
ORDINANCE 2015-09

MCCRACKEN COUNTY ZONING



Effective February 27, 2017

Amended by Ordinances

2017-01, 2016-05, 2016-01, 2015-09, 2015-8,
2015-7, 2015-6, 2015-4, 2015-3, 2014-7, 2014-
6, 2013-12, 2008-7, 2005-15, 2004-18, 2004-
15, 2004-13, 2003-9, 2003-7, 2001-1

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Article I. – PURPOSE, AUTHORITY, AND JURISDICTION

Section 10 – Purpose

- I. An ordinance of the County which hereby establishes comprehensive zoning regulations and provides for the administration, enforcement, and amendment thereof, in accordance with the provisions of KRS Ch. 100, enacted by the Legislature of Kentucky, and for the repeal of all laws in conflict herewith.
- II. The County does hereby ordain and enact into law the following zoning regulations in pursuance of authority conferred by KRS Ch. 100, as amended, and for the purpose of promoting the health, safety, general welfare, morals, convenience, order, prosperity of the County, and in accordance with a comprehensive plan, with the goal of ensuring that development take place in a manner compatible with adjacent land uses, to provide for adequate light and air, is consistent with and appropriate to existing or proposed infrastructure and is adequately served by necessary and essential services, including water sewerage, schools, parks and other public requirements, and for ensuring proper drainage and reducing flood damage potentials, being made with reasonable consideration, among other things, of the character of the district and its suitability for particular uses; and with the goal of providing suitable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the value of buildings and encouraging the most appropriate use of land.

Section 11 – Authority

These zoning regulations were prepared and adopted by the McCracken County Planning Commission and adopted by Ordinance of the McCracken County Fiscal Court, pursuant to the authority of Chapter 100, of the Kentucky Revised Statutes.

Section 12 – Area Jurisdiction

The McCracken County Planning Commission through these zoning regulations shall have jurisdiction over all land within McCracken County, excluding the City of Paducah.

Article II. – DEFINITIONS AND INTERPRETATIONS

Section 20 – Purpose

The purpose of this Article is to define certain words and phrases commonly used in zoning regulations. The words and terms expressed in the present tense include the future tense. Singular words and phrases include the plural. The word “may” is permissive, while “shall” and “will” are mandatory. The following definitions shall apply, unless the context clearly indicates or requires a different meaning.

Section 21 – Definitions

Accessory building and uses. A subordinate building located on the same lot with the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of the land. Where part of the wall of an accessory building is part of the wall of the principal building in a substantial manner, as by a roof, such accessory building shall be counted as part of the principal building.

Accessory living quarters. Living quarters within an accessory building, and not rented or otherwise used as a separate dwelling.

Administrative Official. An administrative official, or officials, shall be designated by the County Judge Executive to administer the zoning regulation, and if delegated, housing and building regulations. The administrative official may be designated to issue building permits or certificates of occupancy, or both, in accordance with the literal terms of the regulation, but may not have the power to permit any construction, or to permit any use or any change of use which does not conform to the literal terms of the zoning regulation.

Agriculture. An area for the income producing, production and wholesaling of agriculture or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, orchards, fruits, vegetables, flowers, or ornamental plants including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public. Agriculture uses including production and wholesaling agriculture or horticultural crops, including but not limited to, livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, orchards, fruits, vegetables, flowers, ornamental plants, small wineries licensed under KRS 243.155, or small, craft distilleries holding a Class B distiller's license under KRS 243.120; provided each of the aforesaid craft distilleries are located on a tract/lot that is a minimum of fifteen (15) acres and the location of the actual distillery facility (including without limitation mash tuns, fermenters, stills, or bottling facilities) shall be located a minimum of 200 feet from every tract/lot line, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.

Agricultural Farm Building. Buildings other than dwellings, to be located on agricultural lands that are: a) incidental to the operation of a farm; b) the building is not used for business of a retail trade; c) the building is not used as a regular place of work for 10 or more people; d) not used for the storage of timber, or the processing of timber products.

Alley. A permanent public service way providing a secondary means of access to abutting lands.

Assisted Care Home. A residential dwelling that offers services that is a combination of housing, personalized supportive services and health care designed to meet the individual needs of persons who need help with the activities of daily living, but do not need the skilled medical care provided in a nursing home. This definition includes congregant living.

Automobile Service Station. An establishment with the primary business function of the retail sale of gasoline for passenger car use, and the minor service and repair work incidental to the operation of passenger automobiles.

Block Frontage. All the property fronting on one side of a street between intersecting streets, or between a street, and a right-of-way of a dead-end street or County boundary, measured along the street line.

Board. The McCracken County Board of Adjustment.

Building. Any structure having an enclosed space and a roof for the housing or enclosure of persons, animals or chattels. The word “building” includes the word “structure.”

Building Area. The maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces, unenclosed porches not exceeding one story in height or architectural appurtenances projecting not more than two feet.

Building, detached. A building having no party wall in common or structural connection with another building.

Building, front line of. The line of the face of the building nearest the front lot line.

Building, height of. The vertical distance from the average contact ground level at the front wall of a building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable and hip or gambrel roofs.

Building, government. A building owned, occupied, or leased by any unit of federal, state, or local government which is used for the purpose of conducting any useful or necessary governmental function.

Building Line. The line nearest the front and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the front line.

Building, nonconforming. A legally existing building, which fails to comply with the McCracken County Zoning Regulations, that are applicable to the zone in which this building is located.

Building, principal. A building which has conducted the main or principal use of the lot on which the said building is situated. Where a substantial part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building will be counted as a part of the principal building.

Building, semidetached. A building having one party wall in common with an adjacent building.

Campground. Any area or tract of land used to temporarily accommodate two or more camping parties, including cabins, tents, house trailers, or other camping outfits.

Carport. A structure consisting of a roof and either walls or columns for the purpose of housing automotive vehicles and other chattels; said structure shall be considered a building.

Cemetery. Land used for the burial of the dead and dedicated for cemetery purposes, including columbarium, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Clinic or medical health center. An establishment where patients are admitted for special study and treatment by one or more licensed physicians and/or dentists and their professional associates, as distinguished from a professional office for general consultation purposes.

Commercial. The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or service, the maintenance or operation of offices, recreational and amusement enterprises.

Commission. The McCracken County Planning Commission.

Conditional Use. A use which would not impair the public health, safety or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is

located or in adjoining zones, unless restrictions on location, size, extent and character of performance are imposed in addition to those imposed in the zoning regulations.

Conditional use permit. Legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the Board of Adjustment consisting of two parts:

1. A statement of the factual determination by the Board of Adjustment, which justifies the issuance of the permit.
2. A statement of the specific conditions, which must be met in order for the use to be permitted.

Convalescent or Nursing Home. Establishments, which provide full-time convalescent or chronic care, or both, for four or more individuals who are not related by blood or marriage to the operator, and who, by reason of chronic illness or infirmity, are unable to care for themselves. Neither care for the acutely ill nor surgical or obstetrical services shall be provided in such a home. A hospital or sanitarium shall not be construed to be included in this definition.

County. The County of McCracken, Kentucky, and its designated officials, administrators and enforcement personnel.

Density. Number of dwelling units divided by the number of acres on a lot, PUD, subdivision, or development the dwelling units of which are attributable.

Developmental Plan. Written and graphic material for the provision of a developmental plan, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, street 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 be the applicant.

Dwelling. A building, or portion thereof, used primarily for residential occupancy, including one-family and multiple dwellings, but not including hotels, motels, or tourist homes.

Dwelling, multiple. A building, or portion thereof, used for occupancy by three or more families living independently of each other.

Dwelling, two-family. A building, or portion thereof, used for occupancy by two families living independently of each other. Also known as a duplex.

Dwelling unit. A dwelling, or portion of a dwelling, used by one family for cooking, living and sleeping purposes.

Educational Institution. A preprimary, primary, or grammar, public, parochial, or private school; a high school, preparatory school or academy, public, parochial, or private school; a high school, preparatory school or academy, public or founded or owned or conducted by or under the sponsorship of a religious or charitable organization; a private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to colleges or universities which award BA or BS degrees; a junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or a private school when not conducted as a commercial enterprise for the profit of individual owners or stockholders. This definition shall not be deemed to include trade or business schools as defined in this section.

Enforcement Officer. The County Judge Executive shall designate an official(s), to enforce the provisions of this chapter. The Judge Executive may authorize the issuance of citations

for violations of the chapter, which the officer has observed, but they shall not have power of peace officers to make arrest or carry deadly weapons. The defendant of citations shall appear within a designated time pursuant to the citation.

Family. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include servants.

Fence. A man-made structure consisting of wood, metal, wire, mesh, masonry or other man-made material. Fences shall include any type of fence, wall trellis or similar structure.

Floor area ratio. The floor area of the building divided by the area of the lot.

Garage, private. A detached accessory building or portion of a main building, used for the storage of self-propelled vehicles and chattel of the family to which the garage is accessory, and not more than one-half of the total number of vehicles stored in such garage shall be rented for vehicles and chattel of other than occupants of the building to which garage is accessory.

Garage, public. Any building or premises, except those defined herein as a private garage, used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

Ground Floor Area. The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways and secondary stairways.

Home Based Business. In a dwelling house for one family, or one housekeeping unit only, on one lot; provided, however, that nothing herein contained shall prevent the use of a minor part of the dwelling house, or accessory building, for an office or studio by person or persons residing in the dwelling house or the display on the premises of one five square foot announcement sign showing the name or names of the person or persons using such office or studio, and the profession or business conducted in connection therewith, and where there are no more than one non-resident employees, and where customers or clients do not regularly visit the site, and there is no outside storage of equipment or materials.

Home Occupation. Any use conducted entirely within a dwelling and carried on solely by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof; in connection with which there is no sign larger than five (5) square feet, minimal stock in trade, or outside storage of equipment or materials, and not more than two persons other than the residents are to engage in such occupation. The use shall not generate noise, vibrations, smoke, odors or electrical interference beyond the property line. A minimum of two (2) off street parking spaces shall be provided on the premises.

The following are included as home occupations:

1. Artist
2. Computer programming
3. Child Care
4. Professional Consultants
5. Insurance Agents
6. Minister and Pastoral Care
7. Personal Care
8. Real Estate Broker
9. Sales Representatives (no trade stock on site)

10. Telecommuters

11. Similar uses as approved by the Planning Commission

Hospital. Includes sanitarium, preventorium and clinic, provided such institution is operated by or treatment given under the direct supervision of a physician licensed to practice by the State of Kentucky.

Hotel or Motel. A building, or portion thereof, or group of buildings in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a lodging house.

Industrial, heavy. Those industries whose processing of products result in the emission of any atmospheric pollutant, light flashes or glare, odor, noise or vibration which may be heard and/or felt off the premises, and those industries which constitute a fire or explosion hazard.

Industrial, light. Those industries whose processing of products results in none of the conditions described for heavy industry.

Junkyard. Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including, but not limited to, use of salvaged vehicles, base metal or metals, their compounds or combinations, used or salvaged vehicles, appliances, rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property which are used, owned or possessed for the purpose of wrecking or salvaging parts there from.

Kennel, commercial. Any lot or premises on which dogs or small animals are kept for commercial boarding, breeding or sale purposes.

Kennel, private. Any lot or premises on which dogs or small animals are in or adjoining a private residence where hunting or other dogs are kept for the hobby of the householder (i.e., hunting, tracking or exhibiting), or guarding/protecting the householder's property and is permitted in all zones as an accessory use provided that such dogs or small animals do not constitute a nuisance to the neighborhood.

Lot. A piece, parcel, plot, tract or area of land occupied or capable of being occupied by one principal building and the accessory buildings or uses customarily incidental to it, and including the open spaces required under this chapter; having its principal frontage on a street. The word "lot" includes the "plot" or "parcel."

Lot, corner. A lot at a junction of, and fronting on, two or more intersecting streets.

Lot coverage. The percentage of the lot area covered by the building area.

Lot, interior. A lot other than a corner or through lot.

Lot line, front. In the case of an interior lot, a line separating the lot from the street or place, and in the case of a corner lot, the line designated in deed or subdivision requirements, or if no such requirements are provided, the line designated by the property owner at the time he seeks a building permit on the lot.

Lot line, rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side. Any lot boundary lines not a front lot line or a rear lot line.

Lot, through. A lot having frontage on two parallel or approximately parallel streets.

Lot width. The dimension of a lot, measured between side lot lines at the building setback line.

Manufactured home. A single-family dwelling unit constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as

amended, and manufactured after June 15, 1976, which is designed to be transported across streets and highways to a point of use, is equipped with the necessary service connections, and included the plumbing, heating, air conditioning and electrical systems contained therein; made so as to be readily movable as a unit or units. For the purpose of this ordinance, the term “manufactured home” is a synonymous with “modular home,” “mobile home,” and “house trailer,” but not “campers.”

Minimum Building Setback Line. The minimum required distance between a lot line and a building line.

Mobile Home Park. Means a parcel of land under the control of any person, available to the public in which three (3) or more mobile home lots are occupied or intended for occupancy by mobile homes and includes any service building, structure, enclosure, or other facility, used as part of the park.

Occupied. As applied to any land or building, shall be construed to include the words “intended, arranged or designed to be used or occupied.”

Parking area, public. An open area, other than a street or alley designed for use or used for the temporary parking of four (4) or more motor vehicles when available for visitor or employee use.

Parking area, vehicle display. An open area for display of the lease, rental, or sale of motor vehicles.

Parking space, off-street. An off-street space accessible from a street or road with a minimum width of nine (9) feet and a minimum length of eighteen (18) feet.

Perimeter screens. A six (6) foot high fence that is 90% visually solid or four (4) feet tall shrubs and/or evergreen trees that will attain six (6) feet in height within three (3) years and also be 90% visually solid year round. Other plans for screening may be submitted for approval to the Zoning Administrator. Perimeter screens as used in the ordinance do not require 100% blocked view from adjacent properties of structure.

Person. Includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

Personal and convenience services. Businesses offering services such as barber shops, beauty shops, Laundromats, laundry and dry cleaning pickup/delivery stations (but excluding actual laundry operations), and similar uses.

Place. An open, unoccupied, officially designated space (other than a street or alley), permanently reserved for use as the principal means of access to abutting property.

Planned unit development (PUD). A self-contained development, which may be developed under single ownership or control, often with a mixture of housing types and densities, in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots, as in most subdivisions. Therefore, densities are calculated for the entire development, usually permitting a trade-off between clustering of housing and provision of common open space.

Professional office. Offices of members of recognized professions such as physicians, surgeons, lawyers, engineers, dentists and architects.

Public facility. Any use of land, whether publicly or privately owned, for transportation, utilities, communications, or any use which is necessary for the health and safety of the general public, including but not limited to, libraries, streets, schools, fire or police stations, ambulance services, county buildings, municipal buildings, recreational centers (including parks) and cemeteries.

Sign. Any board, device or structure, or part thereof, used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purpose of showing street names or traffic directions or regulations for other governmental purposes shall not be included therein.

Street. A right-of-way (other than an alley), dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property.

Structure. Anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs.

Structural alteration. Any change in the supporting members of a building such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls of the roof.

Subdivision. The division of land into two (2) or more lots or parcels for the purpose, whether immediate or future sale, lease of building or land development, or if a new street is involved, any division of a parcel of land, providing that a division of land for agricultural use and not involving a new street shall not be deemed to be a subdivision. The term "subdivision" includes re-subdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or re-division of land into parcels less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision.

Tourist home. A building in which more than one, but not more than five, guest rooms are used to provide or offer overnight accommodations for transient guests for compensation. A bed and breakfast inn is included in this definition.

Town home. A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent building and/or buildings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs; all of which dwellings may be located on individual and separate lots if individually owned, or upon a single lot if under common ownership. Each town house unit shall be capable of separate ownership. The construction of a town house structure across an existing lot line shall not be deemed to abrogate that line.

Trade or business school. A secretarial school or college, business school or college, when not public and not owned or conducted by or under the sponsorship of a religious or charitable organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, martial arts, or hairdressing, or for teaching industrial skills in which machinery is employed as a means of instruction. This definition shall not be deemed to include an educational institution as defined in this section.

Use. The employment or occupation of a building, structure, or land for a person's service, benefit or enjoyment.

Use, nonconforming. An existing use of land or building which was legal prior to the effective date hereof, but which fails to comply with the requirements set forth in this chapter applicable to the zone in which such use is located.

Used. As applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Variance, dimensional. Departure from the terms of the zoning regulations pertaining only to height or width and location of structures, size of yards and open spaces, and other dimensional features of the ordinance, where such departure will not be contrary to the public

interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.

Wall, retaining. A physical barrier necessary to prevent the erosion and/or deterioration of an established elevation.

Yard. A space on the same lot with principal and accessory buildings, open and unoccupied other than by steps, walks, terraces, driveways, lampposts and similar structures, and unobstructed by structures, except as otherwise provided in this chapter.

Yard, front. A yard extending across the full width of the lot, between two side lot lines, the depth of which is the least distance between the street right-of way and the building line.

Yard, rear. A yard extending across the full width of the lot between the two side lot lines and between the rear line and a parallel line tangent to the rear of the principal building, the depth of which is the least distance between the rear lot line and the parallel line.

Yard, side. A yard bounded by the rear yard, the front yard, the side lot line and the principal and accessory building.

Zoning map or map. The zoning map of the County.

Section 22 – Subdivision Coordination Required

In all cases where the ownership of land is divided for the purpose of development of lots, the McCracken County Subdivision Regulations, as well as these Zoning Regulations, shall apply.

Section 23 – Zone Classification and Boundaries

- I. The County is divided into zones classified as follows:
 - AG - Agricultural Zone
 - UR - Urbanizing Residential Zone
 - RR - Rural Residential Zone
 - MHP - Mobile Home Park Zone
 - C - Commercial Zone
 - ML - Light Industry Zone
 - MH - Heavy Industry Zone
- II. The boundaries of the above zones are hereby established as shown on the zoning map entitled, “Zone Map of McCracken County, Kentucky,” which has been recommended and certified by the Planning Commission and the Fiscal Court and is hereby made a part of these zoning regulations.

Section 24 – Interpretation of Zone Boundaries

Where zone boundaries are indicated as approximately following the centerline of streets, roads, highways, railroad right-of-way, river and streambeds, boundaries of the county, city limits and property lines, such lines shall be construed to be the same zone boundaries. In certain instances, the zone boundary shall be set at a fixed distance from the road centerline. In other limited instances, zone boundaries may follow neither geographic features nor

property lines. In those cases, the Zoning Administrator will scale the zone boundaries from the McCracken County zone map.

ARTICLE III. – GENERAL REGULATIONS

Section 30 – Applicability of Article

Except as herein specified, the following provisions shall be applied within all zoning districts.

Section 31 – Access Control

No point of access shall be allowed within 25 feet of the intersection in the right-of-way of two streets, highways or roads. The board may grant variances. No curb or right-of-way shall be cut or altered without acquiring a permit from the office of the County Road Department. Requirements of the permit, including but not limited to the application, design requirements, and improvement bonds shall be done in a manner specified by the County Zoning Administrator

Section 32 – Nonconforming Uses

- I. Continuation generally.
 - A. The lawful use of a building or land existing at the time of the adoption of these zoning regulations and amendments hereto may be continued, although such use does not conform to the provisions of the adopted zoning regulations, except as otherwise provided herein.
- II. Specific standards.
 - A. A nonconforming use or structure existing at the time of the adoption of these zoning regulations, which was conforming at the time of its erection, may be continued in use, although such use does not conform to the provisions of such regulations.
 - B. With the formal authorization of the Board of Adjustment, granted after a duly advertised public hearing and after its determination that the properties in the general vicinity will not be adversely affected by the change, an existing nonconforming use may be changed to a new nonconforming use in the same or a more restrictive zone classification.
 - C. The Board of Adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation, which makes its use nonconforming, was adopted. Any proposal for an enlargement or extension of a structure or building which does not enlarge the scope or the operation shall appear before the Board of Adjustment, which may be granted after a public hearing.
 - D. A building or structure, which is the subject of a nonconforming use, may be maintained and repaired.

- E. A building or structure which does not comply with the dimensional requirements of the zoning regulations may be maintained, repaired, altered, or moved, provided that every portion so enlarged or moved shall be made to conform to all the regulations of the zone in which the structure is located.
- F. A building or structure which is nonconforming, either with respect to its use or with respect to dimensional requirements on the lot where it is situated, which is damaged or destroyed by any cause to the extent of more than 75 percent (%) of its value or area, shall not be repaired nor rebuilt, except in conformance with the provisions of the zoning regulations.
- G. On any lot where there is an existing principal structure which was conforming at the time it was constructed, but which had become nonconforming with respect to front, rear, or side yard requirements, and which otherwise complies with the use and dimensional requirements of the zoning regulations, an addition to that structure may be constructed which similarly does not conform to the front, rear or side yard requirements; provided the newly created nonconform is no nearer to the front, side or rear lot line than the previously nonconforming existing structure.

Section 33 – Lots

- I. Multiple Principal Buildings. In a UR and C zone, only one principal structure and its customary accessory structures may hereafter be erected on any one lot. Agriculture uses, regardless of zone, are exempt from this requirement. In UR and C zones, the Planning Commission, with an approved development plan, may authorize multiple principal buildings except one (1) residential dwelling unit may be added without a development plan and there is at least 12,000 square feet of lot area per dwelling unit. In AG, RR, ML, and MH zones, multiple principal buildings are allowed.
- II. Front yard setback lines may be varied where the average depth of principal buildings of adjoining properties is less than the depth as prescribed by the zoning regulations. In such case, the front yard in question shall not be less than the average depth of existing front yards on the two lots immediately adjoining. If the adjoining lots are vacant, then nearest structures in the district may be considered.

Section 34 – Conditional Uses

Generally. Conditional uses are allowed only by specific approval of the Board of Adjustment and only in the zone in which they are listed.

- I. Application and Review Procedure
 - A. Following a public hearing and upon an affirmative finding by the Board that:
 - 1. The proposed conditional use is to be located in a zone wherein such use may be permitted; and
 - 2. The conditional use is consistent with the spirit, purpose and intent of the zoning regulations, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare; the Board shall grant the conditional use.

- II. The Board of Adjustment may approve or deny any applications for a conditional use permit. If it approves the issuance of a conditional use permit, it may attach conditions to the approval such as time limitations, requirements that one or more things be done before construction can be initiated, or conditions of a continuing nature. Any such condition shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section of the zoning regulations, or any other applicable ordinance of the County listing the conditional use under consideration.
- III. The Board of Adjustment shall have the power to revoke conditional use permits for noncompliance with the conditions thereof. Furthermore, the board shall have the right of action to compel offending structures or uses to be removed at the cost of the violator and may have judgment against that person for such cost.
- IV. The conditional use permits approved by the Board of Adjustment shall be recorded at the expense of the applicant in the office of the County Clerk.
- V. Approval of a conditional use permit does not exempt the applicant from complying with all requirements of building, housing, and other codes and regulations of the County.
- VI. In any case in which a conditional use permit has not been exercised within one year from its date of issuance, such conditional use may revert to its original zoning designation following a public hearing held by the Board of Adjustment in accordance with KRS Ch. 424. "Exercised," as set forth in this subsection, 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 principal building or other improvements are under construction to a substantial degree, or that prerequisite conditions involving substantial investment are under contract, in development, or complete. When construction is not a part of the use, "exercised" shall mean that the user is operating in compliance with the conditions as designated in the permit.
- VII. The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once each year. The enforcement office shall have the power to inspect the land or structure where the special use is located in order to determine if the landowner is complying with all of the conditions, which are listed on the conditional use permit.
- VIII. If the landowner is not complying with all of the conditions listed on the conditional use permit, the enforcement officer shall report this fact in writing to the chairperson of the Board of Adjustment. The report of the enforcement officer shall state specifically the manner in which the landowner or occupant is not complying with the conditions on the conditional use permit. A copy of this report shall be furnished to the landowner at the same time (as nearly as is possible) it is furnished to the chairperson of the board. 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 and/or occupant at least one week prior to the hearing.
- IX. If the Board of Adjustment finds that the facts alleged in the report of the enforcement officer are true, and that the landowner and/or occupant has taken no action to comply with the conditions (as originally placed on the permit) between the date of the report and the date of the hearing, the board may authorize the administrative official 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.

- X. 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 administrative official, upon request by 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 conclusions in the margin of the copy of the conditional use permit which is on file with the County Clerk; thereafter the use in question, if it continues to meet the other requirements of the zoning regulations, will be considered a permitted use.

Section 35 – Mobile Home Parks

- I. All proposed mobile home parks shall comply with all applicable State, Federal, and McCracken County Subdivision Regulations and Zoning Regulations. Mobile home parks are:
- A. Wherever, three (3) or more mobile homes occupy or are intended for occupancy, on a single lot in any zone; or
 - B. Wherever, on a lot where there is a principal building and one (1) or more rental or lease spaces, on one lot, less than 12,000 square feet per structure.
- II. Mobile Home Park Requirements
- A. Minimum Area Requirements
 - 1. No Mobile Home Park shall be permitted on an area of less than five (5) acres. However, the park may develop in stages as long as it complies with an overall approved development plan.
 - B. Lot Requirements
 - 1. Individual lots within a mobile home park shall not be less than five thousand (5,000) square feet in an area with only one mobile home per lot. Minimum lot width shall be forty (40) feet.
- III. Lot Coverage
- A. Lot coverage by mobile home and accessory structures shall not exceed 66% of the lot area.
- IV. Set-Back
- A. No mobile home or accessory structure shall be closer than thirty (30) feet to any public street R-O-W. No mobile home or accessory structure shall be closer than fifteen (15) feet to any privately maintained street R-O-W within the mobile home park. No mobile home or accessory structure shall be closer than seven and one half (7 1/2) feet to a rear lot line or less than ten (10) feet to side lot line. No mobile home or accessory structure shall be closer than twenty-five (25) feet to any property boundary line of the park. No mobile home or accessory structure shall be closer than twenty-five (25) feet to any property boundary line within the park. No mobile home shall be located within twenty (20) feet to another mobile home except that a minimum end-to-end clearance of not more than fifteen (15) feet shall be permitted.

- V. Common Open Space and Facilities
 - A. At least one substantial area of usable open space shall be provided. Such area shall:
 - 1. Total at least 2 1/2 % of total park area.
 - 2. Be developed for active and passive recreation, including new children's equipment and a fenced tot lot.
 - 3. This area shall be landscaped, improved and maintained
- VI. Perimeter
 - A. All mobile home park boundary lines excluding public road right-of-ways shall have either a six (6) feet high fence that is 90% visually solid or four (4) feet tall shrubs and/or evergreen trees that will attain six (6) feet in height within three (3) years and also be 90% visually solid year round.
- VII. Street and Sidewalks
 - A. All mobile home lots shall abut upon a street of not less than thirty (30) feet in R-O-W width. All streets shall have a pavement width of not less than twenty (20) feet. All streets within a mobile home park shall be paved, surfaced, and well lighted. All mobile home parks shall have a three (3) feet wide sidewalk on one side of all park streets. They shall be smooth surfaced, and free from mud, dust, and standing water at all time.
- VIII. Parking
 - A. There shall be a minimum of two (2) parking spaces per dwelling unit. There shall also be a minimum of one (1) guest parking space provided for every five (5) dwelling units. The parking arrangement shall be shown on the preliminary development plan. Minimum parking areas shall be eight (8) feet wide and eighteen (18) feet long.
- IX. School Bus Stops
 - A. There shall be a sheltered school bus stop provided. The location shall be designated by the local school board and shown on the preliminary plat. The shelter shall be a minimum of an open-sided, roofed structure with a hard surfaced, well-drained floor. The shelter square footage shall be a minimum of six (6) square feet for every dwelling unit.
- X. Drainage
 - A. Mobile home park street and ditch drainage shall meet or exceed Section 41.16 of the McCracken County Subdivision Regulations, or Article VI of this ordinance

Section 36 – Planned Unit Development

All proposed planned unit development shall comply with all applicable McCracken County Subdivision Regulations and Zoning Regulations.

Section 37 – Adult Entertainment Use and Activities

- I. Intent and Purpose – In order to prevent crime, protect the County's retail trade, maintain property values, and generally to protect and preserve the quality of its neighborhoods, commercial districts, and the quality of life, this ordinance regulates the location of adult entertainment establishments by dispersing them throughout McCracken County. In the development and execution of this section, it is recognized that there are some uses

which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area. Wherever there are other McCracken County regulations, the stricter of the regulation applies. Uses subject to these controls are as follows:

II. Specified Use List

1. Adult Amusement Arcade
2. Adult Book Store
3. Adult Internet Service Center
4. Adult Motion Picture Theater
5. Adult Stage Show Theater
6. Adult Video Cassette Rental Center
7. Cabaret
8. Commercial Sexual Entertainment Center

III. Definitions

A. *Adult Amusement Arcade* An establishment having as one of its principal uses one or more of the following: customer-operated motion picture devices, peep shows, viewing area, and/or similar devices, for display of material distinguished or characterized by an emphasis on depiction of sexual activities, as hereinafter defined, or which offer persons who expose to view of the customers the bare female breast below a point immediately above the top of the areola, human genital, pubic region, or buttocks, even if partially or completely covered by translucent material, or human or simulated male genitals in a discernible turgid state, even if completely or opaquely covered.

B. *Adult Book Store* An establishment having as one of its principal uses the sale, rent, or display of pictures, books, periodicals, magazines, appliances, and similar materials which are distinguished or characterized by their emphasis on depiction of sexual activities as hereinafter defined or an establishment with a substantial segment or section devoted to the sale, rental or display of such material.

C. *Adult Internet Service Center* An establishment having or advertising as having as one of its principal uses, the presentation or production of video clips, live pictures, still pictures, conversations, and similar material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as hereinafter defined, or which offer persons who expose to view of the customers the bare female breast below a point immediately above the top of the areola, human genital, pubic region, or buttocks, even if partially or completely covered by translucent material, or human or simulated male genitals in a discernible turgid state, even if completely or opaquely covered, for presentation to persons, services appealing to adult sexual interests, through the use of the world wide web, internet transmissions, or other similar telecommunications services.

D. *Adult Motion Picture Theater* An establishment having or advertising as

having as one of its principal uses the production, or presentation of motion pictures, slide projections, and other similar material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as hereinafter defined, for observation by persons therein.

E. *Adult Stage Show Theater* An establishment having or advertising as having as one of its principal uses the presentation of live performances of humans or animals having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as hereinafter defined, or which offer persons who expose to view of the customers the bare female breast below a point immediately above the top of the areola, human genital, pubic region, or buttocks, even if partially or completely covered by translucent material, or human or simulated male genitals in a discernible turgid state, even if completely or opaquely covered, for observation by persons therein.

F. *Adult Video Cassette Rental Center* A commercial characterized or distinguished by an establishment which has as one of its principal uses the rental or sale of video cassettes which depict material emphasis on matter depicting describing or relating to sexual activities, as hereinafter defined and which does not provide an on premises showing such material.

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

H. *Commercial Sexual Entertainment Center* Any other commercial establishment not otherwise described herein which make available material, services or entertainment appealing to adult sexual interests including but not limited to “bath houses”, swingers club” or similar establishments services or goods that are advertised by or on behalf of the establishment in a manner patently designed to appeal to such adult sexual interests.

I. *Measurement* Measurement shall be made by measuring the shortest distance between boundaries. Measurements shall be made on a horizontal plane.

J. *Sexual Activities* Depiction of human genitals in a state of arousal, acts of human masturbation, sexual intercourse or sodomy, bestiality, holding or other erotic touching of human genitals, public region, buttocks or breasts.

K. *Adult Entertainment Center* Any use or building or portion thereof, which contains, or is used for commercial entertainment where the patron directly or indirectly is charged a fee to engage in personal contact with or to allow personal contact by employees, devices, or equipment or by personnel provided by the establishment or view of a series of dance routines, strip performances or other choreography provided by the establishment which appeals to the prurient interest of the patron, to include, but not be limited to bath houses, massage parlor, and related or similar activities. Any permitted, conditionally permitted, or accessory uses allowed within any zone shall not be interpreted to include “adult entertainment center.”

IV. Location Requirements

- A. The above specified uses list shall exclusively and only be permitted in the C zone (Commercial). The provisions of section 46 I.A. do not apply to adult entertainment uses.
 - B. New establishments may not locate within 1,000 feet of any other lawfully operating adult entertainment establishment. Measurements shall be made as described herein.
 - C. The above specified uses list shall not be operated or maintained within one-thousand (1,000) feet of a UR or RR district, and/or within one-thousand (1,000) feet of a house of worship, a state licensed day care facility, a school, or a public park. Measurements shall be made as described herein.
 - D. New establishments may not locate to a site if 75% or more of the tracts within a circular area, as described herein, are residential in character. The radius of such circular area shall be 400 feet. The center of such circular area shall correspond to the midpoint of a line joining the two most distant points on the boundary of the tract on which the enterprise is located.
- V. Non-Conforming Uses
- A. Section 32 of this ordinance shall govern non-conforming uses.
- VI. Screening Requirements
- A. Adult Entertainment Establishments as listed in this section shall screen all adjacent property owners. The street side shall not be exempted. The screening height shall be a minimum of six (6) feet, and shall be at least 90% opaque.
- VII. Sign Requirements for Adult Entertainment Uses
- A. Adult Entertainment Establishments as listed in this section shall be allowed a cumulative of fifty (50) square feet of sign space. Sign heights shall not exceed 25 feet. There shall be no off-site, or billboard advertising. No portable signs. No flashing signs. Nothing herein shall exempt compliance with other McCracken County code requirements.

Section 38 - Cellular Antenna Tower Regulations

- I. **PURPOSE.** The purposes of these regulations are: to provide for the safest and most efficient integration of cellular antenna towers for cellular telecommunications services or personal communications services within the community; to provide for such facilities in coordination with the recommendations of the comprehensive plan; and to allow for such facilities with the intention of furthering the public health, safety, and general welfare.
- II. **PRE-APPLICATION CONFERENCE.** Applicants are encourage to notify the planning commission to discuss proposals, to allow for early coordination, and to identify those items that are in conformance/nonconformance with the comprehensive plan, zoning ordinance, and the provisions of these regulations.
- III. **DEFINITIONS.** For the purposes of these regulations, the following definitions shall apply:
 - A. *“Alternative Cellular Antenna Tower”* means man-made trees, clock towers, bell towers, steeples, light poles and similar alternative-design mounting structures that

accommodate, camouflage, minimize or conceal the presence of cellular antennas or cellular antenna towers that are constructed primarily for the purpose of accommodating cellular antennas or cellular antenna towers or are reconstructed for the purpose of accommodating cellular antennas or cellular antenna towers. This does not include existing structures erected for another primary purpose, but which subsequently have cellular antennas attached to or located within them, without any reconstruction of the original structure. For the provisions of these regulations, an alternative cellular antenna tower is considered a cellular antenna tower.

- B. *“Antennas or Related Equipment”* means transmitting, receiving, or other equipment used to support cellular telecommunications service or personal communications service. This definition does not include towers.
- C. *“Cellular Antenna Tower”* means a tower constructed for, or an existing facility that has been adapted for, the locations of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services.
- D. *“Cellular Telecommunications Service”* means a retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.
- E. *“Co-location”* means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower.
- F. *“Guyed Cellular Antenna tower”* means a type of wireless transmission tower that is supported by thin guy wires.
- G. *“Lattice Cellular Antenna Tower”* means a self-supporting tower with multiple legs and cross bracing of structural steel.
- H. *“Monopole Cellular Antenna Tower”* means a slender self-supporting tower on which wireless antennas can be placed.
- I. *“Personal Communication Service”* has the meaning as defined in 47 U.S.C. sec. 332 (c).
- J. *“Planning Commission”* means the McCracken County Planning Commission.
- K. *“Uniform Application”* means an application to construct a cellular antenna tower submitted to a planning commission in conformity with KRS 100.985 through KRS 100.987.
- L. *“Utility”* has the meaning as defined in KRS 278.010(3).

IV. **GENERAL.** Cellular antenna towers 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 zoning ordinance.

- A. **Applicability.** Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a cellular antenna tower shall submit a completed uniform application to the planning commission. Where the planning commission finds that circumstances or conditions relating to the application of an alternative cellular antenna tower are such that one or more of the requirements of the uniform application 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, or its duly authorized representative, may modify or waive such requirement of the uniform application, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The planning commission shall not regulate the placement of antennas or related equipment on an existing structure.

- B. Application Requirements.** Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall include the following:
1. The full name and address of the applicant.
 2. The applicant's articles of incorporation, if applicable.
 3. A geotechnical investigation report signed and sealed by a professional engineer registered in Kentucky that includes boring logs and foundation design recommendations.
 4. 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.
 5. Clear directions to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions.
 6. 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 that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.
 7. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower.
 8. A site development plan, signed and sealed by a professional engineer or surveyor licensed 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.
 9. A survey, prepared by a surveyor licensed in Kentucky. The survey shall be in accordance with all of the requirements of the McCracken County Subdivision Ordinance and KRS 100, that shows lease lines or property line, which upon approval, shall be recorded.
 10. 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.

11. 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.
12. 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.
13. 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.
14. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners.
15. A statement that the Judge-Executive of McCracken County has been notified, in writing, of the proposed construction and a copy of the notification.
16. A statement that the Paducah-McCracken County Barkley Regional Airport has been notified, in writing, of the proposed construction and a copy of the notification.
17. 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 in a visible location on the proposed site; 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.
18. A statement that notice of the location of the proposed construction has been published in the Paducah Sun newspaper.
19. 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.
20. 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.

21. 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.
22. 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 McCracken County; and
 - b) A one-half (1/2) mile are outside the boundaries of McCracken County, if that area contains either existing or proposed construction sites for cellular antenna towers.

- V. **Confidentiality of Application.** 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 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. The confidentiality of the applications and any updates of the application can be waived by the written authorization of the applicant.
- VI. **Application Fee.** An applicant for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall pay an application fee in the amount set by the planning commission upon submission of a uniform application.
- VII. **Processing of Application.** Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:
 - 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 the Paducah Sun newspaper, 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 proposed shall be posted on the site at least fourteen (14) days in advance of the hearing. The notice shall consist of 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. Notice of the proposal shall also be posted on the public road nearest the site. This notice shall consist of 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 near this site” and including the addresses and telephone numbers of the applicant and the planning commission.
- C. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by certified mail, return receipt requested, to the owner of every parcel of 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. The notice shall include a map of the location of the proposed construction, the telephone number and address of the planning commission and shall inform the addressee of his or her right to participate in the planning commissioner’s proceedings on the application. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event a property is in condominium of cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator’s records as having the same address.
- D. Upon holding the 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. 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 of the planning commission to issue a decision, it shall be presumed that the planning commission has approved the utility’s uniform application.

VIII. **DESIGN STANDARDS.** The applicant shall provide information demonstrating compliance with the requirements contained herein. Potential sites that should be considered (in order from most-preferred to least-preferred) include existing utility towers, industrial zones, commercial zones, and government buildings and properties. 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 the 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, or its duly authorized representative, 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 a written justification for each requested modification or waiver.

- A. **Monopoles.** Monopole cellular antenna towers shall be permitted in any zone. Lattice and guyed cellular antenna towers shall be permitted in any zone except for Urbanizing Residential zones.
- B. **Minimum Lot Size.** Regardless of the minimum lot sizes listed in the specific zoning districts, or the McCracken County Subdivision Ordinance, the lot size may be the minimum necessary to comply with the objectives and standards of this section.
- C. **Agricultural Zone Setback.** Lattice and Guyed Cellular Antenna Towers constructed in an agricultural zone shall be located a minimum distance of not less than 250 feet from all existing residential structures. Distance shall be measured from the base of the tower to the nearest wall of the residential structure.
- D. **Setbacks.** Setbacks for all structures constructed in connection with guyed or lattice cellular antenna towers, except fences and/or guy wires, shall be a minimum distance from the property line or lease line equal to at least one-half (1/2) the height of the tower, but not less than fifty (50) feet. All structures constructed in connection with monopole or alternative cellular antenna tower shall comply with the applicable setback requirements established for other structures within the applicable zoning district. Alternative cellular antenna towers that are to be located as part of a utility service facility (e.g. power pole or telephone pole) shall comply with setback requirements applicable to such utility service facilities, if any.
- E. **Height.** 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 building/structure and tower together, measured from the grade to the highest point. The planning commission may allow antennas 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 38-6.
- F. **Construction Standards.** The Cellular Antenna Tower shall be constructed in compliance with the current ANSI/EIA/TIA 222-F standard and other applicable state standards.
- G. **Illumination.** Cellular antenna towers shall not be illuminated, except in accordance with other state or federal regulations.
- H. **Staffing.** 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 be only from approved access points.
- I. **Fencing.** 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 more than eight (8) feet in height, and may be located within the front, side, or rear yard.

- J. **Screening.** Screening shall be provided by evergreen trees, with a minimum height of six (6) feet, planted in a staggered pattern at a maximum distance of fifteen (15) feet on center. The screening shall be placed in an area between the property line, or lease line, and a ten (10) foot setback.
- K. **Surfacing.** All driveways and off-street parking areas shall be paved with a durable surface such as asphalt or concrete.
- L. **Signs.** There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs that are required by a federal, state, or local agency. Such signs shall not exceed five (5) square feet in area.
- M. **Number of Service Providers.** All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three (3) service providers.
- N. **Lease Agreements.** All option and site lease agreements shall not prohibit the possibility of co-location, and in the case of abandonment, shall include a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.
- O. **Other Approvals Required.** Approval of the Federal Aviation Administration (FAA) and the Kentucky Airport Zoning Commission (KAZC) or documentation where approval is not required shall be submitted prior to the issuance of a building permit for the construction of the cellular antenna tower.

IX. CRITERIA

- A. **Approval or Disapproval** of the proposal shall be based upon an evaluation of the proposal's agreement with the comprehensive plan and zoning regulations.
 - 1. The planning commission may require the applicant to make a reasonable attempt to co-locate additional transmitting or related equipment. The planning commission may provide the location of existing cellular antenna towers on which the commission deems the applicant can successfully co-locate its transmitting and related equipment. If the planning commission requires the applicant to attempt co-location, the applicant shall provide the planning commission with a statement indicating that the applicant has:
 - a) Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or
 - b) Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structure such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities and that:
 - (1) Identifies the location of the towers or other structures on which the applicant attempted to co-located; and
 - (2) Lists the reasons why the co-location was unsuccessful in each instance.

- B. The planning commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.
- C. The planning commission shall not regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that the proposed facility complies with the regulations of the Federal Communications Commission concerning radio frequency emissions.

AMENDMENTS. Any amendments to plans, except for minor adjustments as determined by the planning commission, or its duly authorized representative, shall be made in accordance with the procedure required by Subsection IV, subject to the same limitations and requirements as those under which such plans were originally approved.

Section 39 - Signs

The purpose of this section is to establish regulations for the control of signs. The regulations further seek to insure the safety of the motorists in the community by reducing the distracting influence of uncontrolled signage. Further, it is not the intent of this ordinance to regulate any sign which contains any non-commercial message that does not direct attention to a commercial business operation.

- I. Definitions for this Section:

The following words and terms shall have the meaning as hereinafter defined unless the context clearly indicates or requires a different meaning.

 - A. *Advertising Sign:* A sign that directs attention to business products, services, activities, or entertainment offered elsewhere than on the premises where such sign is located. These include billboards and off premise signs. These do not include signs that convey messages, expressions, or beliefs in a political or religious manner.
 - B. *Business Sign:* A sign which directs attention to a business, product, activity, or entertainment, sold or offered upon the same lot or premises where the product or service is offered.
 - C. *Sign:* Any name, identification, description, display, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure or land, in view of the general public, and which directs attention to a product, place, activity, person, institution, or business or otherwise provides information the public.
 - D. *Temporary Sign:* Any sign, banner, or advertising display constructed of cloth, canvas, light fabric, cardboard, or other light material, intended or customarily expected to be display for limited period of time only.
- II. General Regulations
 - A. No sign shall be erected or maintained at any location where by reason of its position, wording, illumination, size, shape, or color which may obstruct, impair or otherwise interfere with the view of, or be confused with any authorized traffic control sign, signal or device.
 - B. No sign shall be placed in any public right-of-way, except governmental regulatory signs for public good and use that direct and control traffic.

- C. No sign shall be placed in such a manner as to reduce visibility at driveways, access points, and intersections.
- D. Signs shall be adequately maintained.
- III. Signs permitted in all zones.
 - A. Signs located wholly within a building or structure.
 - B. Signs affixed to a properly licensed motor vehicle operating upon public thoroughfares.
 - C. Any sign erected by a governmental agency.
 - D. One five square foot sign identifying properly permitted home based businesses and home occupations.
 - E. Temporary signs advertising the sale or auction of specific real property.
 - F. Temporary signs announcing a construction project.
- IV. Signs Prohibited in all zones
 - A. A. Flashing or blinking signs and devices.
 - B. Advertising signs attached to stationary vehicles.
- V. Sign and Zone Chart

Sign Type	Zones
Advertising Signs	C, ML, MH
Business Signs	All
Temporary Signs	All

- VI. Where allowed, advertising signs may not be located closer than 1,000 feet to another lawfully existing off premise sign.

ARTICLE IV. – DISTRICT REGULATIONS

Section 40 – Purpose

The purpose of this article is to establish the use, provisions, and dimensional requirements for each zone.

Section 41 – Agricultural District (AG)

- I. Permitted Uses: In the AG District, the following uses are permitted.
 1. Accessory uses as may be normally incidental to the permitted principle use but not the parking of unoccupied manufactured or mobile homes
 2. Agricultural product production facility
 3. Agricultural uses as defined herein
 4. Bed and breakfast inns
 5. Cabinetmaker
 6. Cemeteries and customary accessory buildings
 7. Churches and customary accessory buildings

8. Commercial establishments dealing exclusively with the transportation of agricultural products
 9. Commercial Kennels
 10. Commercial Recreational Uses
 11. Commercial Storage Centers
 12. Community Center, owned or sponsored by McCracken County
 13. Contractor
 14. Convenience Markets
 15. Farm fertilizer sales and bulk distribution
 16. Farm implement sales and service
 17. Farm Service Centers
 18. Feed mills and fertilizer sales, mixing and storage, excluding fertilizer manufacturing
 19. Golf courses and accessory buildings for the maintenance and operation of the course
 20. Government buildings and facilities
 21. Government owned parks and recreation areas.
 22. Home based business
 23. Home Occupations, as defined
 24. Livestock auction barns and yards
 25. Livestock collection and distribution centers
 26. Mineral extraction
 27. Nurseries and greenhouses and their accessory commercial buildings
 28. Nursery schools and day care centers
 29. Planned unit residential developments, on tracts of land of five (5) acres or more in accordance with McCracken County Ordinances.
 30. Produce market stands and building, selling agricultural produce, provided 60% of the produce sold are produced on the premises
 31. Public and parochial schools
 32. Public Facility
 33. Public utility uses
 34. Riding stables and academies
 35. Sawmills
 36. Single-family dwelling units, two-family dwelling units and duplexes
 37. Veterinary facilities and kennels
 38. Welding and Machine shop establishments
 39. Other similar uses as approved by the Planning Commission following a public hearing.
 40. Conditional Uses Permitted on Review.
- II. Conditional uses for the AG Agricultural District that may be permitted by the Board of Zoning Adjustment are shown as follows. The Board shall follow the provisions of Section 34 of the ordinance when considering applications for conditional uses.
1. Private aircraft landing strips

2. Private, religious, or charitable clubs and institutions
 3. Landfills
 4. Skeet, trap or target shooting when located 1,320 feet or more from a residential, RR or UR district boundary line.
- III. Minimum yard requirements:
- A. Non-residential uses**
- Front yard: 75 feet
 Side yard: 25 feet
 Rear yard: 25 feet
- B. Residential uses**
- Front yard: 30 feet
 Side yard: 8 feet
 4 feet accessory buildings
 Rear yard: 25 feet
 8 feet accessory buildings
- IV. Minimum area requirements:
- A. Minimum lot area: One (1) acre
- B. Public facilities, utilities, and similar uses, but not signs that require structures of buildings not intended for regular human occupation, may be less than one (1) acre

Section 42 – Rural Residential District (RR)

- I. Permitted Uses. In the RR district, the following uses are permitted:
1. Accessory uses as may be normally incidental to the permitted principle use but not the parking of unoccupied manufactured or mobile homes
 2. Agriculture uses, as defined herein
 3. Bed and breakfast inns
 4. Cemeteries and their customary accessory buildings
 5. Churches and their customary accessory buildings
 6. Community Centers owned or sponsored by McCracken County
 7. Convenience markets
 8. Golf courses and accessory buildings for the maintenance and operation of the course.
 9. Home based business as defined
 10. Home Occupations as defined
 11. Nursery schools and day care centers
 12. Planned unit developments, residential, on tracts of land of five (5) acres or more in area in accordance with McCracken County Ordinance
 13. Public and parochial schools
 14. Public parks and recreation areas
 15. Public Facility
 16. Public and private utilities
 17. Single-family dwellings

- 18. Two-family dwellings duplexes and Town Homes
- 19. Veterinary facilities and kennels
- 20. Nurseries and greenhouses and their accessory commercial buildings
- 21. Produce market stands and buildings, selling agricultural produce, provided 60% of the produce sold are produced on the premises
- 22. Other similar uses as approved by the Planning Commission following a public hearing

II. Conditional Uses Permitted on Review:

Conditional uses for the RR Rural Residential District that may be permitted by the Board of Zoning Adjustment are as shown as follows. The Board shall follow the provisions of Section 34 of the ordinance when considering applications for conditional uses.

- 1. Private, religious, or charitable clubs and institutions
- 2. Commercial Storage Facilities
- 3. Nursing homes and similar facilities
- 4. Hospitals and medical clinics
- 5. Commercial kennels

III. Minimum yard requirements:

A. Non-residential uses

- Front yard: 75 feet
- Side yard: 25 feet
- Rear yard: 25 feet

B. Residential uses

- Front yard: 30 feet
- Side yard: 8 feet
4 feet (accessory buildings)
- Rear yard: 25 feet
8 feet (accessory buildings)

IV. Minimum area requirements:

- A. Minimum lot area: 15,000 sq. ft., if served by an approved sanitary sewer
- B. Townhouse lots with at least two attached units shall be not less than 7,500 sq. ft. each.
- C. All other lots in this zone shall be at least one (1) acre in area

V. Minimum lot width:

- A. Seventy-five (75) ft.

VI. Screening Requirements:

Non-residential uses shall screen adjacent properties in a manner approved by the zoning administrator.

Section 43 – Urbanizing Residential District (UR)

- I. Permitted Uses: In the UR District, the following uses are permitted: The UR

district is distinguished from, and is not intended to conflict with the provisions of KRS 100.201 (3).

1. Accessory uses as may be normally incidental to the permitted principle use, but not including the use of manufactured homes, mobile homes or semi-trailers as accessory structures, nor the parking of unoccupied manufactured or mobile homes.
2. Agricultural uses as defined herein, except small, craft distilleries holding a class B distiller's license under KRS 243.120 are not permitted.
3. Assisted care homes
4. Cemeteries and their customary accessory buildings
5. Churches and their customary accessory buildings
6. Community centers
7. Golf courses and accessory buildings for the maintenance and operation of the course
8. Government buildings and facilities
9. Home based business as defined
10. Multi-family dwellings
11. Planned unit developments, on tracts of land of five (5) acres or more in area in accordance with McCracken County Ordinances.
12. Public and private utility uses
13. Public and parochial schools
14. Public Facility
15. Public parks and recreation areas
16. Single-family dwellings
17. Two-family dwellings, duplexes and town homes

II. Conditional Uses Permitted on Review

Conditional uses for the UR Rural Residential District that may be permitted by the Board of Zoning Adjustment are shown as follows. The Board shall follow the provisions of Section 34 of the ordinance when considering applications for conditional uses.

1. Bed and Breakfast Inn
2. Commercial Storage
3. Home occupations as defined
4. Hospitals and medical clinics
5. Nursing homes
6. Nursery schools and day care centers
7. Parking Lots
8. Private, religious, or charitable clubs

III. Minimum yard requirements

- 1. Non-Residential Uses**
 - Front yard: 75 feet
 - Side yard: 25 feet
 - Rear yard: 25 feet
- 2. Residential Uses**

- Front yard: 30 feet
- Side yard: 8 feet
- 4 feet (accessory buildings)
- Rear yard: 25 feet
- 8 feet (accessory buildings)

- IV. Minimum area requirements
Minimum lot area: 7,500 sq. ft.
- V. Minimum lot width requirements;
Seventy-five (75) ft.
Townhouse lots may be reduced to 37.5 feet
- VI. Minimum area requirements for Multi-family dwellings
Minimum lot area per unit, 4,000 square feet.
- VII. Parking and Vehicle Circulation Requirements;
 - 1. Single-family – two spaces per unit
 - 2. Two-family – two spaces per unit
 - 3. Multi-family – two spaces per unit
 - 4. Non-residential –four spaces per 1,000 square feet of building area; or as approved by the zoning administrator.
- VIII. Screening Requirement – Non-residential uses shall screen adjacent properties as approved by the zoning administrator.

Section 44 – Mobile Home Park (MHP)

- I. Principal permitted uses. The following uses are permitted in an MHP Zone.
 - A. Mobile Home Parks
 - 1. Accessory uses as may be normally incidental to the permitted principle use, but not including semi-trailers as accessory structures, nor the parking of unoccupied manufactured or mobile homes not intended for occupancy.
 - B. All mobile home parks shall comply with all applicable State, Federal, and McCracken County Subdivision Regulations.

Section 45 – Commercial (C)

- I. The purpose of this zone is to provide an area for commercial activity.
 - A. Principal permitted uses.
 - 1. Any use allowed in the AG, RR, or UR zone
 - 2. Automobile sales and service
 - 3. Boat sales and service
 - 4. Commercial Storage
 - 5. Eating establishments
 - 6. Funeral home
 - 7. Hotels and Bed and Breakfast inns
 - 8. Mobile and Manufactured home sales
 - 9. Personal services

10. Places of assembly
 11. Professional offices
 12. Retail establishments
 13. Theater
 14. Trade, Business, or art schools
 15. Two-family and multi-family dwellings with a maximum density of 2,000 square feet per unit.
 16. Other similar uses as approved by the Planning Commission following a public hearing
- B. Minimum yard requirements
- Non-Residential Uses
- Front yard: 50 feet
 - Side yard: 8 feet
 - Rear yard: 25 feet
- Residential Uses
- Front yard: 30 feet
 - Side yard: 8 feet (4 feet-accessory buildings)
 - Rear yard: 25 feet (8 feet-accessory buildings)
- C. Minimum area requirements and lot widths
- Non-Residential Uses – Minimum lot area: 7,500 square feet
 - Two-family and multi-family dwellings – Minimum lot area: 2,000 square feet per unit.
 - All lots shall have a minimum lot width of 75 feet at the front building set back line.
- D. Where a Commercial Zone abuts an UR or RR zones or residential property perimeter screening, as approved by the zoning administrator, shall be required.
- E. Parking and Traffic Circulation Requirements
1. All layouts for parking shall be approved by the Zoning Administrator.
 2. There shall be a minimum of four spaces per 1,000 square feet of building area; or as approved by the zoning administrator based upon parking studies.
 3. There shall be no vehicular backing movements into any highway arterial right-of-way.
 4. Two-family and Multi-family dwellings - two spaces per unit

Section 46 – Light Industry Zone (ML)

The following provisions shall apply in an ML Light Industry Zone, unless otherwise provided herein.

- I. Principal permitted uses.
 - A. Any use permitted in a C zone (except adult entertainment uses)
 - B. Airports

- C. Any industrial, manufacturing, fabrication, or processing use, which does not omit objectionable noise, smoke, odor or dust beyond the confines of its property.
 - D. Warehouses.
 - E. Any other use which, in the Commission’s opinion following a public hearing, would be compatible in the ML Zone.
- II. Minimum yard requirements:
- Front yard: 50 feet
 - Side yard: 10 feet
 - Rear yard: 25 feet
- III. Minimum area requirements:
- 1. Minimum lot area: 1 acre
- IV. Where an ML zone abuts an UR or RR screening as defined by the zoning regulations, shall be required.
- A. Minimum lot width requirements;
 - 1. Seventy-five (75) ft.
 - B. Conditional Uses: Conditional uses for ML District that may be permitted by the Board of Zoning Adjustment are shown as follows. The Board shall follow the provisions of Section 34 of the ordinance when considering applications for conditional uses.
 - 1. Junk or salvage yards.

Section 47 – Heavy Industry Zone (MH)

- I. The following provisions shall apply in an MH, Heavy Industry Zone, unless otherwise provided herein.
 - A. Principal permitted uses.
 - 1. Any use permitted in an ML Zone
 - 2. Power production and distribution
 - 3. Heavy manufacturing, processing and storage. Including but not limited to the production, process, storage and handling of uranium and other radioactive materials, compounds, and all of the related constituent parts.
 - 4. Any industrial use that is determined by the Commission to be non-detrimental to the properties immediately adjacent.
 - B. Minimum yard requirements
 - 1. When abutting an AG, RR, or UR zone:
 - Front yard: 100 feet
 - Side yard: 100 feet
 - Rear yard: 100 feet
 - 2. When not abutting an AG, RR, or UR zone:
 - None
 - C. Minimum lot area: one (1) acre.

D. Screening Required

1. When a Heavy Industry Zone abuts an UR or RR zone, a perimeter screen, as approved by the Zoning Administrator, shall be required.

ARTICLE V. – PERMITS AND APPLICATIONS

Section 50 – Building Permit

- I. Required. No building or other structure shall be erected, moved, added to, or structurally altered without building permits, as required, by McCracken County.
 - A. No building permit shall be issued except in conformity with these zoning regulations.
 - B. Exemptions. The following structures are exempt from minimum yard setbacks and zoning permit:
 1. Fences
 2. Portable carports constructed without foundations or footers.
 3. Accessory buildings that are 120 square feet or less.
 4. Above grade pools, tennis courts, recreation courts, and their appurtenances.

Section 51 – Site Plan Required

- I. A site plan shall be submitted for review for all structures, buildings and uses that require a permit.
 - A. A site plan shall consist of a combination of written and graphical material which:
 1. Describe the land by legal description or street address
 2. Has been prepared by a licensed land surveyor or professional engineer; except the Zoning Administrator may accept other forms of proof of location.
 3. The material, both written and graphical, shall be in a manner prescribed by the Zoning Administrator that is sufficient and necessary to verify compliance with this ordinance.
 - B. Site Plans shall be:
 1. Approved;
 2. Approved with corrections. The site plan is approved; provided the applicant makes the noted changes; or
 3. Denied. The site plan is not approved.

Section 52 – Certificate of Occupancy

- I. A certificate of occupancy may be issued by the enforcement officer if required in advance of the use or occupancy for:
 - A. A building hereafter erected, or a change in the use of an existing building;
 - B. Any nonconforming use that is existing at the time of the enactment of these zoning regulations and amendments thereto that is changed, extended, altered or rebuilt thereafter.

- C. The certificate of occupancy shall state specifically wherein the nonconforming use fails to comply with the provisions of these zoning regulations.
- D. No certificate of occupancy shall be issued unless the lot, building or structure complies with all the provisions of these zoning regulations.
- E. A record of all certificates of occupancy shall be kept on file in the office of the enforcement officer, and a copy shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building, structure or land involved.

Section 53 – Application Required

Requests for Variances, Conditional Use Permits, Zone Changes, Development Plans, Site Plans, Non-Conforming Use Changes, and similar items, application shall be made to the Zoning Administrator in form prescribed by the Administrator that is sufficient to serve the objectives of McCracken County development polices, practices and ordinances

ARTICLE VI. - STORMWATER CONVEYANCE AND MANAGEMENT

Section 60 – Purpose

Storm water management is vital in promoting the health, safety, and general welfare of the public. It is the intent of this article; in an effort to minimize the dangers of flooding to life and property that certain runoff control devices be provided as land area are developed or redeveloped. The design criteria for storm water conveyance and management facilities are outlined in this article.

Section 61 – Definitions

For the purpose of this article, the following definitions shall apply unless the content clearly indicates or requires a different meaning.

County plan review staff – The County Road Supervisor and/or other designated officials.

Controlled release structure – A facility constructed to regulate the volume of storm water runoff that is conveyed during a specific length of time.

Conveyance structures – Water-carrying devices or improvements such as channels, ditches, storm sewers, culverts, inlets, and the like.

Detention or retention – Restraining the rate of storm water runoff with some natural or manmade devices.

Developed – Conditions after construction or other manmade change to improved or unimproved land, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Excess storm water – That portion of storm water runoff, which exceeds the capacity of the storm sewers or natural drainage, channels serving a specific watershed.

Impervious surface – Asphalt, concrete or any other surface, which does not allow measurable infiltration.

Natural drainage – Water which follows by gravity in channels formed by the surface topography of the earth prior to changes made by the efforts of humans.

Off-site – External to the boundary of a development.

On-site – Internal to the boundary of a development

Point discharge – Release of storm water at a specific location.

Runoff – Rainfall excess after natural losses from infiltration, evaporation, transportation or incidental pondage.

Storm water runoff release rate – The rate at which storm water runoff is released from dominant to servient land.

Storm water storage area – An area designed to temporarily accumulate excess storm water.

Swale – Surface-type conveyance for storm water, usually designated to carry incidental, localized runoff.

Section 62 – Storm Water Conveyance and Management Facilities Required

All development occurring within the County shall provide for properly sized storm water conveyance facilities and shall contain on-site, or provide off-site, storm water management facilities capable of controlling increased runoff relative to its predeveloped condition.

Unless included in exemptions listed herein, no application for a final plan of subdivision shall be approved unless it includes a plan describing the manner in which storm water runoff erosion and sediment resulting from the development will be controlled or managed or a documented request for a waiver thereof.

Similarly, unless exempt, no permit shall be issued for any parcel or lot either an adequate storm water management plan addressing erosion, sediment, and storm water, or a documented request for a waiver, has been approved.

Section 63 – Storm Water Conveyance Facilities Design

The following criteria shall control when designing storm water conveyance facilities;

1. Open channels and roadside ditches: Twenty-five (25) year design storm
 2. Storm sewers and inlets design storm: Twenty-five (25) year design storm
 3. Entrance pipes and cross drains: Twenty-five (25) year design storm.
- Maximum headwater under 100 year storm shall not be allowed to overtop roads or increase the flooding potential in the affected areas.

Section 64 – Erosion Control

Plans for storm water conveyance systems shall include appropriately designed temporary and permanent erosion-control measures for the open channel structures and all de-vegetated land draining to both open and closed conduits within the system. (Refer to Best Management Practice for Construction Activities prepared by the Kentucky Natural Resources and Environmental Protection Cabinet – should be used as a design manual for erosion and sediment control.)

Section 65 – Storm Water Management Facilities Design Criteria

- I. The following criteria shall be followed when designing a Storm Water Management Facility.
 - A. Design storm – Storm water management facilities shall be designed to retain the difference in the pre-development and post-development, twenty-five year, 24-hour storm event. The effect of the 100-year storm must be considered and documented in the design of all storm water management facilities.
 - B. Design calculation – Design calculations submitted must include, but are not limited to, the following:
 - 1. Drainage area – Indicate if pre-development and post-development areas differ.
 - 2. List area drainage types and run-off coefficient numbers for predevelopment and post-development conditions.
 - 3. Stage – Storage curve for the proposed storm water management facility.
 - 4. Stage – Discharge curve for the outlet structure of the proposed storm water management facility.
 - 5. Inflow and outflow hydrographs for pre-development and post- development conditions.
 - 6. Emergency spillway design calculations.

Section 66 – Storm Water Management Plan

- I. The final storm water management plan shall include, but not be limited to the following:
 - A. All calculation, assumptions and criteria used in the design of the storm water management facility.
 - B. All plans and profiles of proposed storm sewers and open channels including horizontal and vertical controls, elevations, sizes, slopes, and materials.
 - C. Location, dimensions, and design details required for the construction of all facilities.
 - D. A description of the operation and maintenance needs for the storm water management facility.
 - E. All information relative to the design and operation of emergency spillways.
 - F. Project specifications relative to erosion and sedimentation control. (Refer to Best Management Practice for Construction Activities prepared by the Kentucky Natural Resources and Environmental Protection Cabinet for design guide line associated with erosion and sediment control.)
 - G. All easements, rights-of-way, ownership, and maintenance responsibilities for all storm water management control structures during and after development. The identity of the responsible individual, corporation, or association and the specific maintenance must be outlined on the plan.

Section 67 – Exemptions

- I. Exemptions from the storm water management requirements contained herein shall be granted to the following:

- A. Any proposed subdivision that would contain no new streets and no more than (5) lots.
- B. Residential subdivisions or residential planned unit developments, where minimum lot size is greater than two (2) acres.
- C. Any non-residential development for which the area covered by an impervious surface is less than 10,000 square feet and a concentrated flow is not created to impact an adjacent property; however, when future development will cause the area covered by an impervious surface to exceed 10,000 square feet, storm water management will be required for the existing and proposed development; provided further, that any non-residential development having an imperious surface in place prior to July 1, 2001 shall not be counted and shall not be required to be included in the storm water management plan.
- D. Waivers may also be granted if, in other cases, the developer can provide sufficient documentation that the proposed development will not result in an adverse impact either upstream or downstream of the proposed site. Waivers shall be granted solely at the discretion of the Planning Commission.

Section 68 – Design Certification

Design of all storm water management and conveyance facilities shall be prepared and stamped by a professional Civil Engineer. Design methods shall be in accordance with the Kentucky Department of Highways, Manual of Instructions for Drainage Design, latest edition.

Section 69 – Construction Certification

Prior to final approval of the development, the professional Civil Engineer must submit certification that the storm water conveyance and management facilities were constructed in accordance with the approved plan. Any request for deviation from the approved plan during construction shall be submitted to the County in writing for approval.

ARTICLE VII. – ADMINISTRATION AND ENFORCEMENT

Section 70 – Intent and Scope of Article

It is the intent of this article to provide for the efficient, reasonable and impartial enforcement of these zoning regulations by authorizing an enforcement officer, the basic procedure for complying with these zoning regulations and the penalties for violators

Section 71 – Enforcement and Administrative Personnel

The Judge-Executive shall appoint enforcement and administrative personnel. All other provisions of this zoning code and any other County ordinances notwithstanding, the Judge-Executive shall have sole direction for appointing personnel for the enforcement and administration of this zoning code.

Section 72 – Board of Adjustment

- I. A Board of Adjustment (hereinafter known as “the Board”) shall be appointed and organized in conformance with the KRS 100.217.
- II. The Board shall have the following powers and duties:
 - A. Bylaws. To adopt bylaws for its own government.
 - B. Conditional Uses. To hear and decide applications for conditional use permits that allow uses which are specifically named in the zoning provisions, and which may be suitable only in specific locations in the zone if certain conditions are met.
 - C. Administrative Review. To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision, grant, determination or refusal made by the enforcement officer or other administrative office in the carrying out of this chapter, and for interpretation of the zoning map. The Board of Adjustment has authority to said appeals, and to make literal interpretations of the pertinent provisions in order to correct any possible misinterpretation, and to make only those departures from a literal conformance of the zoning regulations, which are specifically delegated to it.
 - D. Procedures for all appeals to board. Appeals to the board may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order requirement, interpretation, grant, refusal, or decision of any zoning administrative or enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action of the official by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and parties of records. Said officer 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, any interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.
 - E. Public Notice of Appeal Hearing. The board 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 administrative official at least one (1) week prior to the hearing, and shall decide it within sixty (60) days. The affected party may appear at the hearing in person or by attorney.
 - F. Variance. To hear and decide on applications for dimensional variance where, by reason of the exceptional narrowness, shallowness or unusual shape of the site, or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements of the zoning provisions would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The Board may impose any reasonable conditions or restrictions it decides to grant. 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.
- G. Findings Necessary for Granting Variances. 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 of nuisance to the public, and will not allow an unreasonable circumvent of the requirements of the zoning regulation. In making these finding, the board shall consider whether:
 - 1. The requested variance arises from special circumstances, which do not generally apply, to land in the general vicinity, or in the same zone.
 - 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 - 3. The circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulation from which relief is sought.
 - H. Nonconforming Use Change. To permit a change from one nonconforming use to another, providing the new nonconforming use is in the same or a more restrictive zoning classification in accordance with these zoning regulations.
 - I. Limits of Authority. 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 the zoning provisions for the zone in question; or to alter density requirements in the zone in question. The Board does not possess the authority to permit a use not authorized by these zoning regulations.
 - J. Application of Variance. A dimensional variance applies to the property for which it is granted, and not the applicant. A variance also runs with the land, and is transferable to any landowner of the land, but the applicant cannot transfer it to a different site.
 - K. Additional Authority. In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure, or use as it may deem advisable in the furtherance of the purposes of these zoning regulations.
 - L. Report. A written report on each variance that is granted or denied by the Board shall be submitted to the McCracken County Fiscal Court with a copy retained in the files of the Planning Office.
 - M. Member. The McCracken County Board of Adjustment shall consist of five (5) members.

Section 73 – Administrative Jurisdiction

The County may employ a staff or contract with planners or other persons, as it deems necessary to accomplish its assigned duties as delineated in KRS CH. 100.

The administrative and enforcement officer has initial authority for the literal enforcement of these zoning regulations. They have no discretionary authority to allow any departure from the literal conformance with the zoning regulations.

The Circuit Court has jurisdiction to determine all questions and issues properly brought before it on appeal from the decisions of the Board of Adjustment or Planning Commission.

Section 74 – Amendments and Development Plans

- I. Intent. The intent of this section is to provide guidance for the zoning code amendment processes, including text and map amendments. It shall also be the intent of this section to guide the use of development plans, which may be used for a variety of planning and zoning processes, including map amendments. The Planning Commission in its obligation to promote the public health, safety, and general well-being shall consider, but not be limited to, the following in its amendatory and development plan considerations:
 - A. The conservation of natural resources, which may include various wildlife forms, vegetation, steep slopes, surface water, ground water, floodplain, soils, geologically sensitive areas, air quality, noise, sufficient sunlight exposure, etc.;
 - B. The conservation of sites that have historic, architectural, or archeological value;
 - C. The provision for safe, efficient vehicular and pedestrian transportation, off-street parking and loading within the development and the community and neighborhood;
 - D. The provision for sufficient open space and recreational opportunities;
 - E. The compatibility of the overall site design (buildings, parking, circulation, signs, screening, and landscaping) and land use with the existing and projected future land use of the area;
 - F. The provision for adequate drainage facilities to prevent runoff problems during times of peak precipitation and flooding to the site and the surrounding community/neighborhood;
 - G. The provision that infrastructure needs shall, as they relate to essential services and infrastructure systems, be adequately addressed;
 - H. The development plan's compliance with the comprehensive plan and all applicable regulations as per County subdivision regulations.
- II. Initiation and Actions Required for Amendment. This zoning code, including both the text and the zoning map, may be amended, supplemented, changed, modified, or repealed. A proposal for amendment to the zoning map may originate with the Planning Commission, the Fiscal Court or with the owner of the property in question. A proposal for amendment to the zoning regulation may originate with the Planning Commission, or the Fiscal Court. Regardless of the origin of the proposed amendment, it shall be referred to the Planning Commission before adoption. The Planning Commission shall then hold at least one public hearing as required by KRS Chapter 100.
- III. Public Notice of Proposed Map Amendments and Development Plans
 - A. Map Amendment Public Hearings.
 1. The Planning Commission shall hold at least one public hearing after notice as required by KRS Chapters 100 and 424 and make recommendations to the Fiscal Court.
 - B. Map Amendment Findings.

1. Before any map amendment is granted, the Planning Commission must find that the map amendment is in agreement with the comprehensive plan, or, in the absence of such a finding, that one or more of the following apply, and such findings shall be recorded in the minutes and records of the Planning Commission
 - a) That the existing zoning classification given to the property was inappropriate or improper;
 - b) That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the comprehensive plan and which have substantially altered the basic character of such area.
- C. Development Plan without a Map Amendment.
1. Development Plans that do not include a map amendment do not require a public hearing.
 2. Development Plans Requirements.
 - a) Before a development is approved (except when the Development Plan is approved with a Map Amendment on grounds other than conformity with the Comprehensive Plan), the Planning Commission shall consider and find that the proposal is in compliance with the comprehensive plan and that the proposal is in compliance with all zoning requirements.
 - b) That the proposal is in compliance with all other McCracken County Ordinances and policies.
- IV. Action by Fiscal Court on Map Amendments and Findings Required.
- A. Zoning Map Amendment Procedure.
1. Proposed map amendments shall follow the alternative zoning map amendment procedures set out in KRS 100.2111. The Planning Commission recommendation relating to the proposed amendment shall become final and the map amendment shall be automatically implemented subject to the provisions of KRS 100.347, and as set forth in the Planning Commission recommendations, unless within twenty-one (21) days after final action by the Planning Commission:
 - a) Any aggrieved party that files a written request with the Planning Commission that the final decision shall be made by the Fiscal Court; or,
 - b) The Fiscal Court files a notice with the Planning Commission that the Fiscal Court shall decide the map amendment.
- B. If an aggrieved party files a written request pursuant to § 74. IV. A. (a) or if the Fiscal Court files a notice pursuant to § 74. IV. A (b), then before a map amendment is granted, the Fiscal Court must find that the amendment is in agreement with the comprehensive plan, or, in the absence of such a finding that:
- a) The existing zoning classification given to the property was inappropriate or improper; or,
 - b) There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the comprehensive plan which have substantially altered the basic character of such an area.
- C. It shall take a majority of the entire Fiscal Court to override the recommendation of the Planning Commission. Unless a majority of the entire Fiscal Court votes to

override the Planning Commission's recommendation, such recommendation shall become final and effective, and if a recommendation of approval was made by the Planning Commission, the ordinance of the Fiscal Court adopting the zoning map amendment shall be deemed to have passed by operation of law.

- V. Variances and Conditional Use Permits. The Planning Commission may hear and finally decide applications for variances or conditional use permits when a proposed development plan requires a map amendment and one or more variances or conditional use permits. The Planning Commission shall assume all powers and duties otherwise exercised by the Board of Adjustment pursuant to KRS Ch. 100 and this zoning code. The applicant for the map amendment may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the Planning Commission at the same public hearing set for the map amendment, or by the Board of Adjustment as otherwise provided for by KRS Ch. 100 and this zoning code.

VI. Development Plans Requirements

A. When Required. A preliminary development plan shall be required in the following instances:

1. The Planning Commission, as a condition to the granting of any zoning change, shall require the submission of a development plan which, where agreed upon by the applicant and the commission, shall be followed; except for a single principal structure and accessory structures for a single family dwelling, a duplex or town house dwelling, a triplex dwelling, or a four-plex dwelling on a single lot or ownership parcel. As a further condition to the granting of a zoning change, the Planning Commission shall require that substantial construction be initiated within two years following the enactment of the map amendment, provided that such zoning change shall not revert to its original designation unless there has been a public hearing. The development plan shall be a continuing condition for the area rezoned unless amended as required herein;
2. When there is a proposal for multiple principal buildings on a single ownership parcel or lot;
3. Mobile Home Parks
4. Planned Unit Developments

VII. The subdivision process may substitute for the development plan process.

VIII. Plans Defined. For purposes of this subsection (f) and the plans required herein, the following definitions shall apply:

A. *Sketch Plan*. This plan will be used to determine the essential graphic and written materials required for a specific map amendment and those specific actions, such as map amendments, variance, or conditional use permits that may be requested of the Planning Commission. The sketch plan may be conceptual, but should indicate any site or surrounding features or conditions that may affect the proposed development or surrounding properties or rights-of-way, the proposed buildings, access points, parking and loading areas, landscaping and screening areas, existing and proposed utilities, proposed location for solid waste storage and access to same, and any other conditions on the site or surrounding properties or proposed development features

- which may affect the development of the site or surrounding properties or rights-of-way. The sketch plan does not have to be detailed or highly finished drawings but should address the issues and conditions that may be essential to the development.
- B. *Preliminary Development Plan*. This plan shall be that plan adopted by the Planning Commission when the Planning Commission favorably recommends a map amendment to the Fiscal Court. The preliminary development plan shall include that information as determined in the pre-application conference. No building permits shall be issued based upon a preliminary development plan.
- C. *Final Development Plan*. This plan is, in effect, a final site plan with that level of detail as may be required for obtaining those permits and approvals necessary for construction. It shall include all information required as set forth hereinafter and as necessary for the review of the proposed development and its compliance with any applicable law or regulation, including any previously approved preliminary development plan.
- IX. Content and Format of Development Plans. All development plans shall be prepared on mylar or other material capable of clear reproduction. Required plan information shall be as follows:
- A. Contents of preliminary Development Plan. A preliminary development plan shall contain the following minimum information:
1. A title block containing the plan name, development plan type (preliminary or final), name and address of developer and plan preparer, and a written and graphic scale;
 2. The boundary of the subject property and the zoning and owner names and addresses for all adjoining property;
 3. Date, appropriate North point, and graphic scale;
 4. A vicinity, or key map, oriented in the same direction as the design scheme, scale not smaller than 1" = 2,000';
 5. Topography, with contours at an interval of not greater than five (5) feet. USGS quadrangles may be used as a base. This requirement may be waived by the discretion of the County.
 6. Scale of one hundred (100) feet to one (1) inch or larger.
 7. Location, arrangement and approximate dimensions of existing and proposed streets, roads, driveways, sidewalks, and parking areas. Profiles and cross sections of proposed streets and roads;
 8. Perimeter screening, recreational, and other open spaces;
 9. Approximate size, location, floor area, and use of proposed and existing buildings;
 10. Approximate location of lot lines for projects anticipated to involve land subdivision;
 11. Approximate location and dimensions of all existing and proposed easements;
 12. Approximate location and sizes of existing and proposed utilities;
 13. Minimum building setback lines;

14. Floodplain as determined by Federal Emergency Management Agency (FEMA), and classification, as per FEMA codes;
 15. Approximate location and dimensions of storm drainage areas, conceptual drainage controls and storm water retention;
 16. Plats shall be submitted not larger than twenty-four (24) by thirty-six (36) inches in size.
- B. Contents of Final Development Plan. A final development plan shall contain all information as required for preliminary development plans under the sections below, except that the plan information shall be of an exact nature, rather than approximate or general.
- X. Map Amendment and Development Plan Procedures.
- A. Pre-Application Conference.
1. Prior to any application for an amendment, the applicant shall meet informally with County planning staff to determine the following:
 - a) The effect of the proposed development of the existing neighborhood, traffic patterns, and infrastructure systems;
 - b) How the proposed developments relates to the comprehensive plan;
 - c) The various regulations that may apply to the proposed development;
 - d) An explanation of the required contents of the preliminary development plan, and any other required submission of materials; and
 - e) An explanation of the amendment process;
 2. At the time of the meeting with the planning staff, the applicant should present a sketch plan, as outlined in subsection (2) (a) above.
- XI. Formal Application. To formally request the Commission to consider action on any zone map amendment and/or preliminary development plan, the applicant shall file a complete application (with respect to all applicable provisions of this zoning code and other County ordinances, regulations and policies), pay the filing fee, and provide copies of all written and graphic material as required. Also the date for the public hearing will be set.
- XII. Re-filing. Upon reenacted amendment proposals, the applicant must wait one year before reapplying with the same proposal, unless the Planning Commission grants permission to resubmit sooner.
- XIII. Review. The planning staff shall send the development plan to concerned agencies and interests for respective technical review. If necessary, or requested by the applicant, the interest and technical review bodies may meet together to resolve, if possible, all differences and difficulties associated with the development proposal. These meetings will be open to all interested parties, including the public.
- XIV. Planning Commission Action. No development plans will be considered for Commission action until they have been reviewed by the appropriate review agencies or interests. The Commission may pursue the following action:
- A. Approval. The development plan is ready for certification as presented.
 - B. Conditional Approval. The development plan will be certified when the developer has complied with the conditions of approval set forth in the Commission's action on the development plan.

- C. Disapproval. The development plan has been disapproved by the Planning Commission. To request new review and action, the developer must file a new application as set forth in this section.
 - D. Postponement. In circumstances where further resolution is required, the Commission may act, with the consent of the applicant, to postpone final action on the development plan until further information or resolution of conflicts can be ascertained.
- XV. Final Development (Site) Plans Procedures.
- A. Only after the Planning Commission has adopted the preliminary development plan, and has recommended to the Fiscal Court the zone map amendment, and the Fiscal Court has acted affirmatively on same, the applicant must present a final development plan as set forth in subsection (f) (2)c prior to the issuance of a building permit. County staff will check the final development plan and insure that;
 1. The plan is in compliance with the preliminary development plan.
 2. The plan is in compliance with the comprehensive plan, the zoning code, other County ordinances, regulations or policies, and all other applicable laws and regulations.
 3. Where appropriate, the review agencies may access the document and forward their comments to the County prior to final development plan approval.
 4. If the final development plan complies with subsection (6)a above, the Planning Commission Chair will certify on the face of the plan that all planning requirements and applicable conditions have been satisfied.
- XVI. *Amendments to Development Plans.* Amendments to approved development plans can be made only by official Planning Commission action following a public hearing. Content, format, and procedures shall be the same as for the original submission. However, amendments, which fully meet the requirements set forth hereinafter as minor amendments, shall be approved and certified by the County without further action by the Planning Commission.
- XVII. *Minor Amendments Defined.* Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments:
- A. Shall not decrease the overall land area or other open spaces;
 - B. Shall not increase building ground area coverage, floor area, or height, or increase the number of dwelling units;
 - C. May increase building ground area coverage for accessory buildings; or principal buildings if additions are less than ten percent and additional parking can be provided without disruption to major plan elements;
 - D. Shall not change the location of cross section of any street and shall not increase the number or change the location of street access points on arterial or collector streets;
 - E. May include a reduction in parking spaces only when an associated reduction in floor area or number of dwelling units would permit a lesser number of minimum required off-street parking spaces than required for the original development plan. To qualify as a minor amendment, this reduction may not be less than would be required by the

zoning district regulations. For any case where parking in excess of the minimum requirement was provided on the original development plan, that same number of spaces shall be provided in excess of the minimum requirement for the proposed minor amendment plan.

XVIII. Procedures for minor amendments.

- A. *Filing.* To request approval of minor amendments to development plans, the developer shall file with the County a completed application form, and copies of the plan as required by the terms and conditions of the County's application form.
- B. *Review.* The County shall review the plan for compliance with all applicable requirements and ordinances and shall consult with concerned agencies as appropriate to assure proper plan review. Upon determination that all requirements have been met, County staff shall submit it's finding to the Planning Commission Chair for certification. If any questions arise as to compliance, however, the plan shall be referred to the Planning Commission.
- C. *Certification.* Upon certification of approval by the Planning Commission Chair, County staff shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.
- D. *Content and format of minor amendments.* Minor amendments shall have the same content and format requirements as the original development plan, except that:
 - 1. The title shall indicate the plan as a minor amendment;
 - 2. A note shall be added listing the exact nature of the requested changes;
 - 3. The following will be required language for the Planning Commission Chair's certification: "I do hereby certify that this development plan amendment complies with zoning ordinance provisions regarding amendments to development plans."
 - 4. Owner of interest will complete a certification to be signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, and do adopt this as My (Our) development plan for the property," which will be required language for all property.

XIX. Relationship to subdivision regulations. The relationships between development plans and the subdivision regulations are established as follows:

- A. *Applicability of Subdivision Regulations.* Although development plans are not subdivision plats, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the subdivision regulations shall be applied to proposals contained on the development plan.
- B. *Combining Plans.* Development plans and preliminary subdivision plats may be combined. It is recognized that for certain development situations it can be advantageous to both the applicant and the Planning Commission to combine requirements for development plans and preliminary subdivision plats in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:

1. The developer shall meet with County staff no later than five working days in advance of the filing deadline to discuss the appropriateness of filing a combined plat.
 2. The plan shall show all information required for a development plan (preliminary or final as appropriate) and all information required for a preliminary subdivision plat as set forth in the subdivision regulations.
- XX. Substitution of Plans. A preliminary or final subdivision plat may be submitted for development plans required in conjunction with map amendment requests. It is recognized that in certain cases a preliminary or final subdivision plat would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than would be a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and requirements for placement of structures within the zone, and where the applicant sees fit to have plans prepared at the required level of detail for subdivision plats prior to receiving a zone change approval. When an applicant is required to provide a development plan in conjunction with a zoning map amendment request, the applicant may file a subdivision plat in place of the development plan, if deemed appropriate by the County. In any disputed case, the County shall make the final judgment as to whether a development plan or a subdivision plat is required.

Section 75 – Remedies

If any building or structure is erected, constructed, reconstructed, repaired, converted, or any building, structure, or land is used in violation of these zoning regulations, the enforcement officer or other appropriate authority or any adjacent or other property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action in proceeding to stop the violation in the case of such building, structure, or land.

Section 76 – Penalties

Where an act or omission is prohibited or declared unlawful in this chapter, and no penalty of fine or imprisonment is otherwise provided, the offender shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10.00 but not more than \$500.00 or be imprisoned for not more than 30 days, or both, for each offense or violation. Every day the offense continues shall be deemed to constitute a separate offense.

Section 77 – Severability

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining section, subsections, and clauses shall not be affected.

Section 78 – Effective Date of Ordinance

The ordinance shall be read on two separate days and be published pursuant to law. The effective date of the Ordinance shall be February 27, 2017.

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