the call of the chairman, who shall give written or oral notice to all members of the Board at least seven (7) days prior to the meeting, which notice shall contain the date, time, and place for the meeting, and the subject or subjects which will be discussed.
- B. A simple majority of the total membership of the Board of Adjustment, as established by agreement

shall constitute a quorum. Any member of the Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question.

- C. The Board of Adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulations, transaction, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the Board of Adjustment. A transcript of the minutes of the Board of Adjustment shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.
- D. The Board of Adjustment shall have the right to receive, hold, and spend funds, which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government, for the purposes of carrying out the provisions of K.R.S. Chapter 100.
- E. The Board of Adjustment shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.
- F. The chairman of the Board of Adjustment shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.
- G. A Board of Adjustment may appoint one (1) or more of its members to act as hearing examiner to preside over a public hearing or public meeting and make recommendations to the board based upon a transcript or record of the hearing.

## **SECTION 18.2 POWERS OF BOARD OF ADJUSTMENT**

The Board of Adjustment shall have the following powers:

1. To hear and decide on applications for variances. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant.
2. To hear and decide appeals where it is alleged, by the appellant, that there is an error in any order, requirement, decision, grant, or refusal made by a Zoning Administrator in the enforcement of this ordinance. Such appeal shall be taken within thirty (30) consecutive calendar days.
3. To hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein, which may be suitable only in specific locations in the zone only if certain conditions are met as specified in KRS 100.237.
4. To hear and decide, in accordance with the provisions of this ordinance, requests for interpretation of the official zoning map or for decisions upon other special questions upon which said Board is authorized to act upon.
5. To hear and decide, in accordance with the provisions of this ordinance and the adopted Comprehensive Plan for the City of Fort Thomas, requests for the change from one non-conforming use to another.

### **SECTION 18.3 PROCEDURE FOR ALL APPEALS TO BOARD**

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

The Board of Adjustment shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least two weeks prior to a hearing for a Conditional Use Permit, and one (1) calendar week prior to any other hearing, and shall render a decision on all requests within sixty (60) consecutive calendar days. The affected party may appear at the hearing in person or by attorney.

### **SECTION 18.4 VARIANCES; CHANGE FROM ONE NONCONFORMING USE TO ANOTHER; CONDITIONAL USES; APPEALS; CONDITIONS GOVERNING APPLICATIONS; PROCEDURES**

#### **A. DIMENSIONAL VARIANCE**

Findings necessary for granting variances:

1. Before any variance is granted the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

In making these findings, the board shall consider whether:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone.
  - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
  - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
2. 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.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 16.9 of this ordinance.

2. DIMENSIONAL VARIANCE CANNOT CONTRADICT ZONING REGULATION:

The Board of Adjustment shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by this ordinance in the zone in question, or to alter density requirements in the zone in question.

3. VARIANCE RUNS WITH LAND:

A variance applies to the property for which it is granted and not to the individual who applied for it. A variance also runs with the land and is transferable to any future owner of land, but it cannot be transferred by the applicant to a different site.

**B. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER:**

A nonconforming use shall not be changed to another nonconforming use without the specific approval of the board of adjustment, as provided herein.

1. The board of adjustment shall have the power to hear and decide on applications to convert or change an existing nonconforming use to another nonconforming use, subject to the following:
  - a. A written application for a change from one nonconforming use to another (including the required fee as per Section 19.0 of this ordinance) and a site plan, if applicable, subject to the applicable requirements of Section 9.19, shall be submitted to the board.
  - b. Notice of public hearing shall be given in accordance with Section 18.2 of this ordinance.
  - c. The public hearing shall be held. Any person may appear in person, by agent, or by attorney.
  - d. Prior to granting a change from one nonconforming use to another, the board of adjustment shall find that the new nonconforming use is in the same or more restrictive classification of use as the prior nonconforming use. In the determination of the same or more restrictive classification of use, the applicant shall establish and the board of adjustment shall find:
    - 1, That the new nonconforming use shall generate less vehicular traffic (automobile and truck) than the prior nonconforming use;
    2. That the new nonconforming use is of a nature which will emit less noise and air pollution than the prior nonconforming use;
    3. That the new nonconforming use will be more in character with the existing neighborhood than the prior nonconforming use, in that it is more in conformance with the adopted comprehensive plan, and also, more in conformance with the uses permitted in the zone in which the use is located, than the prior nonconforming use.
  - e. Any change of nonconforming use granted by the board of adjustment shall conform to the requirements of this ordinance, including, but not limited to, parking

requirements, sign regulations and yard requirements, and all other pertinent ordinances of the legislative body.

- f. The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at which time its use became nonconforming.
- g. The board of adjustment, in granting a change of nonconforming uses, may attach such conditions thereto as it may deem necessary and proper; and the action, limitations, and conditions imposed, if any, shall be in writing, directed to the applicant, with a copy to be furnished to the zoning administrator.
- h. The change of nonconforming use, as may be granted by the board of adjustment, applies to the property for which it is granted and not to the individual who applied and, therefore, cannot be transferred by the applicant to a different property.
- i. In the case where the change of nonconforming use has not occurred within one (1) year after the date of granting thereof, the change of nonconforming use permit shall be null and void and reapplication to the board of adjustment shall have to be made.

## **C. CONDITIONAL USES**

- 1. **DETERMINATION:** The Board of Adjustment may authorize a conditional building and use to be located within any zone in which the particular conditional use is permitted by the use regulations of this Ordinance, if the evidence presented by the applicant is such as to establish beyond any reasonable doubt:
  - a. That the proposed building and use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community;
  - b. That such building and use will not under the circumstances of the particular case be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
  - c. That the proposed building and use will comply with any regulations and conditions specified in this ordinance for such building and use.

## **2. CONDITIONAL USE PERMITS:**

In accordance with K.R.S. 100.237, the Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met:

- 1. The Board of Adjustment may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be approved, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, said conditional use permit shall be

recorded in the office of the county clerk and one copy of said permit attached to the deed for the property for which it is issued. The Board shall have power to revoke conditional use permits, or variances for noncompliance 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. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this Ordinance, the building code, housing code, and other regulations of the City of Fort Thomas.
3. In any case where a conditional use permit has not been exercised within twelve (12) consecutive calendar months from date of issuance, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been an additional public hearing. Exercised as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvements have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions as set forth in the permit.
4. The Zoning Administrator shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permits. If the landowner is not complying with all of the conditions listed on the conditional use permit, the Zoning Administrator shall report the fact in writing to the chairman of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the Board of Adjustment. The Board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the Board of Adjustment finds that the facts alleged in the report of the Zoning Administrator are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board of Adjustment may authorize the Zoning Administrator to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.
5. Once the Board of Adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the Zoning Administrator, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the county clerk, as required in KRS 100.344.

#### **D. ADMINISTRATIVE REVIEW (APPEALS)**

The board of adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulation. Such appeal shall be taken within thirty (30) days.

#### **SECTION 18.5 STAY OF PROCEEDINGS**

An appeal to the Board of Adjustment for a Zoning Administrator's decision stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken, certifies to the Board of Adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a court of record on application, or on notice to the Zoning Administrator from whom he appeal is taken and on due cause shown.

#### **SECTION 18.6 DECISIONS OF THE BOARD OF ADJUSTMENT**

In exercising the aforementioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made, and to that end shall have powers of the Zoning Administrator, from whom the appeal is taken.

A simple majority of the total membership of the Board of Adjustment, as established by regulation or agreement, shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

The details of the decision of the Board shall be forwarded to the Zoning Administrator.

#### **SECTION 18.7 APPEALS FROM PLANNING COMMISSION OR BOARD OF ADJUSTMENT OR LEGISLATIVE BODY**

- A. Any appeal from Planning Commission or Board of Adjustment action may be taken in the following manner:
1. Any person or entity claiming to be injured or aggrieved by any final action of the Board of Adjustment shall appeal from the action to the Circuit Court of the county in which the property, which is the subject of the action of the Board of Adjustments, lies. Such appeal shall be taken within thirty (30) consecutive calendar days after the final action of the Board of Adjustment. All final actions which have not appealed within thirty (30) days shall not be subject to judicial review. The Board of Adjustments shall be a party in any such appeal filed in the circuit court.
  2. Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the circuit court of the county in which the property, which is the subject of the commission's action, lies. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions, which have not been appealed within thirty (30) days, shall not be subject to judicial review. Provided, however, any appeal of a planning commission action granting or denying a variance or conditional use permit as provided in K.R.S. 100 shall be taken pursuant to this subsection.

In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the circuit court.

3. Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of the city, relating to a map amendment, shall appeal from the action to the circuit court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions, which have not been appealed within thirty (30) days, shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the circuit court.
4. The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.
5. For the purposes of this ordinance, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

## **ARTICLE XVIII - FEES, CHARGES AND EXPENSES**

### **SECTION 19.0 SCHEDULE OF FEES, CHARGES AND EXPENSES**

The City of Fort Thomas hereby establishes the following schedule of fees, charges, and expenses, for zoning permits, building permits, appeals, zoning applications, and other matters pertaining to this ordinance:

#### **A. ZONING PERMIT:**

##### **1. New Construction:**

###### **a. Residential Uses:**

1. Single-family or two family – twenty-five dollars; (\$25.00)
2. Multiple-family – forty dollars (\$40.00). For each additional dwelling unit over three (3) – two dollars (\$2.00)

###### **b. Commercial and Industrial Uses:**

1. Where total building area is five thousand (5,000) square feet or less – fifty dollars (\$50.00)
2. For each one thousand (1,000) square feet or fraction thereof over five thousand (5,000) square feet – five dollars (\$5.00).

##### **2. Alterations, additions, or changes from one permitted use to another:**

- a. Changes in use or changes to buildings wherein the zoning classification and dimensions are not changed - no fee;
- b. For each increase in building area of one hundred fifty (150) square feet or fraction thereof twenty dollars; (\$20.00)
- c. For each additional one hundred (100) square feet or fraction thereof over one hundred fifty (150) square feet - two dollars (\$2.00) - not to exceed twenty dollars (\$20.00).

##### **3. Air conditioners, fences, satellite-receiving antennas, pools and sheds permitted or required by this Ordinance - twenty dollars (\$20.00).**

##### **4. Signs:**

Any sign permitted by this ordinance - first twelve (12) square feet thirty dollars (\$30.00) plus one dollar (\$1.00) for each additional two (2) square feet or fraction thereof. Minimum fee - thirty dollars (\$30.00)



**B. BUILDING PERMIT:**

The fee for a building permit shall be as provided in Title XV, Section 150.04 of the City of Fort Thomas Code of Ordinances. Residential permits shall be based on the estimated cost of construction stated on the building permit application, or construction per square foot data available from ICC, F.W. Dodge or the Homebuilders Association, as determined by the Building Inspector and subject to annual revision to reflect current construction costs.

**1. Demolition:**

- a. One and Two Family \$100.00 + bond
- b. Multi-Family, professional office, commercial and industrial \$200.00 + bond
- c. Accessory structure \$10.00 + bond
- d. Bond equal to estimated cost of demolition.

**2. Minor Grading** (200 cubic yards or less) \$25.00

**3. Major Grading** (over 200 cubic yards) \$100.00

**4. Certificate of Occupancy Permit**

- a. The fee for a Certificate of Occupancy Permit is ten dollars (\$10.00). This fee does not apply to existing uses of structures at the time of adoption of the ordinance.
- b. The fee for a Certificate of Occupancy permit for lawful nonconforming uses and structures shall be ten dollars (\$10.00)

**5. Move and Set Permit**

The fee is two hundred dollars (\$200.00).

**6. Fees Not Returnable**

Fees required in any of the foregoing regulations, or in any parts of this ordinance, shall not be returnable for any cause, regardless of outcome of decision on any application except that the Zoning Administrator shall refund one-half (1/2) of the fee paid for filing rezoning application if such application is withdrawn prior to the publication of notice of public hearing before the Planning Commission. No fee, or part thereof, shall be refunded once an application has been advertised for public hearing before the Planning Commission.

## ARTICLE XIX - SETBACK REQUIREMENTS\*\*

ZONE	USE	AREA SQ.FT.	WIDTH	FRONT	REAR	SIDE	HEIGHT
R-1AA	1 FAMILY	1 ACRE	150'	40'	40'	38'/12'	35'
R-1A	1 FAMILY	9500	75'	30'	40'	10'	35'
R-1B	1 FAMILY	7500	65'	30'	35'	9'	35'
R-1C	1 FAMILY	7000	60'	25'	30'	8'	35'
R-1D	1 FAMILY	1/2 ACRE	80'	35'	40'	10'	35'
R-2	1 OR 2 FAMILY	8000	75'	25'	30'	8'	35'
R-3	3 FAMILY	8000 1ST 4 + 4000 EACH	80'+10' EACH	35'	35'	15' + 10'/STORY MAX 35'	50'
R-5	3 TO 12 UNITS PER BUILDING	19200 1ST 4 + 4800 EACH	80'+10' EACH	35'	35'	10' + 2'/UNIT MAX 20'	35'
CBD	SALES/SERVICE	5 ACRES	---	N/A	N/A *	N/A *	50'
GC	SALES/SERVICE	7500	50'	20'	15' *	0' *	50'
HC	SALES/SERVICE	3 ACRES	LENGTH TO WIDTH RATIO 2 TO 1	50'	15' *	15' *	40'
PO	OFFICE	10,000	100'	25'	15' *	15' *	50'
IP	FACTORY	1/2 ACRE	100'	50'	50' *	25' *	40'
CO	CONSERVATION	5 ACRES	300'	100'	50' *	50' *	25'
RP	PARKS/PLAYGRD	1 ACRE	100'	25'	35' *	15' *	25'
RCD	1 FAMILY	5 ACRES	PER PLAN	PER PLAN	PER PLAN	PER PLAN	PER PLAN

\* Verify setback when adjoining residential

\*\* This table for reference only.

## **ZONING ORDINANCE ENFORCEMENT POLICY**

Zoning Regulations were originally established in the City of Fort Thomas in 1940 in order to promote the public health, safety, and general welfare of the City. The primary intent of zoning regulations is to establish minimum standards to facilitate orderly and harmonious development in the community and to promote and maintain an overall quality of living for our residents. Zoning regulations are also developed to preserve and maintain many of the aesthetic characteristics of the City.

The City of Fort Thomas has established the following policy in the Building Services Department relative to the application and enforcement of the City Zoning Regulations.

When the Department of Building Services receives a complaint with regard to a possible Zoning Ordinance violation, it is promptly investigated by a Code Enforcement Officer. Complaints and inquiries regarding possible zoning violations may be made in writing or verbally through telephone communication or personal contact. Upon investigation, if a zoning violation is determined to exist, the Code Enforcement Officer will notify the property owner in writing of the violation and request compliance within a specified period of time. During the process of investigating a complaint, the Code Enforcement Officer will observe the immediate area and document other zoning violations that may exist. It is the intent of the City to secure compliance of all zoning violations through administrative channels; however, in some instances it may be necessary to file a complaint in District Court when an impasse exists with an individual property owner.

This Zoning Enforcement Policy shall not preclude city personnel or any resident from initiating a complaint and/or aggressively pursuing any zoning ordinance violation, in particular, a complaint that may present an immediate traffic or safety hazard or any violation on public right-of-way or public property.