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## CITY OF BROMLEY Z21 BLUEPRINT

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## ARTICLE 1 PURPOSE AND SCOPE

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### 1.01 Title

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This Ordinance shall be known as the “Zoning Ordinance for the City of Bromley.” It may be referred to as the Zoning Ordinance or this Ordinance.

## **1.02 Authority**

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The City Council of Bromley, Kentucky, pursuant to the authority established by the Kentucky Revised Statutes (KRS 100 and KRS 151.230) hereby enacts into law the following articles and sections.

## **1.03 Intent and Purpose**

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The zoning regulations and districts established in this Ordinance have been prepared in accordance with the adopted Kenton County comprehensive plan to promote the public health, safety, morals, and general welfare of the City, to facilitate orderly and harmonious development and the visual or historical character of the City, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. This Ordinance has been prepared to facilitate fire and police protection; to prevent the overcrowding of land, occurrence of blight and congestion in the circulation of people and commodities; to protect public health and safety and prevent the loss of life, health, or property from fire, flood, or other dangers; and to protect highways and other transportation facilities, public facilities including schools and public grounds, business districts, natural resources and other specific areas of the City in need of special protection.

## **1.04 Jurisdiction**

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This Ordinance generally governs the use of land within the City limits, regulating the location, height, number of stories and size of buildings and other structures; regulating the size of yards and other open spaces and the density and distribution of population and the uses of buildings, structures and land; providing for enforcement of this Ordinance; establishing a Board of Adjustment and repealing all regulations, resolutions, orders, ordinances and codes in conflict with this Ordinance. This Ordinance applies to all private and public lands, except for those exempted by KRS 100, all uses on those lands, and all structures and buildings over which the City has jurisdiction under the laws of the state or pursuant to statutorily established powers.

## **1.05 Interpretation and Scope**

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### **A. Greater Restriction**

The provisions of this Ordinance shall be the minimum requirements for the promotion of the public health, safety, morals, and general welfare. Wherever the requirements of this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards shall govern. Whenever the requirements within this Ordinance conflict, the most restrictive, or that imposing the higher standards shall govern.

### **B. Permit or License in Violation**

If any permit or license is issued in violation of any provision of this Ordinance, or authorizes an act not permitted by any provision of this Ordinance, the permit or license shall be void despite the requirements or intent of any other provisions of this Ordinance or those of any other ordinance, rule, code, permit, or regulation of the City.

### **C. Rules for Interpreting Zone Boundaries**

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

1. Boundaries approximately following the rights-of-way of a street, alley, or other public way, shall be construed to follow such rights-of-way lines. When rights-of-way are officially vacated, the zones bordering the rights-of-way shall be extended out to the former centerline of vacated rights-of-way.

2. Boundaries approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries approximately following political boundary lines shall be construed as following such boundary lines.
4. Boundaries approximately following the rights-of-ways of railroad lines shall be construed as following such lines.
5. Boundaries approximately following the centerlines of streets, streams, rivers, ditches, gullies, ravines, or other bodies of water shall be construed to follow such centerlines.
6. Boundaries approximately following a topographic elevation, determined by the scale of the map, shall be construed as following such ground elevation lines.

## **1.06 Official Zoning Map**

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The zones are defined as shown on the map entitled “OFFICIAL ZONING MAP OF THE CITY OF BROMLEY, KENTUCKY” and shall remain on file in an electronic format in the offices of the Planning and Development Services of Kenton County (PDS) and be made available online in an appropriate format for reference by the general public. PDS staff shall serve as the official record holder of the Official Zoning Map for the City. However, the City has the duty to keep records and actions of their activities and provide a copy to PDS staff.

## **1.07 Zoning Map Rules & Interpretations**

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### **A. Changes to the Zoning Map**

Where zone boundaries are amended in accordance with the provisions of this Ordinance and Kentucky Revised Statutes, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the legislative body. PDS shall be provided a signed copy of the amendment to this Ordinance, including legal description, and any approved Concept Development Plan so that the Official Zoning Map may be altered to reflect the change approved. No changes of any nature shall be made on the Official Zoning Map which do not conform with the procedures set forth in this Ordinance.

### **B. Interpretations**

The Official Zoning Map located in the office designated by this Ordinance shall be the final authority in determining the current zoning status of land, buildings, and other structures in the City of Bromley, Kentucky.

## **1.08 Zoning of Annexed Areas**

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When an area is annexed into or otherwise becomes a part of the jurisdiction, the legislative body may elect to amend its comprehensive plan and zoning map prior to adoption of the ordinance of annexation or transfer consistent with the requirements set forth in KRS 100.209. If the legislative body does not elect to follow those procedures, the newly annexed or transferred territory shall remain subject to the same land use restrictions that applied to it prior to the annexation or transfer until those restrictions are changed by a zoning map amendment.

## **1.09 Omissions**

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In any case where property within the jurisdiction has not been included within a zone, either through error or omission, such property shall be officially included in the Conservation (CO) Zone until otherwise classified.

## **1.10 Severability**

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Should any article, section, subsection, sentence, clause, or phrase of this Ordinance, for any reason, be held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions of this Ordinance. It is the intent of the City Council of the City of Bromley, Kentucky, to enact each section and portion individually, so that each section stands alone, if necessary, and remains in force regardless of the determined invalidity of any other section or provision.

### **1.11 Repeal of Existing Code**

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The pre-existing City Zoning Ordinance, as amended, is expressly repealed; provided that nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, any rights acquired, or liability incurred, any permit issued, or approval granted, or any cause or causes of action arising prior to the enactment of this Ordinance. All ordinances or parts of ordinances and all resolutions or parts of resolutions which are inconsistent because of references contained in the pre-existing Zoning Ordinance shall, as nearly as possible, be construed to reference this Ordinance moving forward.

### **1.12 Effective Date**

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The Ordinance shall take effect upon adoption by the City Council of Bromley, Kentucky.

## **ARTICLE 2 APPLICABILITY & CONFORMITY**

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### **Contents:**

#### **2.01 General Applicability**

#### **2.02 Uniformity Within Districts**

#### **2.03 Conformity with Other Laws**

#### **2.04 Compliance Required**

#### **2.05 Application of Deed Restrictions**

#### **2.06 Transition Rules**

#### **2.07 Nonconformities**

### **2.01 General Applicability**

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The provisions of this Ordinance apply to all buildings, uses, structures (including signs), and land as well as associated activities such as, but not limited to, grading, excavating, occupation, alterations, construction, reconstruction, removal, relocation, and enlargement unless specifically exempted from a requirement by these regulations. If a building or certificate of zoning compliance is required for any of these activities, it must be lawfully obtained prior to commencement of such activity.

### **2.02 Uniformity Within Districts**

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Within each zoning district, the regulations established by this Ordinance shall apply uniformly to each class or kind of use, structure, or land.

### **2.03 Conformity with Other Laws**

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No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, in whole or part, be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any change in use occur in any building, structure, or land, unless in conformity with local, state, and federal laws.

Nothing in this Ordinance shall require the City to check for conformity with the laws of other jurisdictions prior to issuing local approval; however, demonstration of compliance may be required as part of the permit approval process. Furthermore, lack of compliance shall be grounds for denying a permit, and failure to remain in compliance shall be deemed a violation of this Ordinance subject to the remedies and enforcement actions specified in [Article 13, Process and Procedure](#).

## 2.04 Compliance Required

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Compliance with the requirements established by this Ordinance is required for any building, use, structure (including signs), and land as well as associated activities such as, but not limited to, grading, excavating, occupation, alterations, construction, reconstruction, removal, relocation, and enlargement. The burden of proof of compliance rests with the owner of the land, building, or structure.

## 2.05 Application of Deed Restrictions

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This Ordinance does not affect any private agreement or condition such as a deed restriction or covenant. Unless deed restrictions, covenants, or other contracts directly involve the City as a party in interest, the City has no duty or legal right to enforce private agreements, to consider them in determining compliance with this Ordinance, or to keep records of them for any purpose not expressly stated within this Ordinance or in an approved permit. Property owners and applicants are strongly encouraged to check with the county clerk or their attorney to determine if and how any private agreements or restrictions apply to their property.

## 2.06 Transition Rules

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### A. Previously Approved Stage I/Stage II Plans

A Stage I Plan or Stage II Plan approved by the Kenton County Planning Commission, or legislative body, prior to the adoption of this Ordinance shall be deemed to be an approved Concept Development Plan (Stage I Plan) or Final Development Plan (Stage II Plan).

### B. Construction in Progress

Any construction started, pursuant to an approved zoning permit, before the Effective Date of this Ordinance may be completed as permitted under that permit, even if it does not fully comply with this Ordinance. If construction is not completed under the original approved permit, or if that permit expires, then any additional or new construction must meet the requirements of this Ordinance.

### C. Approvals Granted Before the Effective Date of this Ordinance

Building permits, variances, conditional-use permits, zoning map amendments, final subdivision approvals, and other similar development approvals that are valid on the effective date of this Ordinance, will remain valid until their expiration date. Development must be completed in conformance with valid approvals, even if such building, development, or structure does not fully comply with provisions of this Ordinance. If building is not commenced and diligently pursued in the time allowed under the original approval or any extension granted, then the building, development, or structure must meet the Ordinance standards in effect at the time of re-application.

### D. Applications in Progress Before the Effective Date of this Ordinance

Complete applications for map amendment, text amendment, development plans, building permits, variances, conditional-use permits, and other similar development approvals that are pending approval on the effective date of this Ordinance, must be reviewed wholly under the terms of the Ordinance in effect when the application was submitted. Any re-application for an expired approval must meet the Ordinance standards in effect at the time of re-application.

#### **E. Transition to New Zoning Districts**

On the effective date of this Ordinance, land zoned with a zoning district from the previous zoning regulations shall be translated to one of the zoning districts established in Section 3.01, [Zoning Districts Established](#) of this Ordinance.

## **2.07 Nonconformities**

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### **A. Generally**

1. Any parcel of land, use, easement, structure, sign or feature lawfully existing on the date of any text change in this Ordinance, or on the date of a zoning map amendment initiated by a public body that does not conform to the requirements of the district in which it is located may be continued and maintained in accordance with the provisions of this article and other applicable provisions of this Ordinance. Nonconformities may continue as prescribed, but the provisions of this article are designed to curtail substantial investment in nonconformities and to bring about their eventual conformity or elimination.
2. When there is a timeframe required for the reestablishment, repair, or restoration of a nonconformity, the timeframe begins when notice is given by the Zoning Administrator.

### **B. Map Amendment**

An applicant with property that has any nonconformity may request a zone change. If a zone change is granted, all other nonconformities, such as site and design features must be remedied to the maximum extent practicable as a condition of approval.

### **C. Variances, Conditional Uses, Appeals, and Changes to Nonconforming Uses**

An applicant with property that has any nonconformity may request a variance, conditional use, appeal, or change from one nonconforming use to another nonconforming use in conformance with [Article 13](#), Process and Procedures. If a request is granted, all other nonconformities, such as site and design features must be remedied to the maximum extent practicable as a condition of approval.

### **D. Zoning Permit Required**

No nonconforming structure, use, lot or feature shall be renewed, changed, or extended until a zoning permit has been issued by the Zoning Administrator in accordance with the provisions of [Article 13](#), Process and Procedure.

### **E. Nonconforming Lots**

A legal nonconforming lot is defined in [Article 14, Definitions](#). A lot may not be reduced below the minimum lot area, unless in accordance Section 6.03, [Erection of Structures Only on Lots of Record](#). A lot established after the passage of this Ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming lot and is a violation of this Ordinance. Legal nonconforming lots may continue only in accordance with the following provisions.

1. **Vacant Lots.** Vacant lots for which plats or deeds have been recorded in the office of the County Clerk for Kenton County which fail to comply with the minimum area or other dimensional requirements of the districts in which they are located may be used for any of the uses permitted, or conditionally permitted (subject to the approval of the Board of Adjustment), in the district in which it is located, provided that the development

proposed on the lot is in conformance with all the other requirements of the Ordinance. If the proposed development does not conform with the dimensional requirements of the zone, then a variance request shall be submitted to the Board of Adjustment per the requirements of [Article 12, Administrative Roles and Responsibilities](#).

- 2. Adjacent Nonconforming Vacant Lots.** When two or more adjacent and vacant nonconforming lots are in single ownership, and either of such lots individually has less frontage or area than the minimum requirements of the district in which they are located, these lots will be considered and treated as a single lot for the purposes of this Ordinance. The property owner may choose to re-subdivide such lots in conformity with this Ordinance to create two or more legal lots of record. Building construction which crosses a parcel line may require a parcel consolidation under the Kentucky Building Code.

#### F. Nonconforming Uses

A legal nonconforming use is defined in [Article 14, Definitions](#). A use established after the passage of this Ordinance which does not conform to regulations of the district in which it is located shall be considered an illegal nonconforming use and is a violation of this Ordinance. Legal nonconforming uses of land or structures may continue only in accordance with all the following provisions.

- 1. Expansion Prohibited.** A nonconforming use shall not be expanded. Expansion shall include an intensification of use, a physical expansion that results in increased capacity, square footage, or activity associated with the use, increasing an accessory use, an extension of the hours of operation or number of days of activity and any similar change in activity or location.
- 2. Relocation Restricted.** A nonconforming use shall not be moved from one location on a site to another location on the same site unless approved by the Board of Adjustment upon application and demonstration by the property owner that the relocation of the use will not increase the adverse impacts of such use on the public, will not adversely affect adjacent properties, and will not have the effect of making the nonconformity more permanent.
- 3. Change of Use.** Changes from one nonconforming use to another nonconforming use may be allowed by the Board of Adjustment per KRS 100.253. See [Article 13.06, Non-Conforming Uses](#). Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.
- 4. Reestablishment Restricted.** A legal nonconforming use, when discontinued or abandoned, shall not be resumed if the following provisions apply:
  - When a nonconforming use of land ceases for a continuous period of 180 calendar days. (This applies regardless of whether the nonconforming use of land is the primary use of the property or accessory to a separate legal conforming use.)
  - When a nonconforming use of a building designed or arranged for that use ceases for a continuous period of 180 calendar days. (This applies regardless of whether the nonconforming use is the primary use of the property or accessory to a separate legal conforming use.)
  - The Board of Adjustment may grant a one-time extension for reestablishment of the nonconforming use of up to an additional 180 days (in addition to the 180 days provided for in subsection b above).
- 5. Structural Alterations Restricted.** No structural changes shall be permitted in any structure occupied by a nonconforming use except as follows:
  - No structural alterations or changes to the exterior of the building that would increase the nonconforming use.
  - Structural changes ordered by an authorized official to ensure the safety of the structure shall be permitted.
  - Maintenance and repairs to keep a structure in sound condition shall be permitted.
  - Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.

- e. For any existing nonconforming residential use, structures may be enlarged or altered provided no additional dwelling units are created. Any enlargement or alterations shall follow all yard requirements of the district for the use. New accessory structures may be constructed provided they meet the requirements of this Ordinance.
- f. Expansion of a nonconforming use into portions of a structure that, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.

#### **G. Nonconforming Structures, Excluding Signs**

A legal nonconforming structure is defined in [Article 14, Definitions](#). A structure established after the passage of this Ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming structure and is a violation of this Ordinance. Legal nonconforming structures may continue only in accordance with all the following provisions.

1. **Continuation Permitted.** A nonconforming structure, devoted to a use permitted in the zoning district in which it is located, may continue only in accordance with the provisions of this article.
2. **Repair and Maintenance Permitted.** Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure.
3. **Certain Enlargements Permitted.** In any zone, any detached single-family residential dwelling that has a nonconforming front or side yard setback may construct a horizontal or vertical addition that may likewise extend into the required front or side yard, as long as it is set back the same distance from the lot line as the existing nonconforming setback. Board of Adjustment approval is required for any case that has a front yard less than 10 feet and a side yard less than 2.5 feet, even if a proposed addition is not extending further into those yards.
4. **Changes for Conversion Permitted.** Structural changes necessary to convert an associated nonconforming use to a conforming use shall be permitted provided such changes do not increase the structural nonconformity.
5. **Movement Restricted.** A nonconforming structure shall not be moved unless afterward it conforms to the standards of the zoning district in which it is located.
6. **Repair and Restoration Restricted.** A nonconforming structure destroyed or damaged so that more than 60 percent of its assessed value remains, may be repaired or restored if all the following occur.
  - a. The type of structure conforms to the standards of the regulations for the zoning district in which it is located; however, if the structure is used for the same purpose as before the destruction, the new structure may be rebuilt using the same materials.
  - b. The total amount of space devoted to a nonconforming use or the degree of nonconformity in the structure is not increased.
  - c. A building permit for the repair or restoration is issued within 180 calendar days of the date of the damage and remains valid until the repairs or restoration are complete.
7. **Conformation Required.** If the Zoning Administrator determines that the building or structure has been damaged so that less than 60 percent of its assessed value remains, future use of the building and site must conform to the regulations of the district in which it is located. For the purposes of this article, the extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the assessed value of the building or structure. The only exception to this limitation is any building or structure listed on the National Register of Historic Places, any building certified as a state historic building, and any contributing structure within a locally designated historic district. Such structures may be rebuilt or restored to their original dimensions or the dimensions of the building or structure before such damage occurred provided such restoration conforms to the Secretary of Interior Standards for Rehabilitation.

8. **Replacement Restricted.** A nonconforming structure shall not be replaced with another nonconforming structure regardless of the degree of nonconformity, except in cases where a variance was previously granted by the Board of Adjustment.

#### H. Nonconforming Signs

A legal nonconforming sign is defined in Article 14, Definitions. A sign erected or created after the passage of this Ordinance which does not conform to the regulations of the district in which it is situated shall be considered an illegal nonconforming sign and is a violation of this Ordinance. Legal nonconforming signs may continue only in accordance with all the following provisions.

1. **Continuation Permitted.** Subject to the remaining restrictions of this article, nonconforming signs that were otherwise lawful on the effective date of this Ordinance may be continued. However, a change of occupant, tenant, or other site-occupying entity requesting sign alterations (other than a message change outlined in subsection 5 below) shall comply with the provisions of this Ordinance.
2. **Increase in Nonconformity Prohibited.** No person may engage in any activity that causes an increase in the extent of nonconformity of a sign. Without limiting the generality of that statement, no nonconforming sign may be enlarged, reduced or altered in a way that increases the nonconformity. Illuminating a nonconforming sign is not considered an increase in nonconformity if the type of illumination is permitted in the zone where the sign is located.
3. **Movement and Replacement Restricted.** A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.
4. **Reconstruction Limited.** If a nonconforming sign structure is destroyed by an Act of God (e.g. wind, flood, fire), it may not after that be repaired, reconstructed, or replaced except in conformity with all the provisions of this article. The remnants of the former sign structure shall be cleared from the land. For purposes of this article, a nonconforming sign is “destroyed” if damaged to the extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign before damage.
5. **Message Change Permitted.** The message of a nonconforming sign may be changed for the occupant, tenant or other site-occupying entity as of the adoption date of this Ordinance so long as this does not create any new nonconformities.
6. **Repair Limited.** Subject to the other provisions of this article, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed 50 percent of the cost of a comparable new sign. It is the burden of the sign owner to present price quotes and prove comparability whenever the Zoning Administrator requires proof of value.
7. **Abandonment.** A nonconforming sign or sign frame shall be deemed abandoned after a continuous period of 180 calendar days if any of the following criteria apply.
  - a. It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted.
  - b. The advertising message it displays becomes illegible in whole or substantial part.
  - c. The sign face is blank.

An abandoned sign must either be brought into compliance as a conforming sign or completely removed within 90 days of receipt of a notice of violation.
8. **Demolished Buildings.** When a permit is issued for demolition or removal of a building or structure, any nonconforming signs and their supporting structures shall be removed concurrently with the removal of the buildings and structures.

9. **Removal Required.** Any existing nonconforming sign must be removed before a building permit or certificate of occupancy will be issued for a development on any undeveloped parcel.

10. **Iconic/Historic Signs.** Nonconforming signs that have been designated by the legislative body to be an iconic/historic sign may be repaired or replaced to the extent required to maintain the historic and/or cultural importance, and shall be subject to approval by a urban design review board if applicable.

#### I. **Nonconforming Site and Design Features**

A legal nonconforming site or design feature is defined in Article 14, Definitions. Nonconforming features covered by this section include only those features not otherwise addressed as a nonconforming lot or structure addressed elsewhere in this section, and include but may not be limited to physical characteristics of development that exceed allowable maximum standards (e.g. impervious surface, number of accessory buildings, etc.), and those that lack or fall short of required minimum standards (e.g. sight triangles, off-street parking and loading spaces, buffer width, landscaping, lighting standards, etc.). A feature added or changed after the passage of this Ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming feature and is a violation of this Ordinance. Legal nonconforming features may be continued subject to the following limitations.

1. **Increase in Nonconformity Prohibited.** No action shall be taken which increases the degree or extent of the nonconformity. Any enlargement, reduction, extension, of any site or design features shall conform to all current requirements of this article.

2. **Continuation Permitted.** For development existing (or for which a vested right has been established) before the effective date of current regulations, nonconforming features created by a change in regulations may continue to exist, and structures with such nonconforming features may be reconstructed if they meet the requirements of Section 2.07, G., Nonconforming Structures Excluding Signs.

3. **Additional Criteria.** Additional criteria governing when design features must be brought into compliance are listed in Article 7, Development Standards by design feature (e.g. landscaping, lighting, fencing, etc.) or Article 10, Parking & Loading Standards.

#### J. **Continuance of Nonconforming Accessory Uses and Structures**

1. No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, discontinuance, damage, or destruction unless the accessory use or accessory structure is made to conform to the standards for the zoning district in which it is located, except as stated in item 2.07, J., 2. below.

2. If a building permit for reconstruction of the principal structure is obtained in accordance with 2.07, G., 6. above, the associated accessory structures and uses may remain.

#### K. **Changes of Tenancy and Ownership**

1. There may be a change in tenancy or ownership of an existing nonconforming use or structure provided there is no change in the nature or character of such nonconforming use or structure except as permitted in this Article.

## **ARTICLE 3 ZONING DISTRICTS**

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### **Contents:**

**3.01 Zoning Districts Established**

**3.02 Standard Districts in General**

**3.03 Special Districts in General**

**3.04 Zoning Districts**

### 3.01 Zoning Districts Established

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The City of Bromley, Kentucky is hereby divided into the following zoning districts as listed in Table 3.1 Zoning Districts Established. These districts are categorized into two major classes of districts, standard districts and special districts.

### 3.02 Standard Districts in General

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Standard districts are divided into one of the following categories: Residential Districts, Commercial Districts, Employment Districts, or Other Districts. Each standard district serves a different purpose and imposes its own set of requirements and restrictions on the use of land in addition to the general requirements and restrictions imposed on all land or uses within the zoning jurisdiction. A standard district may be layered with an overlay district.

### 3.03 Special Districts in General

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Special districts are a type of district established to implement adopted plans such as the Comprehensive Plan, area plans, and corridor plans, or detailed site plans approved as part of the rezoning process. The regulations contained within this Article for such districts are provided as a framework for review and approval. A significant part of the detail for each district is contained within an adopted plan and must be reflected in proposed district site plans and documentation.

Overlay districts are a type of special district established to provide for certain additional requirements, to permit uses not otherwise permitted in the underlying standard district, to prohibit uses allowed in the underlying standard district, or to establish special development requirements for uses permitted in the standard district. Thus, where overlay districts exist and there is a conflict between the requirements or uses specified between the overlay and the underlying district, the standards of the overlay district shall prevail. Otherwise, the standards of the underlying district shall also be in effect for any area additionally zoned for an overlay district.

### 3.04 Zoning Districts

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#### TABLE 3.1 ZONING DISTRICTS ESTABLISHED

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TABLE 3.1 ZONING DISTRICTS ESTABLISHED	
STANDARD DISTRICTS	SPECIAL DISTRICTS
<b>RESIDENTIAL DISTRICTS</b>	Planned Unit Development (PUD)
Residential Large Lot Subdivision (R-LLS)	Downtown Core (DC)
Residential Conventional Subdivision (R-CVS)	
Residential Urban (R-U)	
Residential Multi-Family (R-MF)	
<b>COMMERCIAL DISTRICTS</b>	
Neighborhood Commercial (NC)	
<b>EMPLOYMENT DISTRICTS</b>	
Riverfront Industrial (RI)	
<b>OTHER DISTRICTS</b>	
Conservation (CO)	

### 3.04.A. RESERVED

### 3.04.B. RESIDENTIAL LARGE LOT SUBDIVISION (R-LLS)

3.04.B. RESIDENTIAL LARGE LOT SUBDIVISION (R-LLS)	
PURPOSE	EXAMPLE BUILDING TYPE
<p>The intent of the Residential Large Lot Subdivision District is to establish low density, single-family residences and related uses. This district may be used to provide a transition between rural areas and more compact subdivisions. Neighborhoods should be designed around natural features to highlight existing tree stands, streams, and other amenities.</p>	
INTENSITY AND DIMENSIONAL STANDARDS	EXAMPLE LOT PATTERN

### 3.04.B. RESIDENTIAL LARGE LOT SUBDIVISION (R-LLS)

Minimum Lot Area (ac)	0.5
Minimum Lot Width (ft)	100
Minimum Building Footprint	850
Maximum Residential Density (units/ac)	2
Maximum Floor Area Ratio (FAR)	n/a
Maximum Height (ft)	35
Minimum Front Yard Depth (ft)	40 <sup>1</sup>
Minimum Side Yard Depth (ft)	10 / 25 <sup>2</sup>
Minimum Rear Yard Depth (ft)	25

#### CROSS REFERENCES

Permitted and Conditional Uses	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11

#### NOTES

<sup>1</sup> See 5.04 regarding front yard averaging.

<sup>2</sup> Individual side yard/Aggregate of both side yards.



**EXAMPLE DEVELOPMENT CONFIGURATION**

**3.04.B. RESIDENTIAL LARGE LOT SUBDIVISION (R-LLS)**



**3.04.C. RESIDENTIAL CONVENTIONAL SUBDIVISION (R-CVS)**

**3.04.C. RESIDENTIAL CONVENTIONAL SUBDIVISION (R-CVS)**

**PURPOSE**

The intent of the Residential Conventional Subdivision District is to provide opportunities for a range of single-family lot sizes. The defined character may vary by neighborhood, but new developments should reflect the scale of adjacent neighborhoods. Conventional subdivisions should have walkable, well-connected street systems that connect to adjacent neighborhoods and destinations. Supporting non-residential uses, such as parks, schools, and places of worship, may also be appropriate.

**EXAMPLE BUILDING TYPE**



**INTENSITY AND DIMENSIONAL STANDARDS**

**EXAMPLE LOT PATTERN**

### 3.04.C. RESIDENTIAL CONVENTIONAL SUBDIVISION (R-CVS)

Minimum Lot Area (sf)	9,000 <sup>1</sup>
Minimum Lot Width (ft)	70 <sup>1</sup>
Minimum Building Footprint	750
Maximum Residential Density (units/ac)	4.8
Maximum Floor Area Ratio (FAR)	n/a
Maximum Height (ft)	35
Minimum Front Yard Depth (ft)	30 <sup>2</sup>
Minimum Side Yard Depth (ft)	6 / 18 <sup>3</sup>
Minimum Rear Yard Depth (ft)	25

#### CROSS REFERENCES

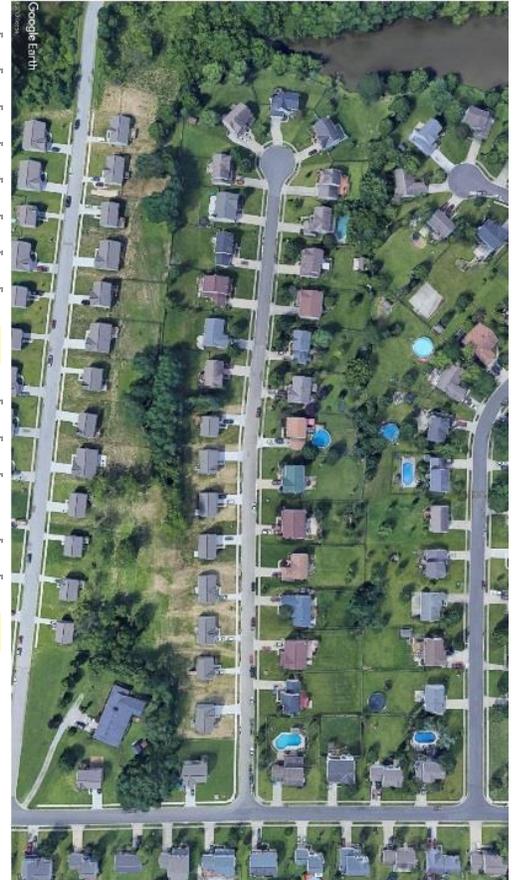
Permitted and Conditional Uses	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11

#### NOTES

<sup>1</sup> For two-family, the lot size must be 1.5 times the minimum lot size, and 10 feet added to the minimum lot width.

<sup>2</sup> See 5.04 regarding front yard averaging.

<sup>3</sup> Individual side yard/Aggregate of both side yards.



EXAMPLE DEVELOPMENT CONFIGURATION

**3.04.C. RESIDENTIAL CONVENTIONAL SUBDIVISION (R-CVS)**



**3.04.D. RESERVED**

**3.04.E. RESIDENTIAL URBAN (R-U)**

**3.04.E. RESIDENTIAL URBAN (R-U)**

**PURPOSE**

The Residential Urban District is intended to accommodate single-family and two-family dwellings in and around existing historic districts. The established development pattern and character of the built environment must be preserved and protected. Infill development should be sensitive to surrounding scale and context. Conversion of single-family dwellings to multi-family or commercial uses is discouraged.

**EXAMPLE BUILDING TYPE**



**INTENSITY AND DIMENSIONAL STANDARDS**

**EXAMPLE LOT PATTERN**

### 3.04.E. RESIDENTIAL URBAN (R-U)

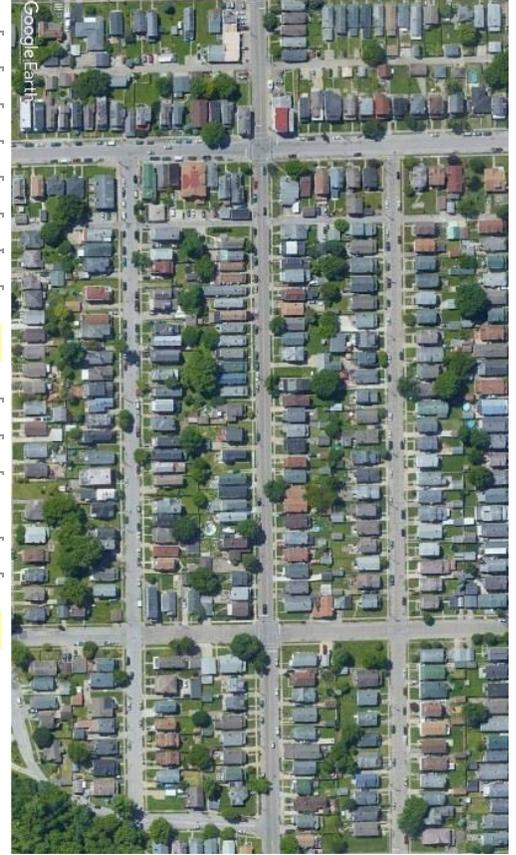
Minimum Lot Area (sf)	2,000
Minimum Lot Width (ft)	20
Minimum Building Footprint	800
Maximum Residential Density (units/ac)	14.5
Maximum Floor Area Ratio (FAR)	n/a
Maximum Height (ft)	35
Minimum Front Yard Depth (ft)	10 <sup>1</sup>
Minimum Side Yard Depth (ft)	2.5
Minimum Rear Yard Depth (ft)	15

#### CROSS REFERENCES

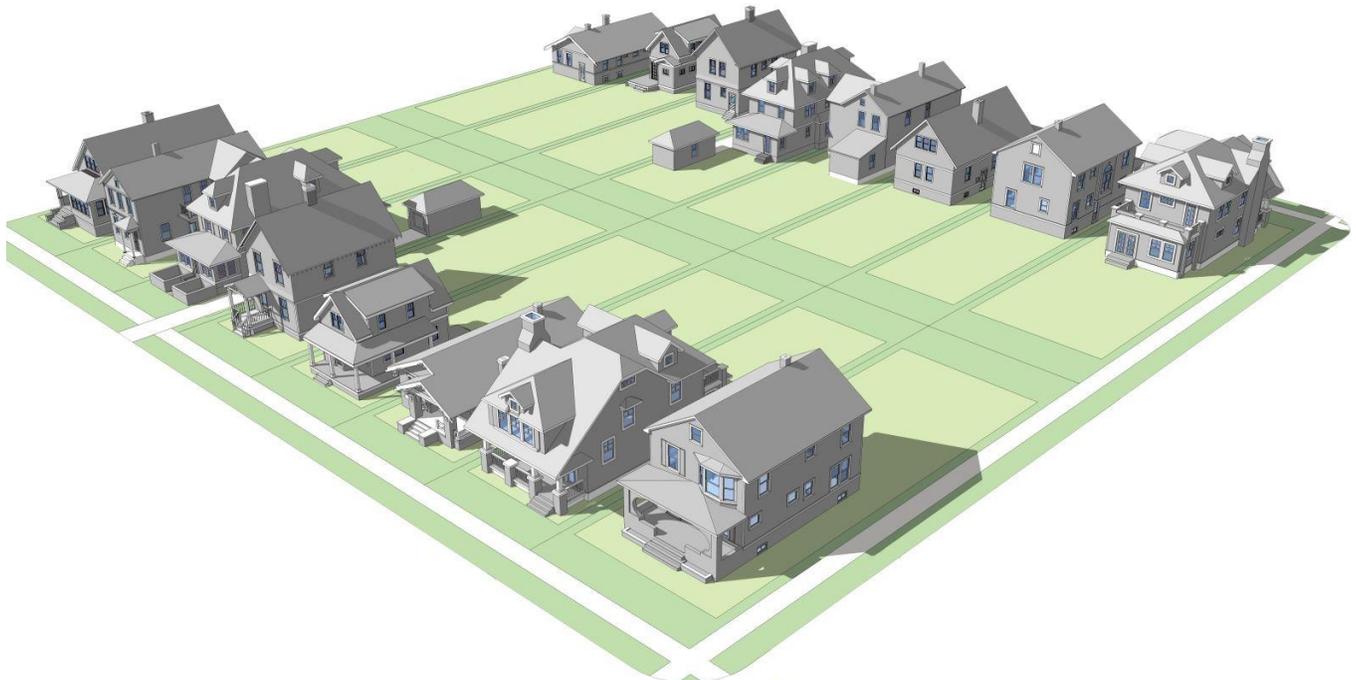
Permitted and Conditional Uses	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11

#### NOTES

<sup>1</sup> See 5.04 regarding front yard averaging.



#### EXAMPLE DEVELOPMENT CONFIGURATION



**3.04.F. RESERVED**

**3.04.G. RESIDENTIAL MULTI-FAMILY (R-MF)**

<b>3.04.G. RESIDENTIAL MULTI-FAMILY (R-MF)</b>	
<b>PURPOSE</b>	<b>EXAMPLE BUILDING TYPE</b>
<p>The Residential Multi-Family District is intended to provide a location for higher density apartment and condominium units. This district should be located where public services and transportation infrastructure exists to support higher density development. This district may be used to transition between lower density residential areas and commercial or central business district areas.</p>	
<b>INTENSITY AND DIMENSIONAL STANDARDS</b>	<b>EXAMPLE LOT PATTERN</b>
Minimum Lot Area (sf)	10,000 overall / 2,000 per unit
Minimum Lot Width (ft)	100
Maximum Residential Density (units/ac)	20
Maximum Floor Area Ratio (FAR)	n/a
Maximum Height (ft)	45
Minimum Front Yard Depth (ft)	25
Minimum Side Yard Depth (ft)	25
Minimum Rear Yard Depth (ft)	25
<b>CROSS REFERENCES</b>	
Permitted and Conditional Uses	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11
<b>NOTES</b>	
	
<b>EXAMPLE DEVELOPMENT CONFIGURATION</b>	

### 3.04.G. RESIDENTIAL MULTI-FAMILY (R-MF)



### 3.04.H. RESERVED

### 3.04.I. RESERVED

### 3.04.J. RESERVED

### 3.04.K. NEIGHBORHOOD COMMERCIAL (NC)

#### 3.04.K. NEIGHBORHOOD COMMERCIAL (NC)

##### PURPOSE

The Neighborhood Commercial District is intended to provide locations for a variety of commercial activities including convenience stores, retail shops, offices, and personal service businesses. Individual uses are typically under 20,000 square feet. This district may be distributed throughout the community at key intersections or in proximity to the neighborhoods it serves. The district should be designed to promote walkability and connectivity to adjoining districts.

##### EXAMPLE BUILDING TYPE



##### INTENSITY AND DIMENSIONAL STANDARDS

##### EXAMPLE LOT PATTERN

### 3.04.K. NEIGHBORHOOD COMMERCIAL (NC)

Minimum Lot Area (ac)	n/a <sup>1</sup>
Minimum Lot Width (ft)	40
Maximum Residential Density (units/ac)	n/a
Maximum Floor Area Ratio (FAR)	1
Maximum Height (ft)	40
Minimum Front Yard Depth (ft)	15 <sup>2</sup>
Minimum Side Yard Depth (ft)	10 / 25 <sup>3</sup>
Minimum Rear Yard Depth (ft)	10 / 25 <sup>3</sup>

#### CROSS REFERENCES

Permitted and Conditional Uses	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11

#### NOTES

<sup>1</sup> Must be able to meet all setback, parking, landscape, screening, and similar requirements of this Ordinance.

<sup>2</sup> See 5.04 regarding front yard averaging.

<sup>3</sup> When abutting a residential district.



#### EXAMPLE DEVELOPMENT CONFIGURATION

**3.04.K. NEIGHBORHOOD COMMERCIAL (NC)**



**3.04.L. RESERVED**

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**3.04.M. RESERVED**

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**3.04.N. RESERVED**

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**3.04.O. RESERVED**

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**3.04.P. RIVERFRONT INDUSTRIAL (RI)**

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### 3.04.P. RIVERFRONT INDUSTRIAL (RI)

#### PURPOSE

The intent of the River Industrial District is to ensure the protection of land along the riverfront needed to support heavy industrial uses that require river access. The district will maintain the economic vitality of the industrial riverfront and minimize any adverse impacts resulting from such activity on residential, park, commercial, and recreation facilities. Any industrial uses that do not require river access shall be located in another employment district.

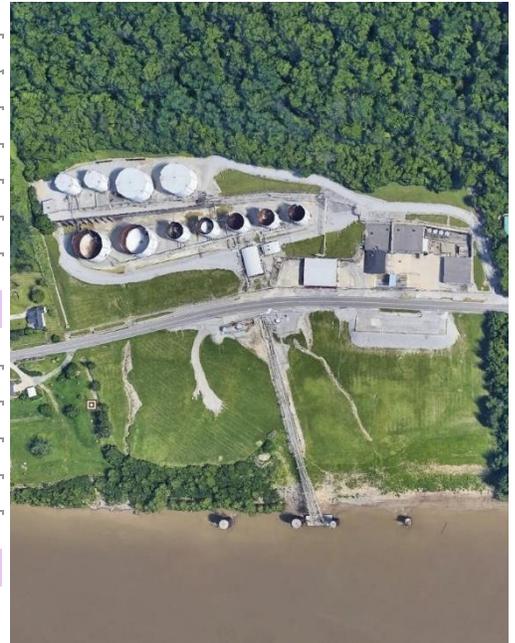
#### EXAMPLE BUILDING TYPE



#### INTENSITY AND DIMENSIONAL STANDARDS

Minimum Lot Area (ac)	none
Minimum Lot Width (ft)	none
Maximum Residential Density (units/ac)	n/a
Maximum Floor Area Ratio (FAR)	1
Maximum Height (ft)	none
Minimum Front Yard Depth (ft)	20
Minimum Side Yard Depth (ft)	25 / 50 <sup>1</sup>
Minimum Rear Yard Depth (ft)	0

#### EXAMPLE LOT PATTERN



#### CROSS REFERENCES

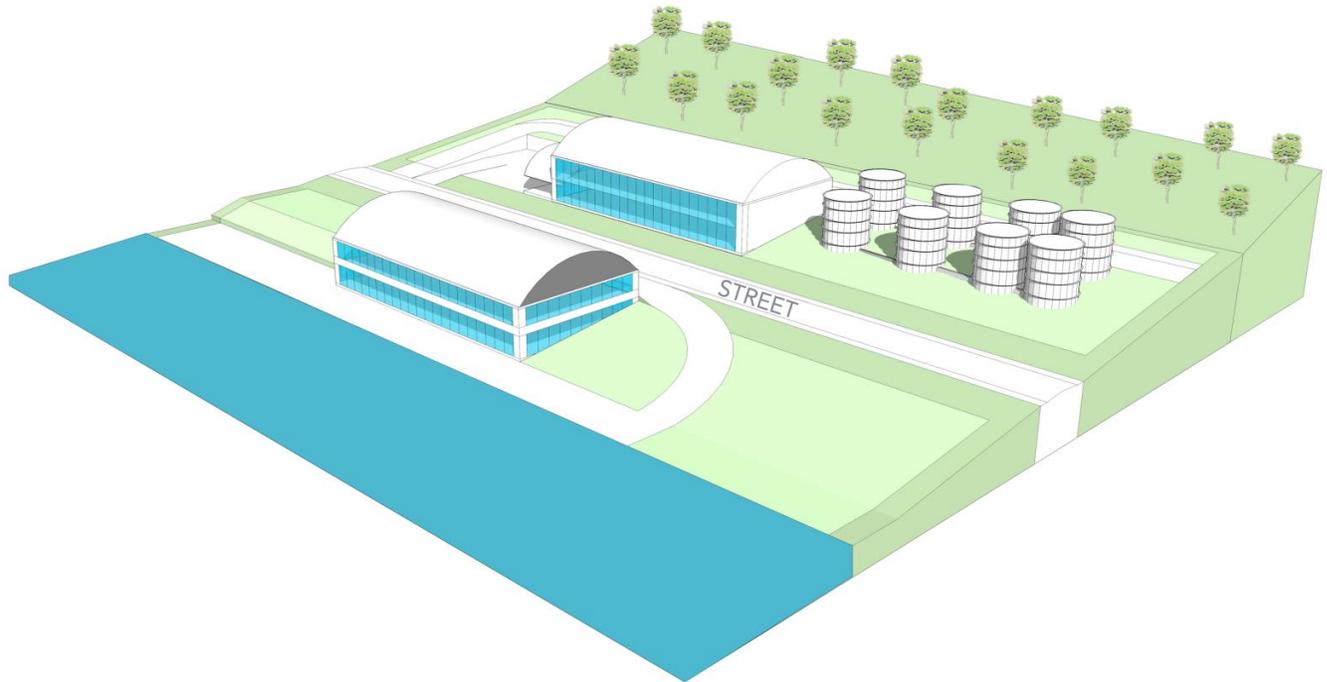
Permitted and Conditional Uses	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11

#### NOTES

<sup>1</sup> When abutting a residential district.

#### EXAMPLE DEVELOPMENT CONFIGURATION

**3.04.P. RIVERFRONT INDUSTRIAL (RI)**



**3.04.Q. RESERVED**

**3.04.R. RESERVED**

**3.04.S. RESERVED**

**3.04.T. CONSERVATION (CO)**

3.04.T. CONSERVATION (CO)	
PURPOSE	EXAMPLE BUILDING TYPE
<p>The Conservation District is intended to protect sensitive lands and unique environmental features from development; this may include flood hazard areas, wetlands, steep slopes, and public or private recreation areas. Low intensity agriculture uses, such as raising of crops, are appropriate in the Conservation District.</p>	
INTENSITY AND DIMENSIONAL STANDARDS	EXAMPLE LOT PATTERN

### 3.04.T. CONSERVATION (CO)

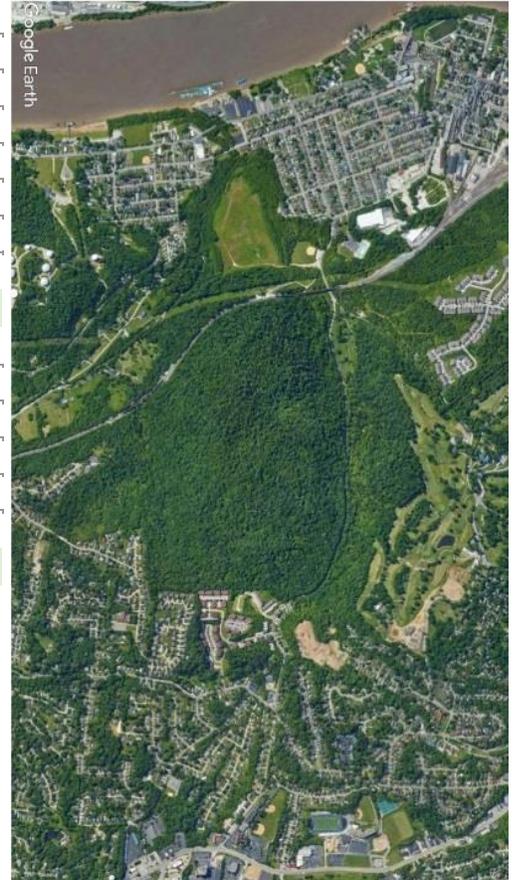
Minimum Lot Area (sf)	N/A
Minimum Lot Width (ft)	N/A
Maximum Residential Density (units/ac)	N/A
Maximum Floor Area Ratio (FAR)	N/A
Maximum Height (ft)	25
Minimum Front Yard Depth (ft)	40
Minimum Side Yard Depth (ft)	25
Minimum Rear Yard Depth (ft)	50

#### CROSS REFERENCES

Permitted and Conditional Uses <sup>1</sup>	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11

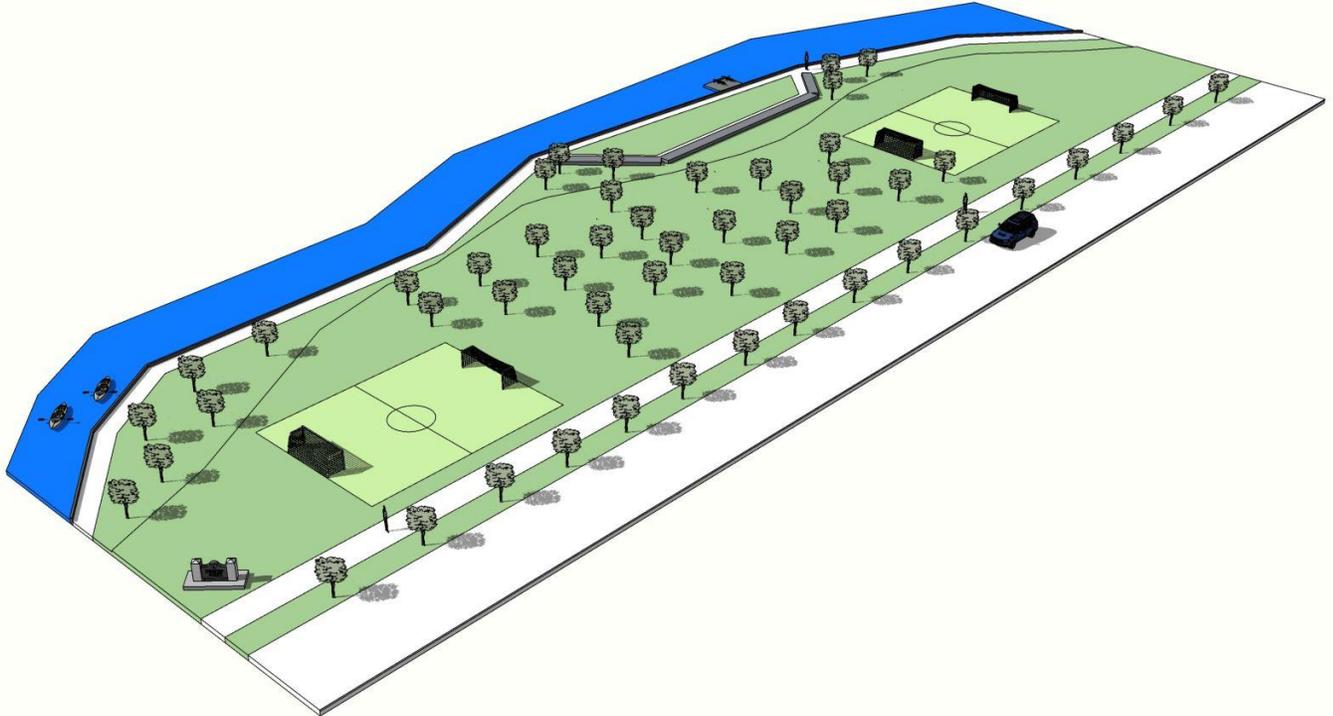
#### NOTES

<sup>1</sup>All permitted and conditional uses, permitted in this zone shall require a certificate of approval from the city engineer, certifying his approval of the type and manner of construction to be built (insuring that such construction shall not cause flood hazard, soil erosion, adverse changes in natural drainage courses, or unnecessary destruction of natural features), which completed certificate shall be submitted to the appropriate officer or board, as herein required, at time of request.



EXAMPLE DEVELOPMENT CONFIGURATION

### 3.04.T. CONSERVATION (CO)



### 3.04.U. RESERVED

### 3.04.V. PLANNED UNIT DEVELOPMENT (PUD)

#### 3.04.V. PLANNED UNIT DEVELOPMENT (PUD)

##### PURPOSE

The intent of the Planned Unit Development District is to provide flexibility in creating planned communities that may incorporate a range of uses, including single-family detached and/or attached dwellings, commercial, office, flex industrial, and recreation uses. PUDs should be designed to incorporate open space and a development pattern in accordance with natural features on the site. It should be used to create communities of unique character and lasting value, not to subvert the requirements of conventional zoning districts.

##### EXAMPLE BUILDING TYPE



##### INTENSITY AND DIMENSIONAL STANDARDS

##### EXAMPLE LOT PATTERN

### 3.04.V. PLANNED UNIT DEVELOPMENT (PUD)

Minimum Lot Area (sf)
Minimum Lot Width (ft)
Maximum Residential Density (units/ac)
Maximum Floor Area Ratio (FAR)
Maximum Height (ft)
Minimum Front Yard Depth (ft)
Minimum Side Yard Depth (ft)
Minimum Rear Yard Depth (ft)

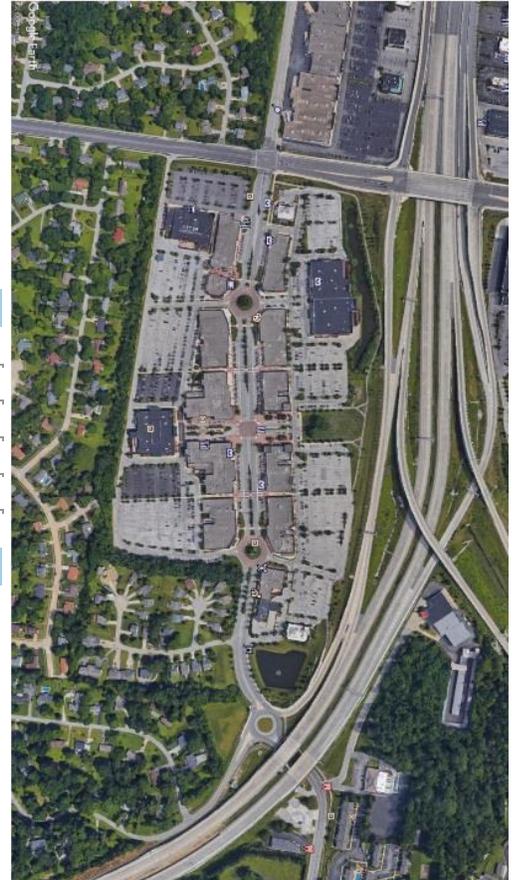
Based on PUD District Ordinance.  
See 13.03 Planned Unit Development for standards and requirements of PUD District Ordinance.

#### CROSS REFERENCES

Permitted and Conditional Uses	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11

#### NOTES

<sup>1</sup> Any PUD overlay zoning approved prior to the effective date of this Ordinance, will continue to be governed by the Ordinance and Plan adopted at the time of approval.



**EXAMPLE DEVELOPMENT CONFIGURATION**

### 3.04.V. PLANNED UNIT DEVELOPMENT (PUD)



### 3.04.W. RESERVED

### 3.04.X. RESERVED

### 3.04.Y. DOWNTOWN CORE (DC)

3.04.Y. DOWNTOWN CORE (DC)	
PURPOSE	EXAMPLE BUILDING TYPE
<p>The purpose of the Downtown Core District is to provide for a pedestrian-friendly, mixed-use city center that is compatible with adjacent residential neighborhoods and accomplishes the following objectives:</p> <ol style="list-style-type: none"> <li>1. Ensures new development contributes positively to the community;</li> <li>2. Provides a transition between commercial development and adjacent residential neighborhoods;</li> <li>3. Enhances convenience, ease, and enjoyment of transit, walking, shopping, and public gathering;</li> <li>4. Provides an appropriate mix of commercial, office, institutional, governmental, and residential uses that work together to create synergy and harmony; and</li> <li>5. Uses building form and architectural standards to ensure design compatibility.</li> </ol>	A photograph of a modern, multi-story brick building with large windows and a mix of architectural details. The building is situated in an urban environment with trees and a street in the foreground.
INTENSITY AND DIMENSIONAL STANDARDS	EXAMPLE LOT PATTERN
<p>Minimum Lot Area (ft<sup>2</sup>) (new lots created)</p> <p style="text-align: center;">1,500</p>	

### 3.04.Y. DOWNTOWN CORE (DC)

Maximum Residential Density (units/ac); Location  
None; residential users are restricted to the upper floors of mixed-use buildings; Attached Single-Family and Two-Family shall be at the same or higher density than currently exists.

Maximum Building Footprint (ft <sup>2</sup> )	Mixed-Use / Commercial only or Institutional only	15,000 / 10,000
Maximum Building Footprint (ft <sup>2</sup> )	SF Attached Residential / Two-Family per unit	500
	Multi-Family per Building	750
Floor Area Ratio (min/max)		.75 / 4.0
Lot coverage (min/max)		60% / 100%
Maximum Height (stories) (min/max)		2 / 4
Build-to Line (ft) (min/max)		0 / 15
Building Width as a percentage of lot width (min/max)		75% / 100%
Side Yard Setback (ft) (min/max)		0 / 5
Minimum Rear Yard Depth (ft) (min/max/adjacent to residential) <sup>1</sup>		0 / 5 / 10

#### CROSS REFERENCES

Permitted and Conditional Uses	Article 4
Dimensional Requirements	Article 5
Development Standards	Article 7
Natural Resource and Environmental Standards	Article 8
Parking and Loading Standards	Article 10
Signs	Article 11

#### NOTES

<sup>1</sup> Residential adjacent to residential will have a maximum setback of 5 feet.



### 3.04.Z. RESERVED

### 3.04.AA. RESERVED

### 3.04.BB. RESERVED

## ARTICLE 4 USE REGULATIONS & STANDARDS

### Contents:

- 4.01 Establishment of a Table of Uses
- 4.02 Determination of Use Category
- 4.03 Multiple Principal Uses Permitted
- 4.04 Table of Uses
- 4.05 Use-Specific Standards

## 4.01 Establishment of a Table of Uses

---

The uses permitted in the zoning districts established in Article 3, Zoning Districts of this Ordinance are set forth in Section 4.04, Table of Uses.

## 4.02 Determination of Use Category

---

The Zoning Administrator shall make determinations as to whether any proposed use is permitted within the City of Bromley zoning district based on the uses listed in Section 4.04, Table of Uses. When it is not clear whether a proposed use is or is not permitted, the Zoning Administrator shall consult the purpose statement for each district and the latest version of the North American Industrial Classification System (NAICS) to help decide. Any use not specifically listed in Section 4.04, Table of Uses and any proposed use not substantially similar to a listed use as determined by the Zoning Administrator after consultation shall be deemed to be prohibited.

## 4.03 Multiple Principal Uses Permitted

---

In all zones, more than one principal use is permitted per lot, provided that each use is:

- A. A Permitted Use or a Conditional Use in that district,
- B. A Conditional Use Permit has been obtained by the Board of Adjustment if applicable, and
- C. Use-specific standards applicable to each use are met, and
- D. The development complies with all applicable density, dimensional, development, and performance standards.

## 4.04 Table of Uses

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- A. **General.** The following table lists permitted and conditional uses in each base zoning district. Additional use restrictions may be contained in Section 4.05, Use-Specific Standards, or as part of an Overlay District.
- B. **Districts.** Table 4.1, Permitted and Conditional Uses lists uses for each standard district within the City of Bromley's zoning jurisdiction. Planned Unit Development and Overlay Districts are not listed in the table. Uses within a Planned Unit Development District are approved through the Development Plan approval process. Uses permitted within an Overlay District are generally regulated by the underlying base district.
- C. **Symbols.**
  1. Where the symbol "P" is shown, the use to which it refers is permitted as a "use by right" in the indicated district, provided it complies fully with all applicable Use-Specific Standards included in Section 4.05, Use-Specific Standards.
  2. Where the symbol "C" is shown, the use to which it refers is a conditional use which must be approved by the Board of Adjustment and is subject to any Use-Specific Standards included in Section 4.05, Use-Specific Standards. The Board of Adjustment may also impose additional conditions as part of the conditional use approval per KRS 100.237.
  3. Where the symbol "-" is shown, the use to which it refers is prohibited in the indicated district.
  4. All uses will be hyperlinked to their corresponding definition in Article 14, Definitions.

**TABLE 4.1 PERMITTED AND CONDITIONAL USES**

Use	Residential				Commercial	Employment	Other	Special	Use Specific Standards
	R-LLS	R-CVS	R-U	R-MF	NC	RI	CO	DC	
<b>AGRICULTURE</b>									
Agriculture, Exempt	-	-	-	-	-	P	P	-	4.05, A.1.
Agriculture, Non-Exempt	-	-	-	-	-	-	P	-	4.05, A.2.
On-farm sales (farm markets, roadside stands)	-	-	-	-	-	-	P	-	4.05, A.3.
Agritourism	-	-	-	-	-	-	P	-	4.05, A.4.
<b>RESIDENTIAL</b>									
Accessory Dwelling Unit	P	P	-	-	-	-	-	-	4.05, B.1.
Cottage Court	-	-	P	-	-	-	-	-	4.05, B.2.
Live/Work Unit	-	-	-	-	-	-	-	-	4.05, B.3.
Manufactured Home, Qualified	P	P	P	-	-	-	-	-	4.05, B.4.
Manufactured Home	-	-	-	-	-	-	-	-	4.05, B.5.
Mobile Home	-	-	-	-	-	-	-	-	4.05, B.6.
Multi-family	-	-	-	P	-	-	-	-	4.05, B.7.
Single-Family, attached	P	P	P	P	-	-	-	P	4.05, B.8.
Single-Family, detached	P	P	P	-	-	-	-	P	
Upper Floor Housing	-	-	-	-	-	-	-	P	4.05, B.9.
Two-Family	-	-	-	-	-	-	-	-	4.05, B.10.
Three/Four-Family	-	-	-	-	-	-	-	-	4.05, B.11.
<b>COMMERCIAL</b>									
Agriculture Equipment / Chemical Sales, Distribution, Storage	-	-	-	-	-	P	-	-	4.05, C.1.
Animal Care - enclosed	-	-	-	-	P	P	-	-	4.05, C.2.
Animal Care – outdoor activity	-	-	-	-	-	-	-	-	4.05, C.3.
Assembly, Commercial	-	-	-	-	-	-	-	P	4.05, C.4.
Bar Or Drinking Place	-	-	-	-	-	-	-	P	4.05, C.5.
Brewery, Distillery, Winery	-	-	-	-	P	P	-	-	4.05, C.6.

**TABLE 4.1 PERMITTED AND CONDITIONAL USES**

Use	Residential				Commercial	Employment	Other	Special	Use Specific Standards
	R-LLS	R-CVS	R-U	R-MF	NC	RI	CO	DC	
Building Material Sales	-	-	-	-	-	P	-	-	4.05, C.7.
Car Wash	-	-	-	-	-	-	-	-	4.05, C.8.
Carpenter shops, electrical, plumbing and heating shops, furniture upholstery and similar establishments	-	-	-	-	P	P	-	P	4.05, C.9.
Check Cashing and Title Loan Business	-	-	-	-	-	-	-	-	4.05, C.10.
Coin-Operated Laundries and Drycleaners	-	-	-	-	P	P	-	-	
Commercial Printing	-	-	-	-	-	P	-	-	
Conversions	-	-	C	-	P	-	-	P	4.05, C.11.
Family Child Care Homes	P	P	P	P	-	-	-	-	4.05, C.12.
Day Care Or Adult Or Child Care Center, Type II	-	-	-	-	-	-	-	-	4.05, C.12.
Day Care Or Adult Or Child Care Center, Type I	C	C	C	C	P	-	-	-	4.05, C.12.
Dry Cleaner	-	-	-	-	P	P	-	-	4.05, C.13.
Equipment Sales, Rental, Repair	-	-	-	-	P	P	-	-	
Farmer's Market	-	-	-	-	P	-	-	P	4.05, C.14.
Financial Services	-	-	-	-	P	-	-	P	
Funeral Home, Mortuary	-	-	-	-	P	-	-	-	4.05, C.15.
Gas Station	-	-	-	-	C	P	-	-	4.05, C.16.
Liquor Store	-	-	-	-	P	-	-	P	4.05, C.17.
Medical Office	-	-	-	-	P	-	-	P	
Motor Vehicle Sales and Rental	-	-	-	-	-	P	-	-	4.05, C.18.
Motor Vehicle Service, Major	-	-	-	-	C	P	-	-	4.05, C.19.

**TABLE 4.1 PERMITTED AND CONDITIONAL USES**

Use	Residential				Commercial	Employment	Other	Special	Use Specific Standards
	R-LLS	R-CVS	R-U	R-MF	NC	RI	CO	DC	
Motor Vehicle Service, Minor	-	-	-	-	C	P	-	-	4.05, C.20.
Nursery / Garden Supply	-	-	-	-	-	P	-	-	4.05, C.21.
Office	-	-	-	-	P	P	-	P	
Off-Street Parking Lot, Non-Accessory	-	-	-	-	P	-	C	P	4.05, C.22
Personal Services	-	-	-	-	P	-	-	P	
Restaurant with drive-in or drive-through	-	-	-	-	P	P	-	C	4.05, C.23.
Restaurant without drive-in or drive-through	-	-	-	-	P	P	-	P	4.05, C.24.
Retail Store	-	-	-	-	P	-	-	P	
Sexually-Oriented Business	See Article 9								
Studios for Work or Teaching	-	-	-	-	P	-	-	P	
Tattoo Or Body Art Services	-	-	-	-	P	-	-	-	4.05, C.25.
INSTITUTIONAL									
Assembly, Institutional and Civic	C	C	C	C	P	-	-	-	4.05, D.1.
Cemeteries and Crematories	C	C	C	C	-	-	-	-	4.05, D.2.
College or University	C	C	C	C	-	P	-	-	4.05, D.3.
Community Center, Civic Center	C	C	C	C	P	-	-	-	4.05, D.4.
Emergency Medical Facility/Urgent Care/Surgery Center	C	C	C	C	P	-	-	-	
Hospital	C	C	C	C	P	-	-	-	
Library	C	C	C	C	P	-	-	-	
Meeting, Banquet, or Conference Facility	-	-	-	-	-	-	-	-	4.05, D.5.

**TABLE 4.1 PERMITTED AND CONDITIONAL USES**

Use	Residential				Commercial	Employment	Other	Special	Use Specific Standards
	R-LLS	R-CVS	R-U	R-MF	NC	RI	CO	DC	
Museum	-	-	-	-	P	-	-	-	
Park	C	C	C	C	P	P	P	P	
School, primary or secondary	C	C	C	C	P	-	-	P	4.05, D.6.
<b>INDUSTRIAL</b>									
Bulk Storage of Petroleum	-	-	-	-	-	P	-	-	
Fabrication, light	-	-	-	-	-	P	-	P	4.05, E.1.
Manufacturing, heavy	-	-	-	-	-	P	-	-	4.05, E.2.
Navigational Services to Shipping	-	-	-	-	-	P	-	-	
Mini-warehouse, personal storage	-	-	-	-	-	P	-	-	4.05, E.3.
Mining, quarrying and crude petroleum and natural gas production	-	-	-	-	-	C	-	-	4.05, E.4.
Outdoor storage	-	-	-	-	-	P	-	-	4.05, E.5.
Research and Development	-	-	-	-	-	P	-	P	
Warehouse and Logistics	-	-	-	-	-	P	-	-	4.05, E.6.
Junk, Scrap, or Salvage Yards	-	-	-	-	-	-	-	-	4.05, E.7.
<b>LODGING</b>									
Bed and Breakfast	-	-	-	-	P	-	-	-	4.05, F.1.
Short Term Rentals, Owner Occupied	-	-	-	-	-	-	-	-	4.05, F.2.
Short Term Rentals, Non-Owner Occupied	-	-	-	-	-	-	-	-	
Convalescent homes, nursing homes, assisted living facilities	C	C	C	C	-	-	-	-	4.05, F.3.
Hotel, Motel	-	-	-	-	P	P	-	-	4.05, F.4.

**TABLE 4.1 PERMITTED AND CONDITIONAL USES**

Use	Residential				Commercial	Employment	Other	Special	Use Specific Standards
	R-LLS	R-CVS	R-U	R-MF	NC	RI	CO	DC	
Residential Care Facility	P	P	P	P	-	-	-	-	4.05, F.5.a
Rehabilitation Home Facility	-	-	-	-	-	-	-	-	
<b>RECREATION</b>									
Athletic Fields	C	C	C	C	-	-	P	-	4.05, G.1.
Indoor Commercial Recreation	-	-	-	-	P	-	P	P	4.05, G.2.
Golf Course, Country Club	C	C	C	C	-	-	P	-	4.05, G.3.
Outdoor Commercial Recreation	C	C	C	C	P	P	P	-	4.05, G.4.
Shooting Range or Archery	-	-	-	-	P	P	-	-	4.05, G.5.
Stadium	-	-	-	-	-	-	-	-	4.05, G.6.
<b>TRANSPORTATION</b>									
Airport	-	-	-	-	-	-	-	-	4.05, H.1.
Inland Water Freight Transportation	-	-	-	-	-	P	-	-	
Boat Harbor, Marina	-	-	-	-	-	P	C	P	4.05, H.2.
Heliport, Not Associated with Emergency Medical Services	-	-	-	-	-	C	-	C	4.05, H.3.
Railroad Facilities	-	-	-	-	-	P	-	-	
Truck Terminals	-	-	-	-	-	P	-	-	4.05, H.4.
<b>ACCESSORY (must have a permitted use on the same lot)</b>									
Accessory Structures or Uses, Customary	P	P	P	P	P	P	P	P	4.05, J.1.
Collection Boxes	-	-	-	-	-	-	-	-	4.05, J.4.
Drive Up or Drive Through Facilities	-	-	-	-	P	-	-	-	10.21
Home Occupation	P	P	P	P	-	-	-	-	4.05, J.5.
Individual Service (ATM, Redbox)	-	-	-	-	P	-	-	-	4.05, J.8.

**TABLE 4.1 PERMITTED AND CONDITIONAL USES**

Use	Residential				Commercial	Employment	Other	Special	Use Specific Standards
	R-LLS	R-CVS	R-U	R-MF	NC	RI	CO	DC	
Outdoor Display and Sales, On-going	-	-	-	-	-	-	-	-	4.05, J.9.
<b>TEMPORARY USES</b>									
Construction Trailer or Sales Office	P	P	P	P	P	P	P	P	4.05, K.1.
Mobile Food Sales	-	-	-	-	-	-	-	-	4.05, K.3.
Outdoor Display and Sales, Temporary	-	-	-	-	P	-	-	P	4.05, K.4.

## 4.05 Use-Specific Standards

### 4.05, A Use-Specific Standards

#### A. Agriculture

##### 1. Agriculture, Exempt

- a. The Zoning Administrator will recognize an agricultural use exemption from the zoning regulations only for those properties that:
  1. Meet the KRS definition of agricultural use (KRS 100.111); and
  2. Are located within a zoning district that permits agricultural uses; or
  3. Are a legal non-conforming use within a zoning district that does not permit agricultural uses.
- b. If the above criteria are met, there shall be no regulations except:
  1. Setbacks from existing or proposed streets;
  2. Floodplain regulations, and specifically including agricultural lagoons, liquid waste applications, concentrated animal feeding operations, and storage, distribution, handling, mixing, or cleaning of fertilizers, pesticides, or petroleum products or related equipment shall comply with Section 8.03, E, Water Quality Buffer; and
  3. Mobile homes and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy.
  4. Signs unrelated to the agricultural use shall be regulated by Article 11, Signs.
- c. Two or more principal buildings used as part of the bona fide farm operation may be placed on a single lot of record when such buildings meet the dimensional requirements of this Ordinance.

##### 2. Agriculture, Non-Exempt

- a. All agricultural uses not otherwise exempt are subject to the requirements of this code.
- b. Animal Feeding Operations (AFO) and Concentrated Animal Feeding Operations (CAFO), as defined by KAR 401, Chapter 5.002, are not permitted on any tract of land less than five (5) acres.
- c. When an agriculture use includes stables and animal pens but does not meet the definition of an AFO or CAFO, any structures, pens or corrals housing animals shall be 200 feet from an adjoining property line.

- d. Any agricultural lagoons, liquid waste application, or and storage, distribution, handling, mixing, or cleaning of fertilizers, pesticides, or petroleum products or related equipment shall comply with Section 8.03, E, Water Quality Buffer.

### **3. On-farm Sales (farm markets, roadside stands)**

- a. At least 51 percent of the total on-farm retail sales shall be from the sale of agricultural products produced on the property and value-added agricultural products produced using products grown on the property.

### **4. Agritourism**

- a. Agritourism uses that do not meet the definition of agriculture are not exempt from the requirements of this ordinance.
- b. Agritourism uses shall be located, designed and operated so as not to interfere with normal agricultural practices on and off site, or to convert agricultural lands to a non-agricultural use.
- c. Any exterior lighting installed related to an agritourism use or activity shall be appropriately shielded in accordance with Section 7.05, Site Lighting.

## **B. Residential, Except Accessory Dwellings**

### **1. Accessory Dwellings** (see Subsection 4.05, J. Accessory Uses and Buildings)

### **2. Cottage Court**

- a. No more than 10 units may front the same court.
- b. Each unit must be oriented with a front entry to the court or a public street.
- c. Dwelling units shall be no more than two stories.
- d. Dwelling units shall be separated by a minimum of ten feet.
- e. Each dwelling shall have a front porch at least six feet in depth and 100 square feet in area.
- f. Detached garages shall be architecturally compatible with the primary dwellings.
- g. If off-street surface parking spaces are to be used to meet parking requirements, they shall be accessed from an alley or private drive. The off-street parking area shall not abut the court.

### **3. Live/Work Unit**

- a. No more than four people may be engaged in the making, servicing, or selling of goods and services within the non-residential space.
- b. At least one person associated with the non-residential activity shall reside in the dwelling portion of the unit.
- c. The dwelling portion of the unit shall be above or behind the non-residential space.
- d. The non-residential space shall not exceed 50 percent of the gross floor area of the unit.
- e. Live/work units must have a common access for both the residential and non-residential space and be designed in such a way as to prevent separate lease of spaces.
- f. Any residential dwelling unit using septic tanks shall comply with Section 8.03, E, Water Quality Buffer.

### **4. Manufactured Home, Qualified**

- a. Must meet the KRS definition for "Qualified manufactured home" (KRS 100.348 (2)(d)).
- b. Is compatible, in terms of assessed value, with existing housing located within 1/8 mile radius of the proposed location of the qualified manufacture home immediately adjacent to:
  - 1. Either side of the proposed site within the same block front; or
  - 2. Adjacent to the rear; or
  - 3. Within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured home.

c. In order to determine if a qualified manufactured home is compatible with the existing housing located within 1/8 mile radius of the proposed location of the qualified manufacture home, it must be demonstrated that the qualified manufacture home is consistent with:

1. Floor living space and setbacks;
2. Siding and exterior materials;
3. Roof pitches;
4. Square footage;
5. Foundations

d. Any residential and building manufacturing, and residential dwelling units using septic tanks shall comply with Section 8.03, E., Water Quality Buffer.

#### **5. Manufactured Home**

- a. Must meet the KRS definition of “Manufactured home” (KRS 100.348 (2)(c)).
- b. Any residential and building manufacturing, and residential dwelling units using septic tanks shall comply with Section 8.03, E., Water Quality Buffer.
- c. A patio slab of at least 180 square feet conveniently located at the entrance of the manufactured home is required on each lot. The patio slab shall be constructed of an all-weather type material.

#### **6. Mobile Home**

- a. Must have been manufactured prior to June 15, 1976.
- b. Must be transportable in one or more sections.
- c. Must be eight feet or more in width, 40 feet or more in length, or when erected on site, 320 square feet or greater in area.
- d. Must be built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.
- e. Mobile homes must be installed in accordance with [KRS 227.570](#) by a Kentucky certified installer.
- f. Any residential and building manufacturing, and residential dwelling units using septic tanks shall comply with Section 8.03, E, Water Quality Buffer.
- g. A patio slab of at least 180 square feet conveniently located at the entrance is required on each lot. The patio slab shall be constructed of an all-weather type material.

#### **7. Multi-Family**

- a. If a property owner puts locks on each bedroom door in a single-family home with the intention of subleasing bedrooms as units, that single-family home shall be considered a multi-family residence.
- b. All primary structures shall be oriented to a public or private street, a common open space, or plaza, not a parking lot.
- c. The location of detached garages, carports, and surface parking lots shall comply with Section 10.02, Location of Parking.
- d. Parking garages containing more than 50 spaces shall comply with Section 7.07, 2., d., Parking Garages - Landscaping.
- e. A building shall not be located closer than 20 feet to any other building.
- f. Walkways shall connect all buildings to each other, parking areas, amenity areas, and existing public sidewalks adjacent to the development.
- g. All sides of a building shall display a similar level of architectural features and materials.

h. Garages shall be:

1. Made of the same material as the primary structure.
2. Similar in architectural style to the primary structure (roof pitch, gables, etc.).
3. Sited in a way that avoids long, monotonous rows of garage doors and building walls.
4. Oriented so that they do not visually dominate the building façade or the streetscape.

**8. Single-Family, attached**

a. Each dwelling unit shall be located on its own lot or established as a condominium created under KRS Chapter 381.



- b. No more than two adjacent dwelling units may have the same front facade setback. Variations in front façade setback shall be a minimum of three feet.
- c. No more than eight dwelling units may be attached in one structure.
- d. Any residential dwelling units using septic tanks shall comply with Section 8.03, E., Water Quality Buffers.

**9. Upper Floor Housing**

- a. Outside staircases to units on upper floors are permitted provided they are not visible from a public street. This does not apply to emergency fire escapes required by the building code.
- b. Any residential dwelling units using septic tanks shall comply with Section 8.03, E., Water Quality Buffers.

**10. Two-Family**

- a. Each unit shall have an entrance oriented to a public street frontage or share a common entry oriented to a public street frontage.

- b. Each dwelling in a duplex, located on a corner or double frontage lot, shall front a separate street whenever practicable, except where access is restricted or where the City determines that access to an adjacent street is not desirable.



- c. Outside staircases to units on upper floors are permitted provided they are not visible from the public street. This does not apply to emergency fire escapes required by the building code.

- d. Any residential dwelling units using septic tanks shall comply with Section 8.03, E., Water Quality Buffers.

#### 11. Three/Four-Family

- a. The primary entrance of each dwelling unit shall be oriented to a public street frontage. Individual units may share a common entry oriented to a public street frontage.
- b. Outside staircases to units on upper floors are permitted provided they are not visible from a public street. This does not apply to emergency fire escapes required by the building code.

#### C. Commercial

##### 1. Agriculture Equipment / Chemical Sales, Distribution, Storage

- a. Chemical sales, distribution, or storage is not permitted in Special Flood Hazard Areas.
- b. Agriculture Equipment / Chemical Sales, Distribution, Storage uses shall have access to an arterial or collector street.
- c. Any chemical or petroleum processing or storage shall comply with Section 8.03, E., Water Quality Buffers.

##### 2. Animal Care – Enclosed

- a. No overnight outdoor activity associated with the care of animals. Overnight is defined as the hours between 11 pm and 7 am.
- b. Outdoor activity, limited to walking and bathing of animals, is permitted during the day, provided that no more than four animals are engaged in outdoor activity at a time. "During the day" constitutes the hours between 7am and 11 pm.
- c. When collocated with other uses, pet waste stations shall safely and conveniently located within parking areas.

### **3. Animal Care – Outdoor Activity**

- a. Outdoor animal areas must be a minimum of 250 feet from residential uses within any jurisdiction, except if the property owner or operator lives on the premises.
- b. When collocated with other uses, pet waste stations shall safely and conveniently located within parking areas.
- c. All exterior exercise areas and runs must be fenced for the safe confinement of animals per Section 7.06, Fences and Walls.
- d. In accordance with Table 7.2, Fences and Walls, must be established along any exterior areas used to exercise, walk, or keep animals that abut a residential use.
- e. In all districts, except the Rural Commercial, Highway Commercial, Flex Industrial, and Agriculture Districts, animal care shall be limited to no more than 5 outdoor runs.
- f. In the Rural Commercial, Highway Commercial, Flex Industrial, and Agriculture Districts, animal care shall be limited to no more than 20 outdoor runs.

### **4. Assembly, Commercial**

- a. Places of assembly are subject to a traffic impact study per Section 10.19, Traffic Impact Studies. These uses may not be permitted on local streets if indicated in the TIS as having an adverse impact on the capacity or safety of the local street. Places of assembly seating more than 600 people may only be permitted on a collector or arterial roadway and then only if demonstrated through a traffic impact study that the roadway can accommodate the use.
- b. Pedestrian and bicycle access is encouraged and will be required whenever a public sidewalks, transit routes or trails abut the property.
- c. For assembly uses that include accessory daycare or school facilities, the daycare or school shall require conditional use approval when not identified as a permitted use in that district.
- d. A buffer yard, as prescribed in Section 7.07, M., Buffer Yard Requirements shall be established along any side of the property abutting a residential use.

### **5. Bar or Drinking Place**

- a. Electronically amplified sound using loud speakers or similar devices shall not be permitted outdoors unless it is within ambient noise levels at the property line.

### **6. Brewery, Distillery, Winery**

- a. Breweries, distilleries, or wineries which include a restaurant are subject to the conditions of Section 4.05, C., 22., Restaurant, with or without Drive-in or Drive-Through.
- b. Breweries, distilleries, or wineries with event facilities are subject to the conditions of Section 4.05, D., 5., Meeting, Banquet, or Conference Facility.

### **7. Building Material Sales**

- a. All material storage areas shall be screened along the side and rear yards by placing the materials in a building or by providing a six-foot solid screening fence or six-foot solid screen evergreen hedge.

### **8. Car Wash**

- a. Car washes, vacuums, and similar service devices shall be located a minimum of 50 feet from the nearest portion of an adjacent residential zoning district within any jurisdiction or lot containing a legal, conforming residential use within any jurisdiction. Where automatic dryers are installed, separation shall be 500 feet from the nearest lot line of an adjacent residential zoning district within any jurisdiction, or lot containing a legal, conforming residential use within any jurisdiction.
  - b. Car washes accessory to a principal use shall be in the side or rear yard only.
  - c. Hours of operation shall be no earlier than 8:00 a.m. and no later than 11:00 p.m.
- 9. Carpenter shops, electrical, plumbing and heating shops, furniture upholstery and similar establishments**
- a. All materials shall be stored within an enclosed building.
  - b. Any furniture repair or manufacturing shall comply with Section 8.03, E., Water Quality Buffer.
- 10. Check Cashing and Title Loan Businesses**
- a. Check cashing and title loan businesses are not permitted within 500 feet of each other, measured by a straight line in any direction, from the lot line of the one use to the lot line of another use.
- 11. Conversions**
- a. In residential districts where non-residential uses are permitted, residential structures can be converted to non-residential uses provided the exterior residential character of the building is preserved.
  - b. Parking shall be located on the side or behind the structure.
- 12. Day Care Or Adult Or Child Care Centers and Family Child Care Homes**
- a. Family Child Care Homes
    - 1. Must meet the requirements of Home Occupations in Section 4.05, J., 5., Accessory Uses and Buildings - Home Occupations.
  - b. Day Care Or Adult Or Child Care Center, Type II
    - 1. Must meet the requirements of Home Occupations in Section 4.05, J., 5., Accessory Uses and Buildings - Home Occupations.
    - 2. The child care operation must be clearly incidental and secondary to the occupied residential use of the building.
    - 3. No physical changes to the residential structure, not otherwise customary to residential use, shall be permitted.
    - 4. Signage must meet requirements for residential uses.
    - 5. Care shall be provided by persons residing on the premises although one additional care giver not residing on the premises may also be employed.
    - 6. Drop-off and pick-up must be accommodated off-street in established vehicular and pedestrian areas and shall accommodate sufficient stacking space to prevent obstruction of public streets.
  - c. Day Care Or Adult Or Child Care Center, Type I
    - 1. On-site care services provided to employees of an industrial or other employment use are allowed as an accessory use in commercial and industrial zones.
    - 2. The care center must be located on a dedicated lot of one acre or more in size or must be integrated into a mixed-use building.
    - 3. Outdoor areas must be in a side or rear yard screened to a height of six feet from adjacent residential properties located in residential zoning districts within any jurisdiction. Outdoor activity is limited to between the hours of 8 a.m. and 9 p.m.
    - 4. Drop-off and pick-up must be accommodated off-street in established vehicular and pedestrian areas and shall accommodate sufficient stacking space to prevent obstruction of public streets.

5. When located at the periphery of residential neighborhoods, primary access to the care center may not be from local roads serving the neighborhood.

**13. Dry Cleaner**

a. If a dry-cleaning establishment includes on-site laundering or cleaning activities, it is not permitted in Special Flood Hazard Areas.

**14. Farmers' Market**

a. Farmers' markets must be operated by one or more farmers/producers, a nonprofit organization, or a local government agency.

b. At least 70 percent of vendors must be farmers and other businesses who sell food, plants, flowers, and added-value products such as jams and jellies, that have been grown or produced within the states of Kentucky, Ohio, or Indiana.

c. Adequate trash and recycling containers shall be provided during hours of operation and shall be removed from site for appropriate disposal. The site shall be cleaned at the end of each day of operations, including the removal of all stalls and debris.

**15. Funeral Home, Mortuary, Crematorium**

a. Funeral homes, mortuaries, and crematoriums shall have access to an arterial or collector street.

**16. Gas Station**

a. The sale of convenience food items, incidental automobile supplies, or accessories may be provided as an accessory use to a gas station.

b. A one-bay car wash may be provided as an accessory use to a gas station meeting the requirements of Section 4.05, C., 8., Car Wash.

c. Outdoor display and sales areas are permitted subject to the conditions of Section 4.05, J., 9., Accessory Buildings and Structures - Outdoor Display and Sales, On-Going.

d. The minimum distance between the canopy and the right-of-way shall be 12 feet. The minimum distance between the canopy and an interior lot line shall be 20 feet. Structures and all pump islands, compressed air connections, and similar equipment shall be set back a minimum of 20 feet from side and rear lot lines.

e. For a corner lot, curb cuts are restricted to one curb cut per street frontage.

f. Minor motor vehicle service is permitted as part of a gas station use.

g. Light fixtures mounted under canopies should be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface (ceiling) of the canopy.

h. Lights should not be mounted on the top or sides (fascias) of the canopy.

i. Outdoor waste and recycling receptacles for customer use shall be provided, conveniently located, regularly serviced, and maintained.

j. Canopy height, as measured from the finished grade to the lowest point on the canopy fascia, should not exceed 13 feet 9 inches. The clearance height of canopies should be clearly indicated on the structure or through use of a headache bar.

k. The overall height of canopy fascia should not exceed one foot. The fascia shall be designed to block the direct view of the light sources and lenses from the property line.

l. Any automobile body and repair shops, gas stations and petroleum storage facilities shall comply with Section 8.03, E., Water Quality Buffer.

**17. Liquor Store**

a. Liquor stores shall not be located within 500 feet, measured in any direction, from the exterior wall to the exterior wall of any primary or secondary school, public library, park, child day care, or indoor recreation

& entertainment establishment that caters to, or markets itself predominantly to, persons under 21 years of age.

**18. Motor Vehicle Sales and Rental**

- a. Vehicles for sale, lease, or rental may be displayed in the front yard provided that no vehicle shall be displayed within 15 feet of the street right-of-way.
- b. Display areas must be shown on the site plan.
- c. All new display areas shall be paved with an all-weather, hard-surfaced material, such as concrete, asphalt, paver, or comparable material.

**19. Motor Vehicle Service, Major**

- a. All servicing, motor repair, or body repair shall be conducted within an enclosed building.
- b. Vehicles to be stored on premise longer than 7 days (long-term) must be screened from view by a six-foot, opaque, non-combustible fence from adjacent public streets and abutting properties. Vehicles to be serviced immediately or within 7 days may be stored in parking lots with required landscaping per Section 7.07, L., Parking Lot Landscaping.
- c. Public streets and alleys shall not be used for the storage of inoperable vehicles, or for storage of any vehicles awaiting service or work by the establishment.
- d. Long term vehicle storage areas are exempt from the interior landscaping requirements for parking lots.
- e. Any automobile body and repair shops shall comply with Section 8.03, E., Water Quality Buffer.

**20. Motor Vehicle Service, Minor**

- a. All servicing shall be conducted within an enclosed building.
- b. Minor repair work does not include replacement of engines, replacement of transmissions, or any body work.
- c. No partially dismantled, wrecked, or unlicensed vehicle shall be stored outdoors on the premises. This standard does not apply to vehicles under repair.
- d. Any automobile body and repair shops shall comply with Section 8.03, E., Water Quality Buffer.

**21. Nursery / Garden Supply**

- a. All materials shall be screened by placing the materials in a building or by providing a six-foot solid evergreen hedge.
- b. One single-family dwelling occupied by the owner, operator, or manager of the nursery will be considered customary and incidental as part of this use.

**22. Off-Street Parking Lot, Non-Accessory**

- a. All off-street parking lots shall meet all of the interior, perimeter, parking lot, buffer yard, site element, and street tree landscaping requirements per Section 7.07, L., Parking Lot Landscaping.
- b. The required setbacks are determined by the width of the required landscaping.
- c. Any gate or pay station at the entrance or exit must allow for the stacking of one vehicle off of the street.

**23. Restaurant, with or without Drive-in or Drive-Through**

- a. Any restaurants with drive in or drive through shall comply with Section 10.21, Parking and Loading Standards - Drive-In or Drive-Through Lanes and Stacking Spaces.
- b. Bars are permitted in restaurants provided they are less than 50 percent of the serving area. If the bar portion of the restaurant occupies greater than 50 percent of the serving area, the use shall be considered a Bar Or Drinking Place and shall be subject to the conditions of Section 4.05, C., 5., Bar or Drinking Place.
- c. Restaurants with outdoor seating or dining adjacent to residential and non-residential districts shall meet the following criteria:

1. Outdoor seating areas are not permitted within 100 feet from an R-LLS and R-CVS Zone, 50 feet from an R-MF, and 10 feet from an R-U Zone.
  2. Outdoor seating shall end by 10:00 p.m. from Sunday through Thursday and 12:00 midnight on Friday and Saturday.
  3. Outdoor dining shall not exceed 25 percent of the maximum seating capacity of the indoor dining area.
  4. A decorative fence or wall or similar barrier shall be erected and maintained between any outdoor seating or dining area and residential and public right-of-way in accordance with Sections 7.06, Fences and Walls and 7.07, Landscaping, Screening, and Buffers.
  5. Outdoor waste and recycling receptacles for customers shall be provided, conveniently located, regularly serviced, and maintained.
  6. If a pedestrian walkway is provided around an outdoor dining area, then it must be a minimum of five-foot wide to allow pedestrians unobstructed passage around the outdoor seating or dining area.
  7. Amplified sound is permitted between 7:00 a.m. and 10:00 p.m. Sunday through Thursday, and 7:00 a.m. and 11:00 p.m. Friday and Saturday. Unamplified sound is permitted.
  8. Outdoor dining must be calculated into the off-street parking requirements in the manner prescribed in Table 10.1, Required Off-Street Parking.
- d. Within the RI Zone, in addition to the above:
1. Uses located and entered from within any use permitted in this zone as a convenience to the occupants thereof, and their customers, providing such accessory uses shall not exceed ten percent of the gross floor area of the permitted uses in the building.
  2. No exterior advertising displays shall be visible from the outside of the building.

#### **24. Tattoo or Body Art Services**

- a. Tattoo or body art services are not permitted within 500 feet of another tattoo or body art service use (even if it is located within another jurisdiction), measured by a straight line in any direction, from the lot line of the one use to the lot line of another use.

### **D. Institutional**

#### **1. Assembly, Institutional and Civic**

- a. Places of assembly are subject to a traffic impact study per Section 10.19, Traffic Impact Studies. These uses may not be permitted on local streets if indicated in the TIS as having an adverse impact on the capacity or safety of the local street. Places of assembly seating more than 600 people may only be permitted on a collector or arterial roadway and then only if demonstrated through a traffic impact study that the roadway can accommodate the use.
- b. Pedestrian and bicycle access is encouraged and will be required whenever a public sidewalks, transit routes or trails abut the property.
- c. Maximum building height standards do not apply to spires, belfries, cupolas, or similar architectural elements.
- d. For assembly uses that include associated daycare or school facilities, the daycare or school shall require conditional use approval when not identified as a permitted use in that district.
- e. Except as noted in Section 4.05, J., Accessory Uses not permitted as principal uses (including television stations, radio stations, printing presses, or sports complexes) are prohibited.
- f. A buffer yard, as prescribed in Section 7.07, M., Buffer Yard Requirements, shall be established along any side of the property abutting a residential use.

#### **2. Cemeteries and Crematories**

- a. Offices, indoor or outdoor areas of assembly, tombstones, crypts, monuments and mausoleums must be located at least 50 feet from any street right-of-way line and at least 20 feet from any side or rear property line. Greater setbacks shall be observed if otherwise required by the zoning district in which it is located.
- b. A minimum of three acres shall be needed for any cemetery being developed as a principal use.
- c. Offices and areas of assembly need to meet the corresponding off-street parking requirement for those uses.

### **3. College or University**

- a. Facilities normally associated with a college, such as residence halls, administrative buildings, cafeterias, auditoriums, gymnasiums, classrooms, and sports facilities shall be permitted as accessory uses.
- b. All Colleges or Universities shall have primary access to an arterial or collector street, secondary access may be from local streets.
- c. Any recreational uses must meet the applicable standards of subsection "G Recreation" below.

### **4. Community Center, Civic Center**

- a. Community centers are subject to a traffic impact study (TIS) per Section 10.19, Traffic Impact Studies. These uses may not be permitted on local streets if indicated in the TIS as having an adverse impact on the capacity or safety of the local street. Centers with a seating more than 600 people may be permitted on a collector or arterial roadway if demonstrated, through a traffic impact study, that the roadway can accommodate the use.

### **5. Meeting, Banquet, or Conference Facility**

- a. Facilities are subject to a TIS per Section 10.19, Traffic Impact Studies. These uses may not be permitted on local streets if indicated in the TIS as having an adverse impact on the capacity or safety of the local street. Facilities with a seating more than 600 people may be permitted on a collector or arterial roadway if demonstrated, through a traffic impact study, that the roadway can accommodate the use.

### **6. School, Primary or Secondary**

- a. Schools are subject to a TIS per Section 10.19, Traffic Impact Studies. If the TIS concludes that there will be an adverse impact on the capacity or safety of the local streets, then these uses may not be permitted on local streets. Facilities with an enrollment of more than 600 people may be permitted on a collector or arterial roadway if demonstrated, through a traffic impact study, that the roadway can accommodate the use.
- b. All schools shall provide drop-off and pick-up areas that accommodate sufficient stacking space to prevent obstruction of public streets.
- c. Any recreational uses must meet the applicable standards of subsection "G. Recreation" below.

## **E. Industrial**

### **1. Fabrication, Light**

- a. Storage of materials, supplies, and products, as accessory to this use, shall be in enclosed buildings or in rear yards only and shall meet all other standards Section 4.05, E., 5., Outdoor Storage, below.
- b. Accessory retail sales may occupy up to 20 percent of the gross floor area of the primary structure.
- c. Any electrical or electronic fabrication, residential and building manufacturing, machine shops, metal plating, finishing, or fabrication, photo processing and printing, or plastics or synthetics production shall comply with Section 8.03, E., Water Quality Buffer.

### **2. Manufacturing, Heavy**

- a. Storage of materials, supplies, and products, as accessory to this use, shall be in enclosed buildings or only located in rear yards and shall meet all other standards for Section 4.05, E., 5., Outdoor Storage, below.
- b. Accessory retail sales may occupy up to 20 percent of the gross floor area of the primary structure.

- c. Any electrical or electronic fabrication, residential and building manufacturing, machine shops, metal plating, finishing, or fabrication, photo processing and printing, plastics or synthetics production, or storage, distribution, handling, mixing, or cleaning of fertilizers, pesticides, or petroleum products or related equipment shall comply with Section 8.03, E., Water Quality Buffer.

### **3. Mini-Warehouse, Personal Storage**

- a. No retail, repair, or other commercial use shall be conducted out of individual rental storage units.
- b. The use of power tools, paint sprayers, or the servicing, repair or fabrication of furniture, boats, trailers, motor vehicles, lawn mowers, appliances, and other similar equipment on the premises is prohibited.
- c. No storage of hazardous materials is permitted. This restriction shall be posted at a conspicuous location within the front of each rental unit.
- d. Open storage, outside an enclosed building, is permitted but shall be limited to vehicles and trailers with a valid registration, subject to Section 10.13 Parking, Storage, or Use of Campers, Boats, Trailers, or Recreational Vehicles and Other Similar Equipment. Open storage of boats, construction equipment, and vehicles may be stacked higher than the fence.
- e. Driveway aisles between structures shall be a minimum of 24 feet wide.
- f. Exterior walls visible from a public street or residential district shall be constructed of decorative block, concrete panel, stucco, or similar material. These walls shall include architectural relief through articulation, trim, change in color at the base, variations in height, the use of architectural “caps”, attractive posts, or similar measures.

### **4. Mining, Quarrying and Crude Petroleum and Natural Gas Production**

- a. All methods of operation, construction of roads, back-filling, grading, blasting, water impoundments, treatment facilities, and reclamation must be in conformance with the regulations adopted by the Energy and Environment Cabinet Department for Natural Resources, Division of Mine Reclamation and Enforcement. Any excavation or processing operations shall be subject to the regulations of the Kentucky Water Pollution Control Commission.

### **5. Outdoor Storage (where permitted as a primary or accessory use)**

- a. Where outdoor storage is permitted, the following standards apply:
  - 1. Outdoor storage shall be located behind required front setbacks or buffer areas.
  - 2. All outdoor storage facilities for manufacturing equipment, fuel, raw materials, sub-assemblies, finished goods and defective or repairable goods shall be enclosed by an opaque fence with a maximum height of eight feet, a berm, or a wall with a maximum height of eight feet in combination with landscaping that completely conceals the view of those materials.
  - 3. Outdoor storage not visible to the street or adjoining properties may not require screening, but will be evaluated by the Zoning Administrator for potential impacts on surrounding areas on a case-by-case basis.
  - 4. Construction materials stored outside at an active construction site with a valid building permit are excluded from this use.
  - 5. Must be located on a paved surface or permeable pavement.

### **6. Warehouse and Logistics**

- a. Any operations, servicing or processing, except storage and off-street loading, shall be conducted within completely enclosed buildings.
- b. The use shall not locate storage areas, truck loading areas, or vehicle circulation routes within a required setback or perimeter buffer.

- c. Storage of materials, supplies, and products, as accessory to this use, shall be in enclosed buildings or in rear yards only and shall meet all other standards for Section 4.05, E., 5., Outdoor Storage, above.
- d. The use shall be designed to ensure proper functioning of the site including vehicle stacking, circulation, and turning movements.
- e. The use shall have direct access onto an arterial or collector street. Access to a local street may be substituted when such local street is within an industrial subdivision which accesses an arterial or collector street.

#### **7. Junk, Scrap, or Salvage Yards**

- a. Storage areas shall be fully enclosed and screened from view on all sides to a minimum height of seven feet.

### **F. Lodging**

#### **1. Bed and Breakfast**

- a. The Bed and Breakfast owner shall reside on site as their primary residence.
- b. The use shall be in a primary building with at least 1,500 sq. ft. of gross floor area.
- c. Guest stays shall be limited to a maximum of 29 consecutive days.
- d. Food service shall be limited to residents and overnight guests in districts where restaurants are not permitted as a primary use.
- e. There shall be no cooking facilities for use by the occupants of the bed and breakfast within sleeping rooms.
- f. If located in a residential district:
  - 1. The use shall outwardly appear to be residential in character, giving no appearance of a business use other than allowed signs.
  - 2. Only guests shall be permitted to dine in a bed and breakfast; or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved design capacity of the facility.
  - 3. The use shall have no more than six guest bedrooms.

#### **2. Short Term Rentals, Owner Occupied, and Non-Owner Occupied**

- a. The maximum length of each stay shall be 29 days.
- b. No lease shall be rented less than one night's stay.
- c. There shall be no external evidence of a short-term rental. The street address must clearly be visible from the right-of-way.
- d. Short-term rentals shall not adversely affect the character of the neighborhood nor shall the use generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her property.
- e. Short-term rentals are permitted in the primary structure and one accessory dwelling unit (where permitted). Owner-occupied short-term rentals shall be clearly incidental to the primary residential use.
- f. Short-term rentals shall not be located in mobile homes, recreational vehicles, travel trailers, tents, campgrounds, sheds, garages, or barns or any other structure typically not used as a residence.

#### **3. Convalescent Homes, Nursing Homes, and Assisted Living Facilities**

- a. Convalescent homes, nursing homes, and assisted living facilities shall comply with, and maintain any required local, state, and federal permits.
- b. Uses in residential districts shall be designed to be residential in character.
- c. Uses shall be designed with appropriate access and maneuverability for emergency vehicles.

#### 4. **Hotel and Motel**

- a. All sleeping accommodations must be accessible from the interior of the building.
- b. Guests must pass through a lobby which must be staffed 24 hours a day.
- c. Must provide a covered entryway for the purposes of loading and/or unloading of vehicles.
- d. Must include a business facility, gym, or workout facility, and one of the following;
  1. restaurant or lounge which includes breakfast service
  2. indoor pool
  3. additional amenities as approved by the Zoning Administrator
- e. Automobile rental shall be permitted as an accessory use only in accordance with the following requirements:
  1. No sign advertising the rental of automobiles shall be located outside the hotel or motel building; and
  2. No more than ten automobiles, which are not currently leased to customers, shall be parked on the same property as the hotel or motel.
- f. Truck and trailer rental is not permitted.

#### 5. **Residential Care Facilities and Rehabilitation Homes**

##### a. **Residential Care Facility**

1. These facilities must adhere to the regulations in [902 KAR 20:078](#).
2. These facilities are subject to [KRS 100.982](#) through [KRS 100.984](#).
3. Uses shall maintain all applicable local, state, and federal permits and licenses.

##### b. **Rehabilitation Home**

1. These facilities must adhere to the regulations in [908 KAR 1:370](#).
2. No rehabilitation home shall be located on a lot within 1,000 feet, measured by a straight line in any direction, from the lot line of another rehabilitation home within any jurisdiction.
3. The number of residents is limited by applicable state laws and building codes, including any minimum square footage requirement per person, but in no event shall the number of residents exceed ten.
4. Rehabilitation homes in residential districts shall be designed to be residential in character.
5. Uses shall maintain all applicable local, state, and federal permits and licenses.
6. A rehabilitation home must be for youth under the age of 18 or adults over the age of 18. There shall not be a mixed-age rehabilitation home.

#### G. **Recreation**

##### 1. **Athletic Fields**

- a. Fences around athletic fields and sport courts must meet the requirements of Section 7.06, Fences and Walls.
- b. If lighted, the use requires conditional use approval.

##### 2. **Indoor Commercial Recreation**

- a. Indoor commercial recreation facilities may include accessory retail, restaurants, snack bars, and other incidental food and beverage services to patrons.
- b. Sound associated with any indoor recreation facility shall not be audible outside of the building in which the activity is occurring.

##### 3. **Golf Course, Country Club**

- a. The center line of any fairway shall be setback 200 feet from the adjacent property or lot lines.

- b. Tees shall have a setback of 100 feet from adjacent property or lot lines.
- c. Greens shall have a setback of 100 feet from adjacent property or lot lines.
- d. A landscape plan shall be required for vegetative screen along the perimeter of the course. The vegetative screen may have vista breaks that do not compromise the safety of the adjacent lots. Existing vegetation can be used to satisfy this requirement.
- e. Driving ranges shall be located 300 feet from any property line or right-of-way unless perpendicular to and hitting away from said lines.
- f. The provision of accessory retail sales, food, refreshment and entertainment shall be permitted in connection with any Golf Course or Country Club. Such facilities shall not be open to the general public unless it is commercially zoned.

#### **4. Outdoor Commercial Recreation**

- a. Outdoor commercial recreation facilities may include restaurants, snack bars, and other incidental food and beverage services to patrons
- b. Outdoor commercial recreation facilities must be at least 300 feet from residential districts within any jurisdiction and 300 feet from existing residences in nonresidential districts within any jurisdiction.

#### **5. Shooting Range or Archery**

- a. Only indoor shooting and archery ranges are permitted and must meet the following:
  - 1. Must meet the regulations for Indoor Commercial Recreation, 4.05., G., 2.
  - 2. Facilities shall be designed to minimize safety concerns for nearby properties and must contain all of the bullets, shot, arrows, or any other debris on the range facility.

#### **6. Stadium**

- a. If lighted, the use requires conditional use approval.
- b. The use shall have direct access onto an arterial or collector street.

### **H. Transportation**

#### **1. Airport**

- a. Proof of Air Space Clearance from the Federal Aviation Agency is required prior to the issuance of a zoning permit.
- b. Design standards for an airport and airfield shall be in accordance with Federal Aviation Administration requirements.
- c. The owner shall maintain the airfield with a surface that minimizes dust.
- d. The area shall be fenced to prevent trespassing by animals or unauthorized persons.
- e. Except in areas properly zoned for such uses, there shall be no business, repair or advertisement, except for the sale of gasoline to the planes based at the field.
- f. Any airport maintenance, aircraft construction and aircraft fueling areas must comply with Section 8.03, E., Water Quality Buffer.

#### **2. Boat Harbor, Marina**

- a. The development of all facilities in or adjacent to navigable waters shall be approved by the Corps of Engineers, Department of the Army, and the Division of Water, Kentucky Department for Natural Resources and Environmental Protection.
- b. The following uses shall be permitted as accessory uses in connection with any boat harbor or marina provided, they are primarily intended to serve only persons using the boat harbor or marina:
  - 1. Boat fueling, service, and repairs

2. Sale of boat supplies
3. Grocery store
4. Restaurant
5. Boat landing, docking, and launching facilities
6. Off-street parking facilities including facilities for temporary parking of boat trailers
7. Outdoor or indoor storage of boats

c. Any boat services including repair or refinishing shall comply with Section 8.03, E., Water Quality Buffer.

### **3. Heliport, Not associated with Emergency Medical Services**

- a. Design standards for a heliport shall be in accordance with Federal Aviation Administration requirements.
- b. Proof of Air Space Clearance from the Federal Aviation Agency is required prior to the issuance of a zoning permit.
- c. The facility must be designed and placed to minimize noise and safety impacts to adjoining properties and to properties within a 1,000-foot radius of the heliport site as measured from the center of the final approach and takeoff area.
- d. The applicant for a heliport conditional use permit shall notify by first class mail all property owners within a 1,000-foot radius of the center of the proposed final approach and takeoff area. This notice shall be mailed at least 30 days prior to the date of the hearing on the request. This notice shall contain the same information as the notice required by Section 13.01, E., Public Hearing and Notices.

### **4. Fleet, Truck, or Bus Terminals**

- a. Any fleet, truck or bus terminals shall comply with Section 8.03, E., Water Quality Buffer.

## **I. Utility**

### **1. Public or Quasi-public Utilities and Related Facilities**

- a. New utility facilities are subject to a public facility review per KRS 100.324.

## **J. Accessory Structures or Uses, Customary**

### **1. Accessory Uses**

- a. All accessory uses must be located on the same lot as the principal use, and shall not be separated from the principal use by a lot line or a public street. Accessory uses on separate lots from the principal use or on a site separated from the principal use by a public street shall be considered principal uses and will be regulated as such.
- b. Customary accessory uses shall not be construed to authorize a use not otherwise permitted in the district where located.

### **2. Accessory Dwellings**

- a. See Section 7.04, Character Standards for additional standards.
- b. Accessory dwellings are not included in the cumulative floor area limitations established in Subsection 3 below.
- c. Where permitted, only one accessory dwelling unit may be established per single-family or two-family lot.
- d. Where permitted, accessory dwelling units may only be established on lots with a size equal to or greater than 5,000 square feet.
- e. Accessory dwelling units are exempt from the lot area per unit and maximum density standards of Section 3.04, Zoning District.
- f. Accessory dwelling units may be attached to or detached from the primary dwelling unit.
- g. For attached accessory dwelling units:

1. Only one entrance is permitted on the front of the primary dwelling unit. An additional entrance is permitted on the side or rear of the primary structure.
  2. The accessory dwelling unit shall conform to the setbacks required for primary structures.
- h. Setbacks for detached accessory dwelling units shall conform to setbacks for other accessory structures.
- i. The maximum size of an accessory dwelling unit is 75 percent of the living area of the primary dwelling unit or 1,200 square feet, whichever is less.
  - j. The accessory dwelling unit shall not exceed the height of the primary structure.
  - k. The property owner shall occupy either the primary dwelling unit or the accessory dwelling unit.
  - l. Where short term rentals are permitted, accessory dwelling units may be used as short-term rentals subject to the provisions of Section 4.05, F., 2., Short Term Rentals.
  - m. Any residential dwelling unit using septic tanks shall comply with Section 8.03, E., Water Quality Buffers.
- 3. Accessory Structures Except Accessory Dwellings**
- a. Accessory structures in all districts:
    1. Cumulative floor area as used in this section includes all accessory structures and accessory dwellings.
    2. No accessory structure shall be in any front yard. Accessory structures and uses shall be permitted to be extended into the minimum rear yard, as defined herein, but must be set back from the rear lot line a minimum of 10 feet, and required minimum side yard clearances shall be maintained.
    3. See Article 7 for additional standards for garages and carports.
  - b. Accessory structures in the Residential Large Lot Subdivision, Residential Conventional Subdivision, and Conservation districts:
    1. Shall meet all setback requirements. See Section 5.08 for exceptions for small buildings.
    2. The cumulative floor area of all accessory structures located in the rear yard shall not exceed 50 percent of the rear yard area.
    3. The cumulative floor area of all accessory structures located in the side yard (where permitted) shall not exceed 50 percent of the side yard area .
  - c. Accessory structures in the Residential Urban district:
    1. Shall meet all setback requirements. See Section 5.08 for exceptions for small buildings.
    2. The cumulative floor area of all accessory structures located in the rear yard shall not exceed 700 square feet or 20 percent of the rear yard, whichever is less.
    3. The cumulative floor area of all accessory structures located in the side yard (where permitted) shall not exceed 700 square feet or 20 percent of the side yard, whichever is less.
    4. In all cases, the cumulative floor area of all accessory structures shall not exceed the floor area of the primary structure.
  - d. Accessory structures in the Mobile Home Park district:
    1. Each dwelling site may have one carport and one additional accessory structures which shall not exceed 25 percent of the dwelling or 200 square feet, whichever is less.
  - e. Accessory structures in the Residential Multi-Family, Downtown Core, and non-residential districts (excluding the Conservation district):
    1. Shall meet all setback requirements.
    2. In the Residential Multi-Family and all commercial districts, accessory structures shall use exterior materials and forms similar to the primary structure(s).

3. In all employment districts, accessory structures shall be compatible with the surrounding non-residential area.

#### **4. Collection Boxes**

##### **a. All Collection Boxes**

1. Collection boxes must meet applicable setback standards for structures in the district in which they are located.
2. Collection boxes shall be placed on a hard-surfaced material, such as concrete, asphalt, paver, or comparable material, shall have paved access to them, and shall not be placed within any required parking space.
3. Each collection box shall include the contact information for the collection operator clearly visible on the outside of the container. Contact information shall include at minimum the name of the collecting organization and a valid phone number.
4. All donations or collection items must be fully contained within a collection box. Collection boxes shall state on their exterior: "No items shall be left outside this box."

##### **b. Large Collection Boxes**

1. Collection boxes exceeding 3 feet in width or depth or exceeding 4 feet and 6 inches in height are considered large collection boxes.
2. Large collection boxes shall not exceed six feet deep by six feet wide, and eight feet in height.
3. Collection boxes must be located at least 100 feet from any residential district within any jurisdiction.
4. No more than one large collection box is permitted on a parcel.

##### **c. Small Collection Boxes**

1. Collection boxes less than 3 feet in width or depth and less than 4 feet and 6 inches in height are considered small collection boxes.
2. Small collection boxes do not require a zoning permit but are subject to the standards of this section.
3. No more than four small collection boxes are permitted per parcel.

#### **5. Home Occupation**

- a. The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the residential dwelling.
- b. The home occupation shall not create noise, dust, vibration, odor, glare, fire hazard, or any other nuisance or hazard that disturbs the typical character of the residential area.
- c. The home occupation shall employ no more than one person who is not a resident of the dwelling including volunteers.
- d. There shall be no outdoor storage or visible display relating to the home occupation, including materials, stock in trade, or equipment.
- e. There shall not be external evidence that advertises or alerts the presence of the home occupation excluding signs permitted by Article 11 or signs on the sides of vehicles which are regularly used in the operation of the business.
- f. Business activity shall be only conducted electronically or by appointment, except Family Child Care Homes.
- g. The home occupation shall not cause vehicular or pedestrian traffic greater than that traffic normally associated with the residential area in which the home occupation is located. Family Child Care Homes are exempt from this requirement.

#### **6. Decks and Patios**

- a. Except as permitted in Section 5.08, Permitted Encroachments, decks and patios may not encroach into a required yard.
- b. Decks and patios shall only be installed on the side or rear of the house. The term “decks and patios” does not include a Front Porch or stoop. This standard is not in any way intended to affect handicap ramps or the use of decking materials in the creation of a traditional front porch.

#### **7. Swimming Pools and Spas**

- a. Pools, spas and related equipment are only permitted in the rear yard and may not be located within any required setback.
- b. All pools and spas must meet enclosure and gate requirements of the Kentucky Building Code.

#### **8. Individual Services**

- a. Individual service structures, such as freestanding ATMs, movie rental kiosks, vending machines, and ice freezers, are only permitted as accessory structures to principal uses.
- b. The preferred location for such structures is inside the principal structure.
- c. Structures shall not be located in a manner that impedes pedestrian access, blocks parking areas, or creates any unsafe condition. Freestanding ATMs that are drive-up shall require a minimum of three stacking spaces.

#### **9. Outdoor Display and Sales, On-going**

- a. The use or structure must comply with all setback requirements for a primary building on the site.
- b. There shall be no outdoor displays that restrict traffic visibility in any way or impede the movement of vehicles on the site.
- c. There shall be no outdoor displays located in or in any way conflicting with or interfering with sidewalks, walkways, off-street parking areas or required landscaping yards.
- d. Outdoor display and sales areas shall be on a hard-surfaced material, such as concrete, asphalt, paver, or comparable material.
- e. Outdoor display and sales areas shall be maintained in an orderly manner.
- f. Outdoor display and sales shall not be located in a front yard unless the display is located abutting a building exterior wall and is less than 8 feet in depth. Except, gas stations may have outdoor display and sales in the front yard if located within the canopy area. Outdoor display and sales located in the side or rear yard must be screened from view of any public right-of-way.

### **K. Temporary Uses**

#### **1. All Temporary Uses**

- a. A Temporary Use Permit shall be required prior to the establishment of any Temporary Use.
- b. Sale of retail products shall be limited to those allowed for sale by permitted uses the zoning district in which the temporary use is located.
- c. Permission to operate a temporary use on public or private property must be obtained in writing from the property owner or their designee.
- d. Temporary uses may not be located in a required setback, landscaping, or buffer area.
- e. Temporary uses may not take up required parking spaces, obstruct traffic on public streets, or interfere with safe traffic movement within parking lots or driveways.
- f. No mobile vendor shall be left unattended or stored, parked, or left overnight on any street or sidewalk.
- g. No temporary use shall solicit or conduct business with persons in motor vehicles.
- h. No temporary use shall use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract the attention of the public, except for ice cream trucks.

i. No mobile vendor shall engage in open-lot or outdoor display of products or merchandise.

## **2. Construction Trailer or Sales Office**

a. A construction trailer or sales office may be established and operated until the time of the Certificate of Occupancy, or completion of the sale of the lots or residences within the subdivision.

b. Real estate sales conducted from a temporary sales office are limited to sales of lots within the subdivision it is located and to other subdivision projects under the same ownership.

## **3. Mobile Food Sales**

a. A mobile food establishment must be licensed by the Northern Kentucky Health Department, must obtain any required occupational license, and any required local right-of-way or business permits.

b. Mobile food sales are not permitted within 50 feet of a residential district within any jurisdiction or 100 feet of an operating restaurant within any jurisdiction.

c. The 50 feet restriction from residential districts does not apply to ice cream trucks.

d. Drive-through service is not permitted.

e. Exterior lighting must be hooded or shielded.

f. A mobile food establishment is limited to signs attached to the exterior of the mobile food establishment. The signs:

1. Must be secured and mounted flat against the mobile food establishment; and

2. May not project more than six inches from the exterior of the mobile food establishment.

g. A trash receptacle for use by customers shall be provided during hours of operation.

## **4. Outdoor Display and Sales, Temporary**

a. Temporary outdoor display is allowed for less than 48 hours unless otherwise approved by the Zoning Administrator.

b. Temporary outdoor display of goods shall be located immediately adjacent to the building and not in drive aisles, loading zones, fire lanes, or parking lots, except that areas in parking lots expressly shown and labeled on a site plan for temporary seasonal sales locations may be approved provided required parking for the primary use can still be met and the site doesn't interfere with safe pedestrian and vehicular circulation.

c. The area used for outdoor display or sales shall not occur on the sides and rear of buildings and shall be limited to no more than one-quarter of the length of the building front, unless otherwise approved by the Zoning Administrator after considering aesthetic and safety concerns.

d. The outdoor display area shall take place on a hard surface or pavement.

e. No outdoor displays shall be allowed in required landscape areas.

f. At least five feet shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to get around the display.

# **ARTICLE 5 DIMENSIONAL REQUIREMENTS**

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## **Contents:**

### **5.01 Purpose and Applicability**

### **5.02 Conformance**

### **5.03 Flexible Administrative Modification Rules**

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### 5.06 Setback and Lot Width Measurements

### 5.07 Yard Area Delineation

### 5.08 Permitted Encroachments

### 5.09 Height and Bulk Measurements

## 5.01 Purpose and Applicability

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- A. This Article is intended to define the dimensional standards and how the district standards should be applied to a lot.
- B. The standards that follow apply to all development in all established zoning districts unless expressed otherwise in this Ordinance. The dimensional standards for special districts shall be established for those districts upon adoption.

## 5.02 Conformance

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Buildings which do not conform with the standards set forth by its zoning district or this Article shall follow the standards and regulations for nonconformities set forth in Article 2, Applicability & Conformity.

## 5.03 Flexible Administrative Modification Rules

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The Zoning Administrator may, from time to time, approve administrative modifications from measurable and quantifiable standards of this Ordinance subject to the following limitations:

- A. The standard for which the modification can be granted must be a quantifiable and measurable standard set forth in the Ordinance. Such standards may include, but are not necessarily limited to, height requirements and limitation, yard requirements, screening or buffer requirements, planting requirements, ratio requirements, spacing requirements, and other similar measurable and quantifiable standards. These modifications do not apply to the required number and size of parking spaces, lot size and density, and signage requirements.
- B. The Zoning Administrator shall grant such modification only after the requesting party has demonstrated that such minor deviation was a result of an unintended error or unique conditions of the property, does not and will not violate the spirit and harmony of this Ordinance, and does not and will not adversely affect the rights of other property owners in any material manner.
- C. The minor administrative modification may not deviate by more than 10 percent of any of the standards for which the modification is given, unless more specifically specified in Section 5.04, Standard Administrative Modifications.
- D. The Zoning Administrator, in considering the administrative modification request, may approve, approve with conditions, deny, or determine that an application is required to the Board of Adjustment for their consideration. If the administrative modification is denied by the Zoning Administrator, the applicant may appeal the decision to the Board of Adjustment in accordance with the appeal provisions listed elsewhere in this section. Neither a denial of an administrative waiver nor an unsuccessful appeal to that denial prevents the applicant from seeking a variance to the standard.

## 5.04 Standard Administrative Modifications

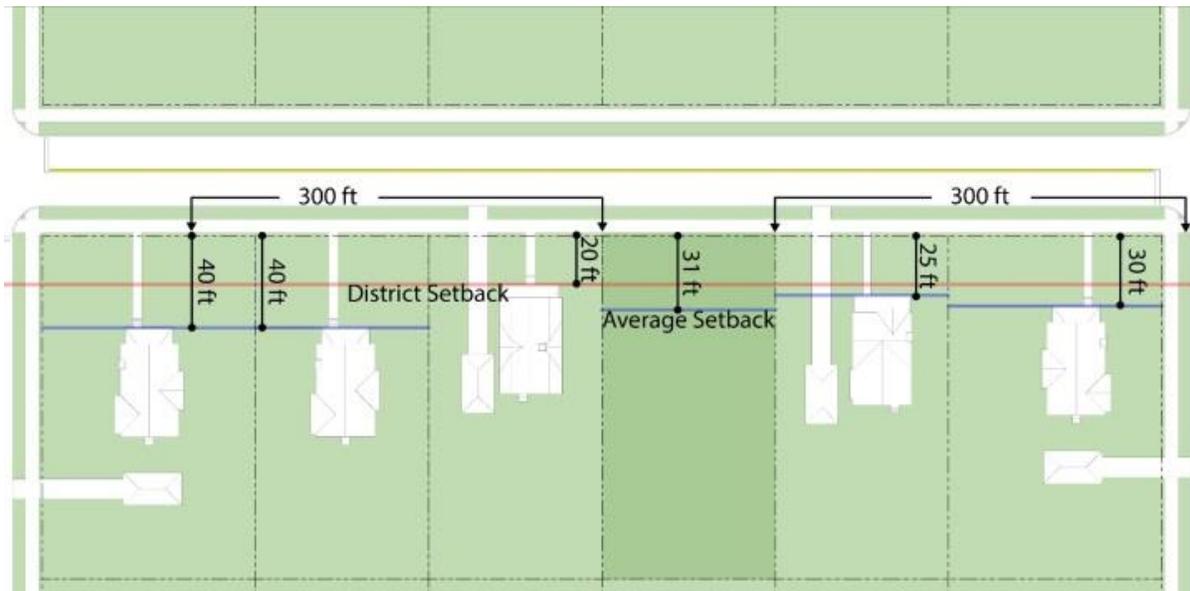
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### A. Front Yard Setback Averaging

- 1. In the R-LLS, R-CVS, R-U, DC, and NC Districts, front yard setback requirements shall be modified when nearby properties have a setback which is less than or greater than the requirement of the zoning district. When this

occurs, the front yard setback shall be the average of the nearby properties. These nearby properties must be:

- a. Fronting on the same side of the street; and
- b. On the same block; and
- c. Within 300 feet; and
- d. If in a residential zone, then located within any residential zoning district. If in the DC or NC Zone, then located within the DC or NC Zone respectively; and
- e. 51% or more of lots in the block are developed.



2. For the purposes of determining the average front yard setback, a proposed new road shall not be considered an interruption in the existing block front.

#### B. Exceptions to Lot Requirements

1. Where existing or proposed developments are to be subdivided, the minimum area and yard requirements may be less than required by this Ordinance provided that:
  - a. A community association or other responsible entity is established prior to the approval by the planning commission of any subdivision of land. The “association” shall be obligated and empowered to own, operate, and maintain all common areas including such items as open space, recreational facilities, access drives, parking areas, pedestrian walkways, etc., and all facilities constructed thereon.
  - b. In addition, the requirement that all lots abut a minimum frontage along a dedicated right-of-way may be waived provided that those lots that do not abut a dedicated right-of-way are assured an unencumbered and maintained accessway by the association to a dedicated right-of-way.
  - c. The overall density of the development does not exceed the maximum density allowed by the zoning district.

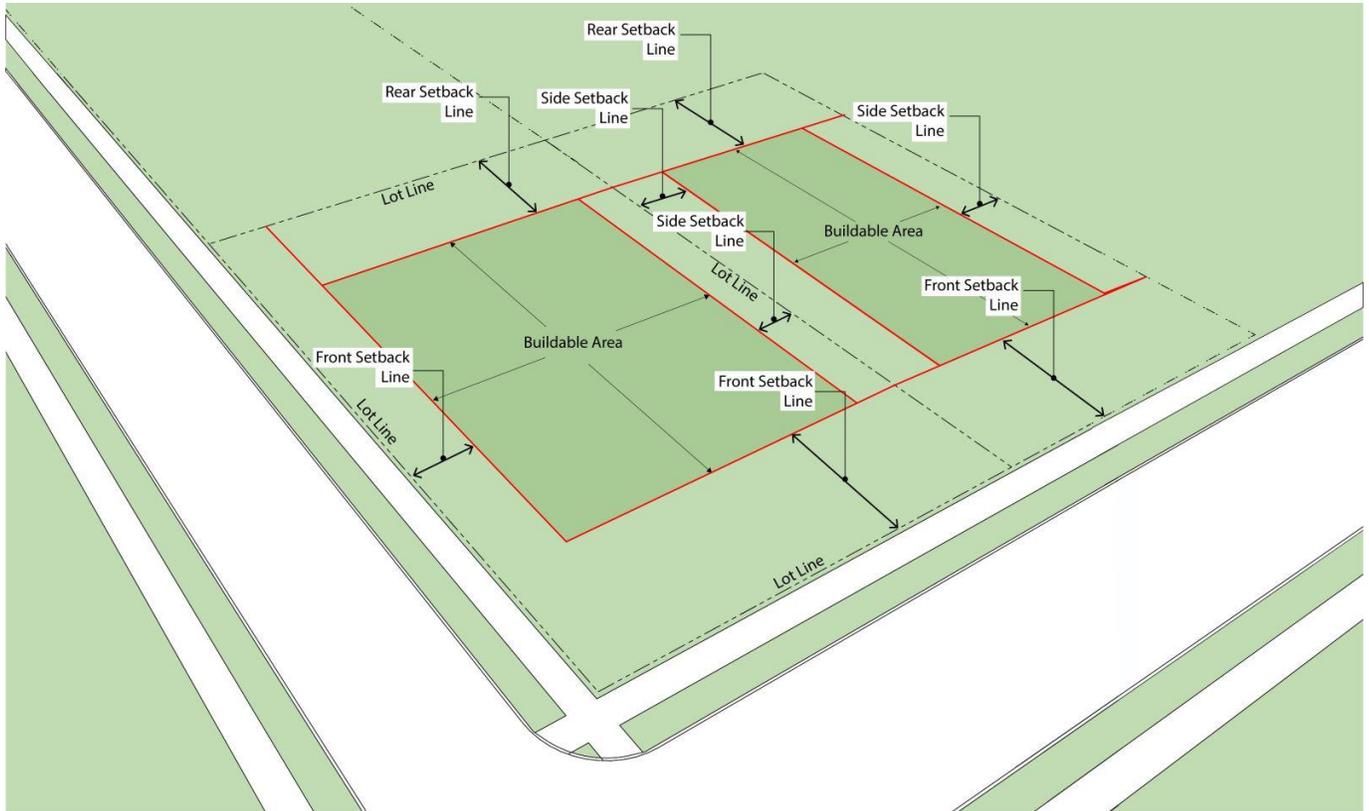
#### C. Landscape

1. Landscape modifications are permitted as regulated by Section 7.07, G.

### 5.05 Determining Buildable Area

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The required front, side, and rear yards for individual lots established by the applicable zoning district within which a lot is located shall be measured from the front, side, or rear property line inward toward the center of the lot. Once the required yard areas of a given lot have been established, the remaining area of the lot which is not included in any required front, side, or rear lot shall be known as the buildable area within which the approved structure(s) shall be placed.



## 5.06 Setback and Lot Width Measurements

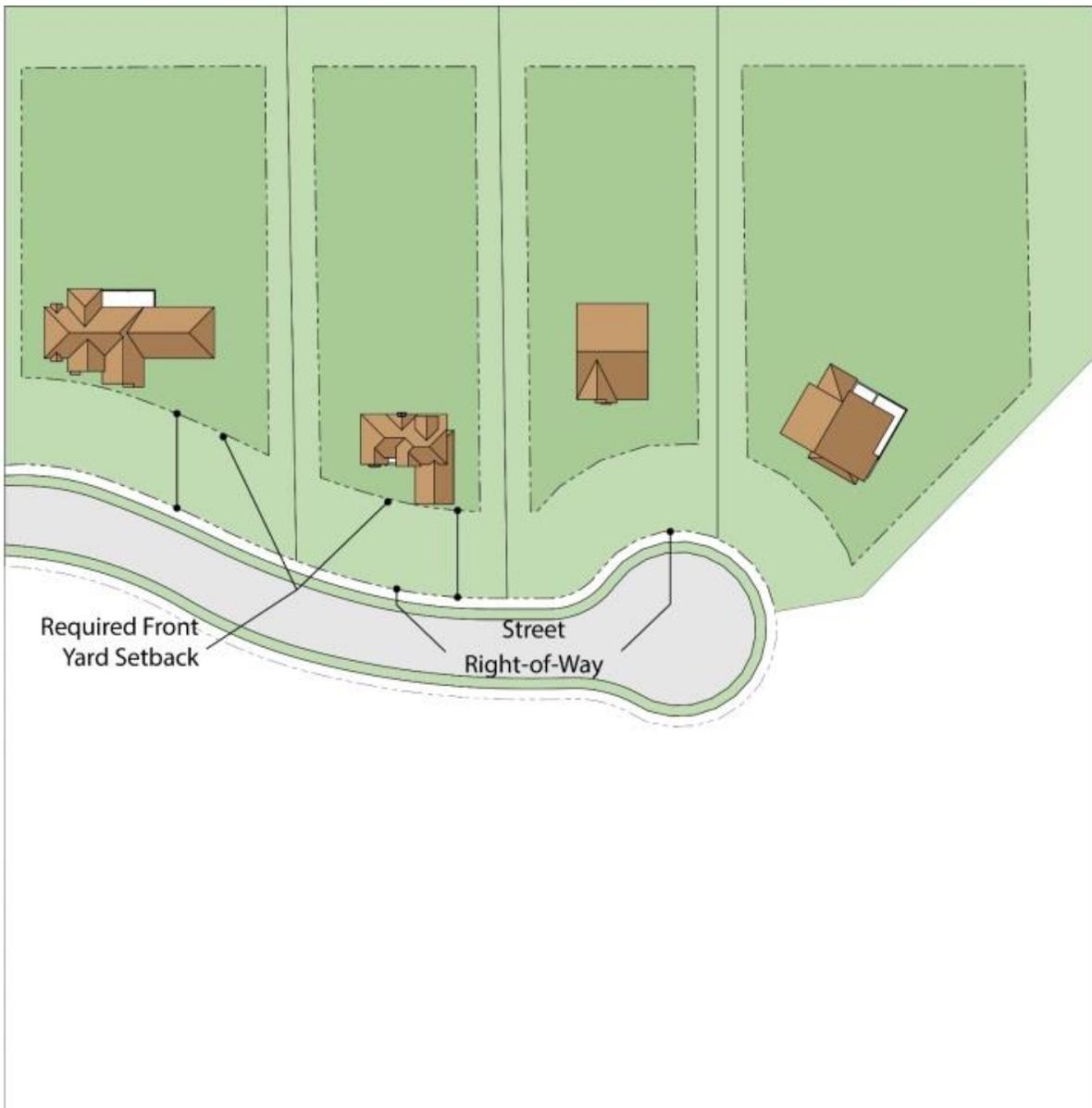
### A. Lot Orientation

Lots that do not conform to traditional orientations require special consideration when determining their setbacks and orientation to the street and adjacent properties.

### B. Flag Lot

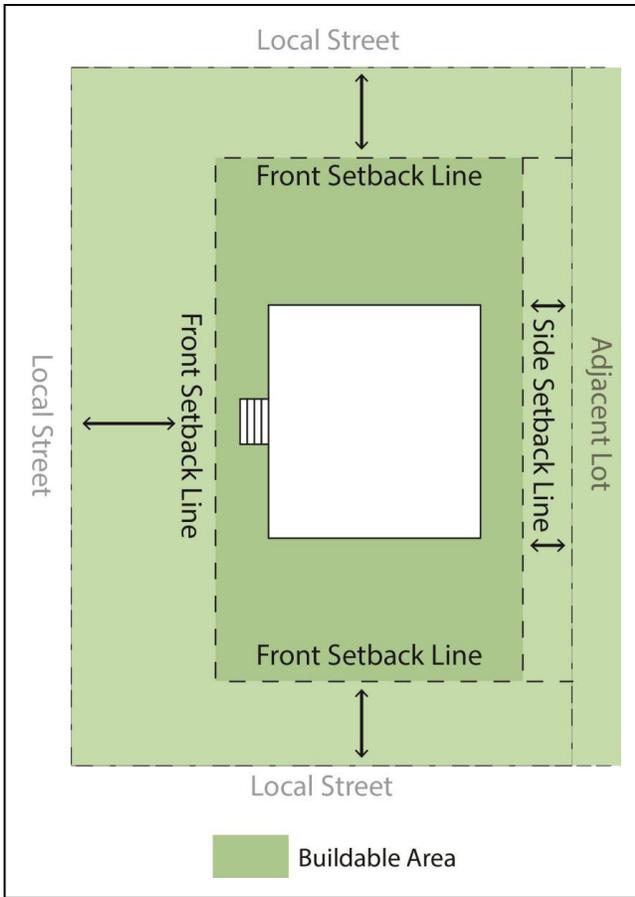
1. Flag lots shall abide by the side and rear setback requirements established by the applicable zoning district. The front setback shall be measured not from the street right-of-way, but from the lot line or lines that are the closest to and most nearly parallel to the street right-of-way and are not a part of the flag stem.
2. Every flag lot shall contain one and one-half times the minimum lot area, and minimum lot width.





#### D. Setbacks on Corner and Double/Multiple Frontage Lots

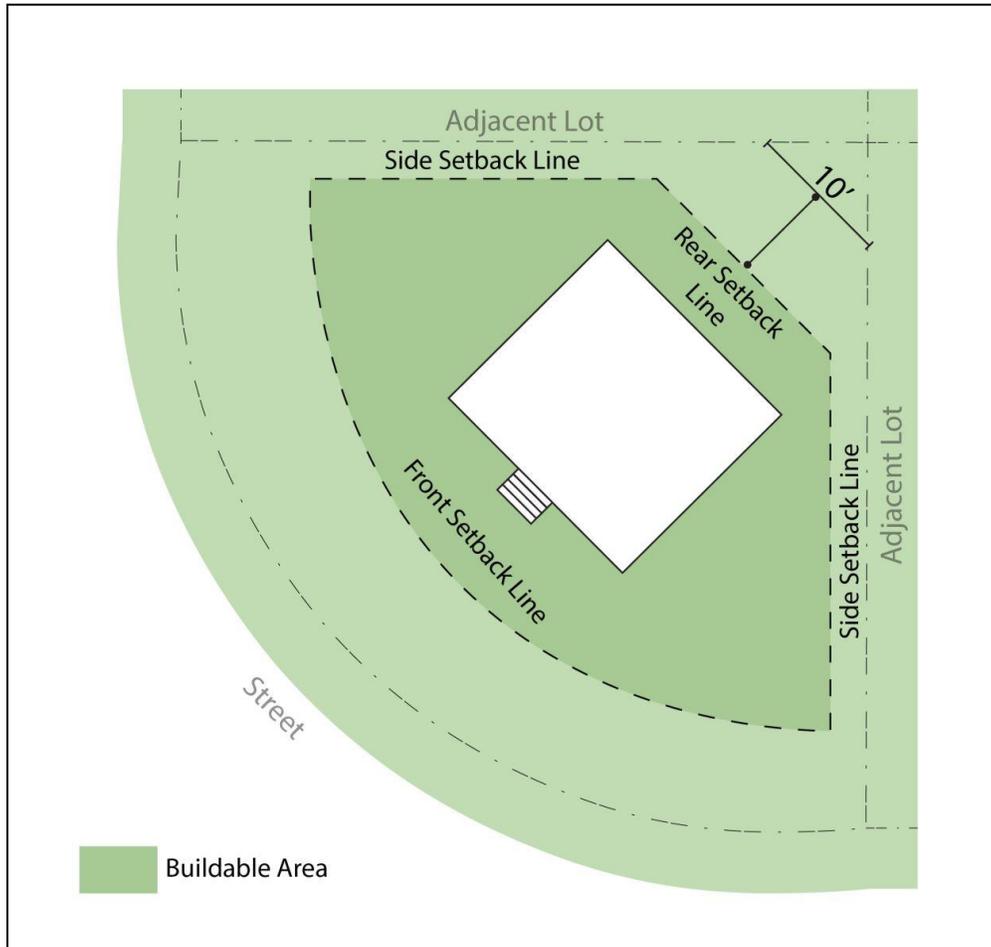
On lots having frontage on more than one street, the minimum front yard depth shall be provided on at least one street frontage, with the other frontage(s) having a minimum of one-half the required minimum front yard depth, except that when the lots abut an arterial street, as herein defined, the minimum front yard depth shall be provided each street.



***Multiple Frontage Lot***

**E. Rear Setbacks on Triangular or Wedge Shaped Lots**

In the case of a triangular or wedge-shaped lot, the required rear setback shall be measured from a line ten feet in length that intersects with both side property lines and is parallel to and at the maximum distance from the front facade of the principal structure.



#### F. Lot Width

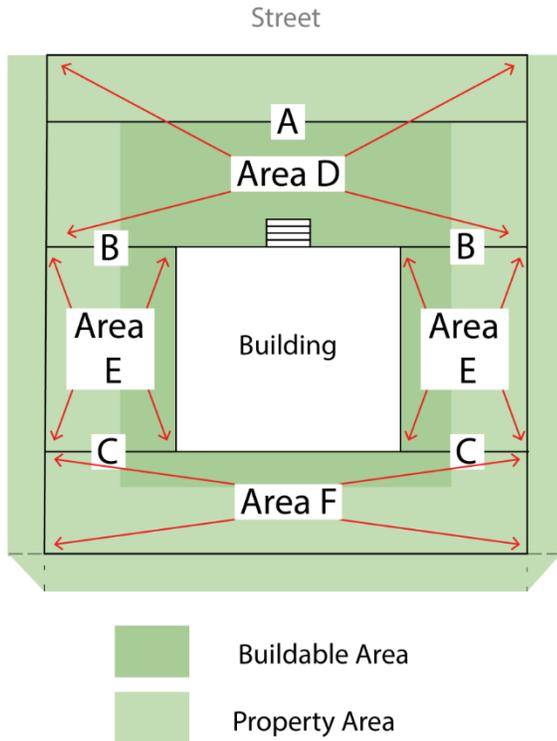
The minimum lot width shall be the lot width measured along the front setback line.

### 5.07 Yard Area Delineation

Yard areas shall be delineated in the following fashion:

- A. On a plan view of a property, front yard setback line(s) shall be drawn (Line A on illustration). Corner lots, double frontage lots, and multiple frontage lots will have more than one front setback line.
- B. Parallel to the dominant front façade, draw lines extending from the lateral-most corners of the front of the building to the lot line(s) or front yard setback line(s), whichever is closest (Lines B on illustration).
- C. Parallel to the dominant front façade, draw lines extending from the lateral-most corners of the rear of the building to the lot line(s) or front yard setback line(s), whichever is closest (Lines C on illustration).
- D. All area in front of the front façade of the building, all areas in front of Lines B, and all areas street-ward of the front yard setback line(s) (Line A) shall be considered front yard (Area D on illustration).
- E. All areas to the side of the building and between Lines B and Lines C shall be considered side yard (Area E on illustration).

F. All areas to the rear of the rear façade of the building and all areas to the rear of Lines C shall be considered rear yard (Area F on illustration).

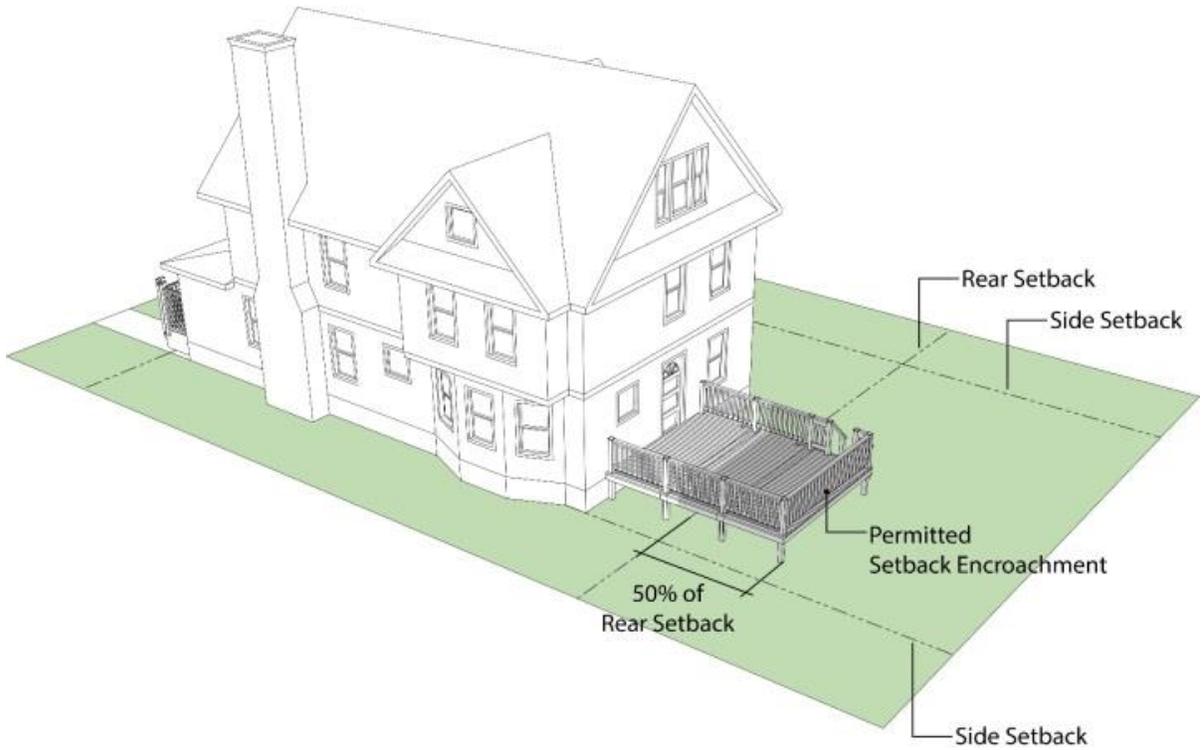
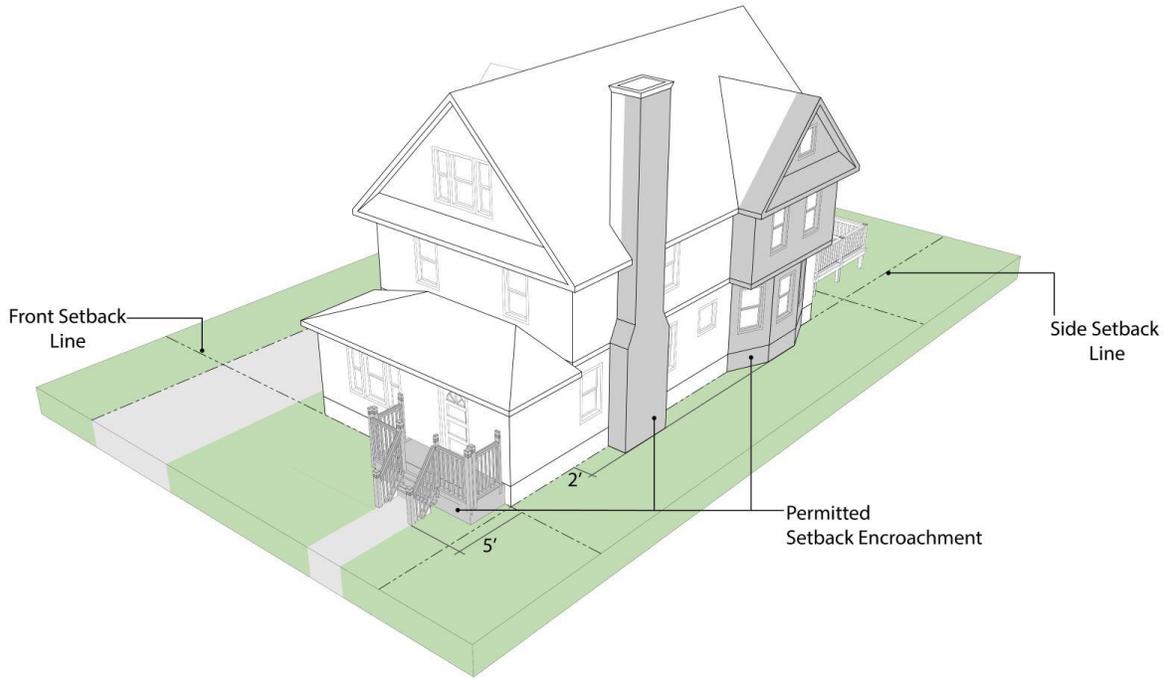


## 5.08 Permitted Encroachments

Buildings and structures must be located entirely at or behind setback lines, with the following exceptions.

### A. Building Features

1. Structural features such as overhangs, bay windows, window wells, and residential chimneys may encroach up to two feet into the district setbacks.
2. A porch or similar structure that does not rise above the height of a structure's first story floor may extend beyond the established district setbacks or build-to-line up to a maximum of five feet. When located in the rear yard these structures are permitted to extend into the rear setback up to 50 percent or five feet, whichever is greater.



**B. Mechanical Equipment and Utility Lines**

1. Residential uses may have mechanical equipment extend into rear and side yards provided a three-foot buffer remains between this extension and any lot line.
2. All other utility equipment may extend into any property setbacks. These could include power lines, hydrants, transformers, etc.

**C. Height Exemptions**

Height limitations of this Ordinance shall not apply to such things as church spires, utility towers, solar panels, chimneys, smoke stacks, and necessary mechanical equipment, provided their construction is in accordance with all other City ordinances and is acceptable to the Federal Aviation Agency and the Federal Communication Commission.

**D. Small Accessory Structures**

Accessory structures less than 120 square feet may be placed within the side or rear setback not less than five feet from a property line.

**E. Other Permitted Setback Encroachments**

1. Walls and perimeter fencing as regulated in Section 7.06, Fences and Walls.
2. Sidewalks, multi-use paths and other pedestrian amenities.
3. Driveways and other vehicular access points provided they are setback 2 feet from the property line which they run parallel to.
4. Landscaping as regulated by Section 7.07, Landscaping, Screening, and Buffers.
5. Flag poles that do not exceed the maximum height of the zone, or 40 feet if the zone does not have a maximum height.

**5.09 Height and Bulk Measurements**

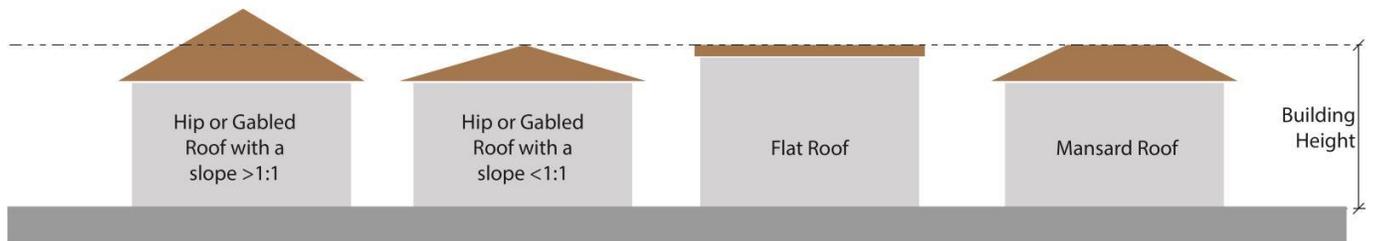
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**A. Maximum Height**

The maximum height shall be established by each zoning district.

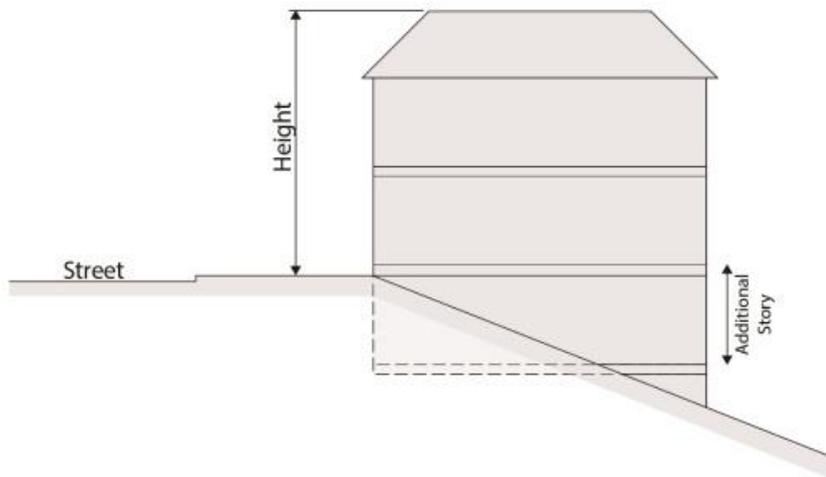
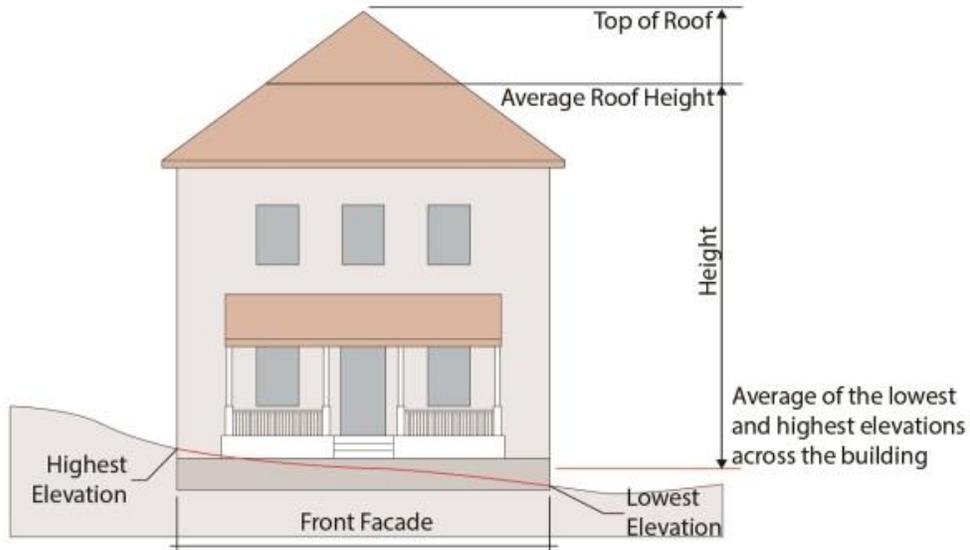
**B. Building Height Measurement**

1. The height of a building shall be measured from the average grade to the highest structure element of the building, in most cases. Roof type variations shall be measured as follows:
  - a. Roofs with a slope greater than 1:1 shall be measured as the average height between the eaves and ridges.
  - b. Roofs with a slope less than 1:1, or that are flat or mansard roofs, shall be measured to the top of the building.



2. The average grade of a property is measured by calculating the average of the highest and lowest elevations along the building façade facing the primary street.

3. When a property slope decreases away from the front setback an additional story shall be permitted under the measured average grade.
4. If a floor of a building is more than 50 percent covered by the finished grade, this floor is not measured in the overall height of the building.



## ARTICLE 6 UNIVERSAL REGULATIONS

### Contents:

- 6.01 Purpose and Applicability
- 6.02 Permits and Licenses
- 6.03 Erection of Structures Only on Lots of Record
- 6.04 Reduction of Lot Area Restricted

### **6.05 Lot Coverage**

### **6.06 Street Access Required**

### **6.07 Clear Sight Distance Required**

### **6.08 Demolition or Movement of Buildings or Structures**

### **6.09 Required Improvements for Developments**

### **6.10 Negative Access Easements Prohibited**

## **6.01 Purpose and Applicability**

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The universal regulations shall apply to all zoning districts.

## **6.02 Permits and Licenses**

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It is the burden of the applicant to obtain all required local, state, and federal permits and licenses to operate lawfully.

## **6.03 Erection of Structures Only on Lots of Record**

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All structures shall be designed, erected, or altered on legal lots of record and in accordance with the Kentucky Building Code.

## **6.04 Reduction of Lot Area Restricted**

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Except as noted in Sections 2.07, D., Non-Conforming Lots, and 5.04, B., Exceptions to Lot Requirements. no lot in any district may be reduced in size below the minimum lot area required of the district in which the lot is located, except where the reduction is the result of an expansion or acquisition of rights-of-way for a street.

If the lot is reduced in size below the minimum lot area specified for the district, all uses, and structures contained on the lot shall comply with all other provisions of this Ordinance. If uses and structures cannot comply, the property owner shall seek relief from the Board of Adjustment, as provided for in [Article 13, Process and Procedure](#).

## **6.05 Lot Coverage**

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In all zones except the DC Zone, no portion of terraces, balconies, breezeways, porches, or electric generation devices and related apparatus (e.g. solar panels and wind turbines) not included in floor area calculations will be included in computing lot coverage.

## **6.06 Street Access Required**

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All developments shall have legal and physical access to an improved public right-of-way accepted for maintenance by the legislative body, a public right-of-way that is not accepted for maintenance with approval from the legislative body, or a private street.

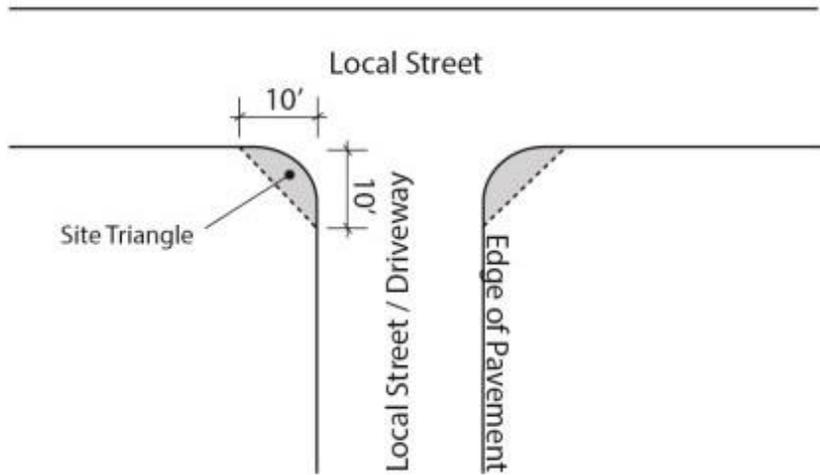
## **6.07 Clear Sight Distance Required**

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No fence, wall, hedge, or other obstruction, above a height of 36 inches, as measured above the curb level, shall be erected, placed, maintained, or continued in any zone, within that triangular portion of a corner lot formed by measuring from the intersection of the right-of-way lines of two streets or of the right-of-way line of a street intersection with a railroad right-of-way line or driveway and joining these points with a straight line.

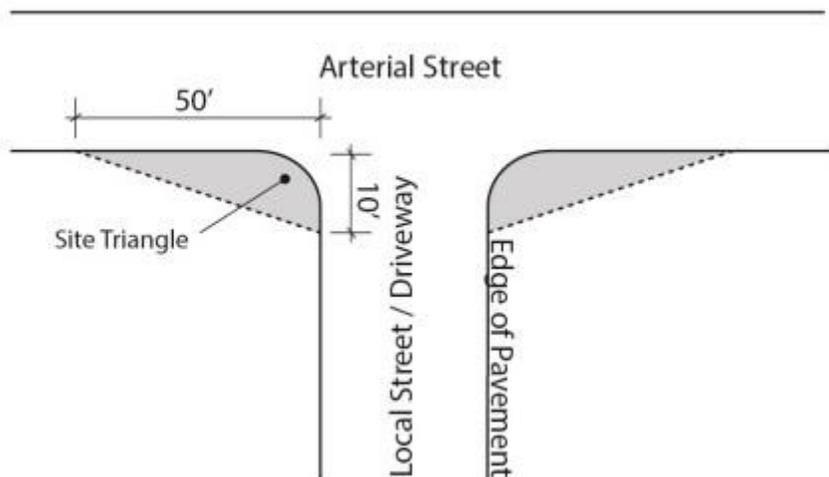
**A. Local Street or Driveway Intersecting a Local Street**

Sight triangles shall be maintained where local streets or driveways intersect another local street. These sight triangles shall be defined as a 10 foot by 10 foot triangle bounded on two sides by the edge of pavement or curb of the streets and on the third side by a straight line connecting the endpoints of the other two sides. In the event that a driveway crosses a sidewalk, then the edge of sidewalk furthest from the street shall be used as a side in place of edge of pavement or curb.



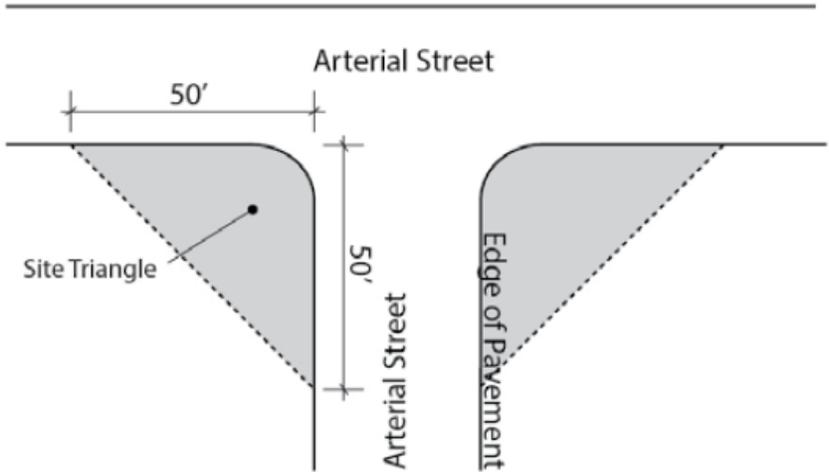
**B. Local Street or Driveway Intersecting with a Collector or Arterial Street**

Sight triangles shall be maintained where local streets or driveways intersect with a collector or arterial streets. These sight triangles shall be defined as a 10 foot by 50 foot triangle bounded on one side by the edge of pavement or curb of the street, one side by the edge of the driveway or other street, and on the third side by a straight line connecting the endpoints of the other two sides. In the event that a driveway crosses a sidewalk, then the edge of sidewalk furthest from the street shall be used as a side in place of edge of pavement or curb.



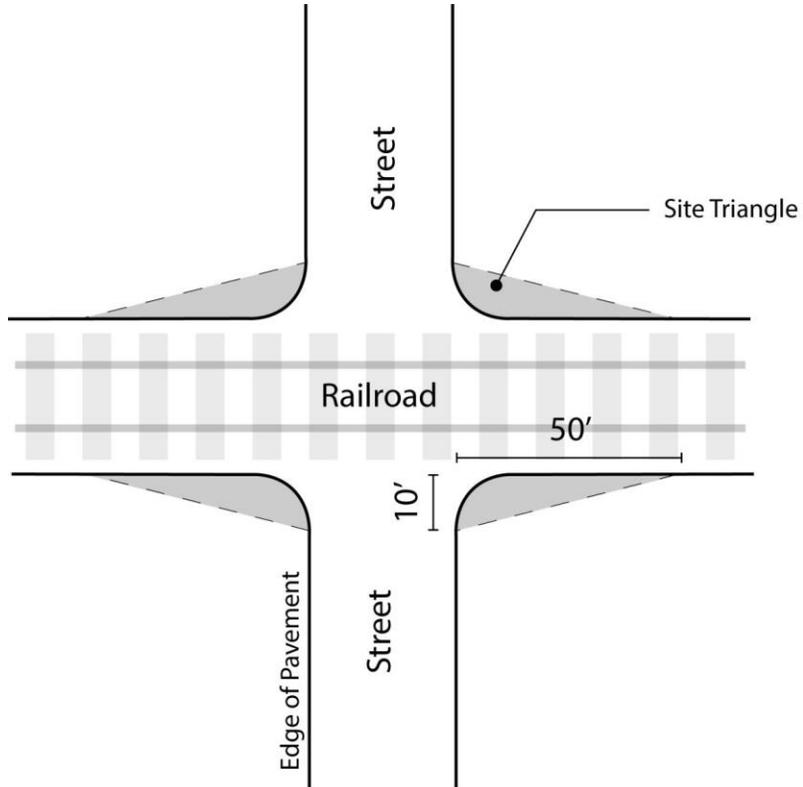
**C. Collector or Arterial Street Intersecting With a Collector or Arterial Street**

Sight triangles shall be maintained where a collector or arterial street intersects with a collector or arterial streets. These sight triangles shall be defined as a 50 foot by 50 foot triangle bounded on two sides by the edge of pavement or curb of the streets, and on the third side by a straight line connecting the endpoints of the other two sides.



**D. Any Street Intersecting with a Railroad Right-Of-Way**

Sight triangles shall be maintained where any street intersects with a railroad right-of-way. These sight triangles shall be defined as a 10 foot by 50 foot triangle bounded on one side by the edge of pavement or curb of the street, one side by the railroad right-of-way, and on the third side by a straight line connecting the endpoints of the other two sides.



## 6.08 Demolition or Movement of Buildings or Structures

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No building, structure, or improvement shall be demolished, moved, or relocated to any area or transported upon any public street until a building permit has been approved and secured, a transport permit has been obtained, and the building, structure, or improvement complies with the provisions of this Ordinance.

## 6.09 Required Improvements for Developments

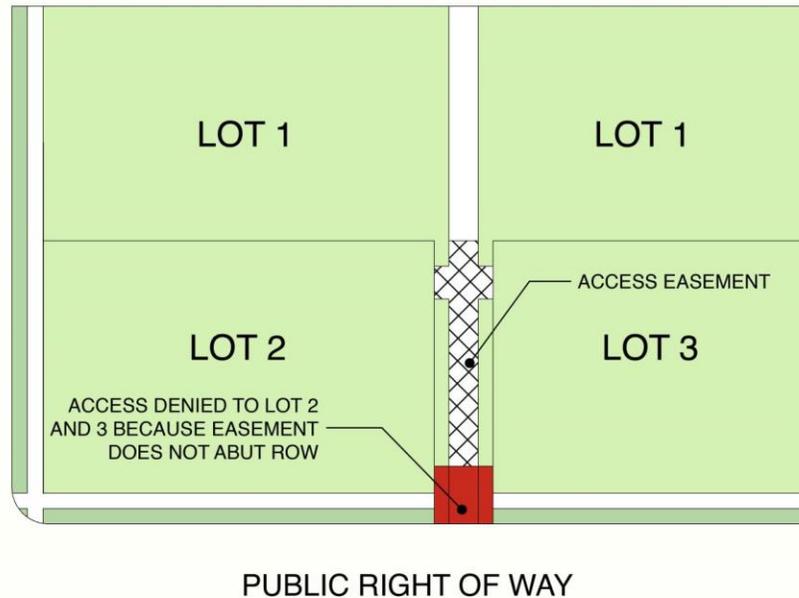
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- A. All developments shall be required to provide the following improvements in accordance with the applicable sections of the Kenton County Subdivision Regulations. These shall be reviewed through Article 13 Process and Procedure.
1. All new streets shall be designed and constructed in accordance with the referenced regulations. This includes, but is not limited to pavement design, curb and gutters, and sidewalk provisions.
  2. Sidewalks shall be designed and constructed along all existing and proposed public streets in accordance with the referenced regulations. This includes, but is not limited to design and width.
  3. When required by the referenced regulations, a Traffic Impact Study meeting the scope of those regulations shall be submitted. Recommended infrastructure improvements identified in the study may be required as a part of the development plan approval.
  4. All stormwater runoff controls shall be constructed in accordance with the referenced regulations.
  5. All fire flows shall meet standards included in the referenced regulations. This does not apply to individual building fire department connections, which shall be approved by the applicable fire authority.
- B. The legislative body may consider and approve by ordinance, major modifications to the referenced regulations. Modifications or adjustments may be approved concurrently with a Map Amendment or Development Plan. When considering a proposed modification, the legislative body shall find that the request will not be detrimental to the public interest and meets at least one of the following criteria:
1. That unusual topographical or exceptional physical conditions exist; or
  2. That strict compliance with these regulations would create an extraordinary hardship in the face of exceptional conditions; or
  3. That compliance with the regulations could cause an unsafe situation; or
  4. That the proposed modification or adjustment would create a materially safer situation than complying with the regulations; or
  5. That the proposed modification or adjustment is more compatible with the character of the surrounding neighborhood than complying with the regulation.

## 6.10 Negative Access Easements Prohibited

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Negative easements preventing vehicle or pedestrian access to a lot from an adjacent public street are prohibited except when required by the City to limit driveway cuts on existing public streets.



## ARTICLE 7 DEVELOPMENT STANDARDS

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### Contents:

- 7.01 Purpose
- 7.02 Applicability
- 7.03 Relation to Overlay and Special Districts
- 7.04 Character Standards
- 7.05 Site Lighting
- 7.06 Fences and Walls
- 7.07 Landscaping, Screening, and Buffers

### 7.01 Purpose

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The purpose of these standards is to:

- A. Ensure that new development, renovations, infill, and redevelopment are designed, sized, and sited to complement the area in which they are located and the character of the community in general;
- B. Minimize traffic hazards and situations which endanger public safety;
- C. Protect existing development and property values through the promotion of high standards of design and compatibility; and
- D. To provide for a high quality of life for our citizens by promoting a variety of housing styles, transportation choices, and well-planned parks and open spaces.

### 7.02 Applicability

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The following standards shall apply to all development in the zoning districts indicated, unless otherwise noted, with the following exceptions.

- A. Routine maintenance of buildings and sites.
- B. All plumbing, mechanical and electrical equipment, when such work is entirely within the interior of a building.
- C. Construction or alteration is necessary to comply with a lawful order of the City or State of Kentucky related to immediate public health or safety.
- D. Any interior alterations, repairs, or renovation which do not change the principal use of the structure.
- E. Expansion of existing uses not exceeding 30 percent of the gross floor (for structure-related uses) or lot area (for non-structure-related uses) of the existing development.
- F. Demolition or wrecking, repair, construction, reconstruction, alteration, rehabilitation, moving, demolition, or change in use for either land or buildings within any local historic preservation overlay district.

### 7.03 Relation to Overlay and Special Districts

These standards shall apply in all overlay districts, except historic preservation overlay districts, in the same manner and using the same process as standards applicable to the underlying district, including any applicable alternative standards except where such standards conflict the most restrictive shall apply unless otherwise noted.

### 7.04 Character Standards

The following tables of standards are intended to provide objective criteria required for development in particular zoning districts. Where a criterion is required in a zoning district, an “X” appears in that district column. Where a criterion is not required, a “-” appears in that column.

TABLE 7.1 - ZONING	
<p>“X” means that the standard is required.                      “-” means that the standard is not required.</p>	
<b>A. Character Standards - Non-Residential Construction</b>	
<b>To define public street space, foster compatibility between development sites, and to emphasize key commercial areas, the following standards shall</b>	
1. More than one principal building, as defined herein, may be permitted on a lot.	
2. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off - street parking and outdoor play areas associated with child care centers if these uses are specifically permitted within the zone.	
3. No outdoor storage of any material, usable or waste, shall be permitted except within enclosed containers, except where otherwise permitted in Art	
4. Buildings must use a minimum of 60% of the following primary building materials: brick, wood “clapboard” type siding, wood composite “clapboard” which is formed to have a masonry unit appearance may be used.	
Buildings may use a maximum of 40% of the following secondary building materials architectural grade metals, EIFS/stucco, glass block and precast concrete	
Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or synthetic appearing exterior metal wall panels, vinyl siding, T1-11 or other hard board type materials that are manufactured in sheets) are not permitted.	
5. Materials for any pitched roof shall be architectural grade, three dimensional shingles or tiles, slate, or standing seam metal.	
6. Ground level transparency must comprise a minimum percentage of the street-facing façade between 3 and 8 feet in height above grade. Materials shall be transparent. Display windows that do not provide visual access into the interior of the building count toward the minimum transparency percentage. Tra	
The following minimum standards apply: Primary Street: ground level 50%, upper levels 30% Secondary Street: ground level 25%, upper level 25%	

“X” means that the standard is required.  
 “-” means that the standard is not required.

7. The street-facing facades of commercial and mixed use buildings shall not have a blank, uninterrupted length greater than 40 feet without including a projections, or recesses.

**B. Character Standards - Entrances, Facades, Windows, and Roofs**

**To have well designed buildings that add to the community’s architectural inventory and that provide visual interest to the pedestrian, the following**

**C. Character Standards—Residential Construction**

**To promote thoughtful residential design that will result in the creation and maintenance of strong, vibrant neighborhoods, the following standards**

1. More than one principal building, as defined herein, may be permitted on the minimum site for development.
2. No outdoor storage of any material, usable or waste, shall be permitted except within enclosed containers, except where otherwise permitted in Art
3. Exterior walls of all detached single-family residential dwelling units, except foundations, shall not be constructed of concrete or cinder block.
4. The same front elevation cannot be built adjacent to or directly across the street from a single-family residential dwelling with the same front elevati are present which result in the front elevation appearing to be different.
5. All windows and doors on the front elevations of a new detached single-family residential dwellings must provide a minimum of 3/4 inch by 3 ½ inch trim surround or decorative shutters. Windows, doors, and ga
6. All detached single-family residential dwelling units shall have a minimum of 50% “approved exterior covering” on the front elevation, excluding “Approved exterior covering” shall include, brick veneer, stone (real or cultured), stucco, fiber cement siding products natural wood or wood wood or wood composite shake.

A combination of design features from the lists below in subsections 7.04, F., and 7.04, G., can be used to decrease the requirement on the front elevati subsection 7.04, G., are used.

**D. Character Standards—Services, Utilities, and Minor Accessory Uses**

**To subordinate the appearance of services, utilities, and minor accessory uses on individual sites and throughout the City’s jurisdiction, the following**

1. All utility equipment (includes meters, boxes, valves, etc. but does not include overhead power lines, light poles, and similar equipment) shall be des
2. All utility lines serving new development or subdivisions and redevelopment sites shall be placed underground whenever practicable.
3. All dumpster, trash and recycling receptacle storage areas shall be located in the rear yard. Dumpsters shall also be screened per Section 7.07, N.
4. No building may be constructed in any zone unless the building is connected to a public water and public sanitary sewer system of adequate capacity

Where existing buildings are presently unserved by a public sanitary sewer system and a public water supply, and are located within a reasonable distan the legislative body and/or the Northern Kentucky District Board of Health, said building shall be required to connect with the public sanitary sewer and shall be prohibited.

5. All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street. This does not meters, etc.).
6. Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design
7. If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wa roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.

**E. Character Standards—Open Space**

**To provide open space.**

1. The amount of maximum overall coverage of impervious surface permitted in the front yard is based on the size of the residential lot according to th

- 30,000 square feet or greater - 25 percent
- 12,501 square feet – 29,999 square feet - 30 percent
- 12,500 square feet or less - 40 percent

The permitted impervious surface coverage stated within the above table may increase by 5 percent for any lot fronting a cul-de-sac turn around.

F. The following optional design features may be used to decrease the required amount of “approved exterior covering” on the front elevation as described above in subsection 7.04, C., 6. Each design feature listed in this

subsection will reduce the required “approved exterior covering” on the front elevation by five percent. Under no circumstance shall the front elevation of the dwelling unit be decreased below 25 percent “approved exterior covering” when incorporating the design features from this subsection.

1. A minimum of three of the following front elevation architectural features: shutters, single window dormers, multi-pane windows, decorative crown over doors, moldings and trim, dentil moldings, quoins, pilasters, cornices, exterior crown molding or window accoutrements that add another architectural element to the house.
  2. An exterior lighting package including, but not limited to, driveway post lamps, landscape lighting, flood/spot lights, wall lanterns, lamps near house, garage entrances, and others as approved by the zoning administrator. All lighting options must be permanently affixed and not temporarily installed. A minimum of three lighting features are required.
  3. A minimum of two window types into the front architecture of the unit. This includes bay windows, oriel windows, round-top windows, transom windows, and others as approved by the zoning administrator.
  4. Minimum of two ridgelines visible from the front of the house.
  5. Minimum of a four foot deep covered entry porch with columns.
  6. Minimum of a two foot deep recessed front entry.
  7. Minimum of a three foot deep covered entry with decorative brackets.
  8. Minimum of a one foot front facing gable with a minimum of an 8:12 pitch roof.
  9. Garage set back a minimum of two feet from the furthest projecting wall on the front elevation.
  10. Windows on garage doors that face any street or right-of-way.
  11. Two or more siding types on the front elevations including, but not limited to, horizontal siding, shake siding, and board and batten siding.
  12. Minimum of one sidelight at the front entry.
  13. Minimum of six windows or more on the front elevation.
  14. Dentil blocks, decorative brackets, crown molding, or similar architectural detailing at eaves on the front elevation.
- G. The following optional design features may be used to decrease the required amount of masonry on the front elevation as described in subsection 7.04, B., 6. Each design feature listed in this subsection will reduce the required masonry on the front elevation by 10 percent.
1. Attached two car garage with one door or two separate doors and designed or located to reduce the visual impact of garage doors along street frontages. This includes side-loaded garages or front-loaded garages that provide windows or other architectural details that mimic the features of the living portion of the dwelling unit on the side of the garage facing the street.
  2. Roofs made with roof materials such as tile, slate, cedar shake with fire protections, thirty-year or more asphalt shingles, dimensional asphalt, fiberglass, metal standing seam roofs, and others as approved by the zoning administrator.
  3. Two single window dormers or one multi-window dormer.
  4. A usable, fully covered front patio/porch that stretches at least 30 percent of the building frontage with a minimum width of eight feet and a minimum depth of six feet.
  5. Full length chimney constructed of brick or stone and mortar.
  6. The main roof being a hip roof with a minimum of 6:12 pitch on all sides.

## 7.05 Site Lighting

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### A. Applicability

The following standards shall apply to all exterior artificial light sources in all zones except for single-family residential uses. Uses that are in operation after dusk and/or before dawn are required to provide site lighting to ensure the safety of customers and workers. See Section 8.08 for regulations regarding glare for all uses, including single-family residential uses.

### B. Exemptions

The following are exempted from the requirements of this section.

1. Lighting fixtures and standards required by federal, state, county, or city agencies, including street lights within public rights-of-way, except that new street lights shall use full cut-off fixtures.
2. Outdoor lighting fixtures used or required by law enforcement, fire and emergency services, transportation or similar governmental agencies to perform emergency or construction repair work, or to perform nighttime road construction on major thoroughfares.
3. Because of their unique requirement for nighttime visibility and their limited hours of operation, stadiums, ball fields, playing fields and tennis courts are exempted from the standards of this section. However, lighting for these outdoor recreational uses shall be shielded to minimize light and glare trespass onto adjacent and nearby properties.

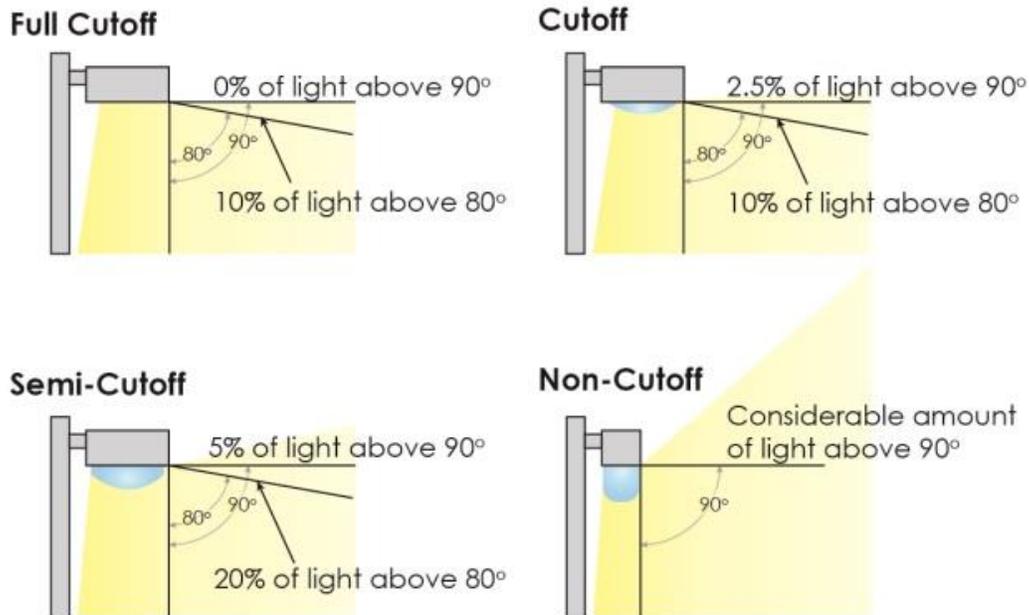
### C. Prohibited Lighting Effects

The following effects from exterior lighting of buildings, properties, developments, signs or other features, and for any use, including, but not limited to, residential, commercial, and industrial uses, shall be prohibited.

1. Light trespass (light that spills over or is directed onto adjacent properties or rights-of-way).
2. Flashing, scrolling, and strobing.
3. Lighting which may be confused with warning signals, emergency signals or traffic signals.
4. Direct or reflected glare, whether from floodlights, high temperature processing, combustion, welding, or otherwise, that is visible at the property line or right-of-way.
5. Any artificial light source which creates glare observable within the normal range of vision from any public walk, thoroughfare, or adjacent property under normal weather conditions is considered a safety hazard and is prohibited.

### D. Lighting Standards

1. Parking lot lighting shall be a minimum of 1 foot candle at any point measured throughout the parking area.
2. Lighting levels shall not exceed ½ foot candle at any point along a residential property line and 5 foot candles along a nonresidential property line.
3. All lighting fixtures shall be full cut-off design and must be installed in a way that permits the full effect of full-cut-off features.



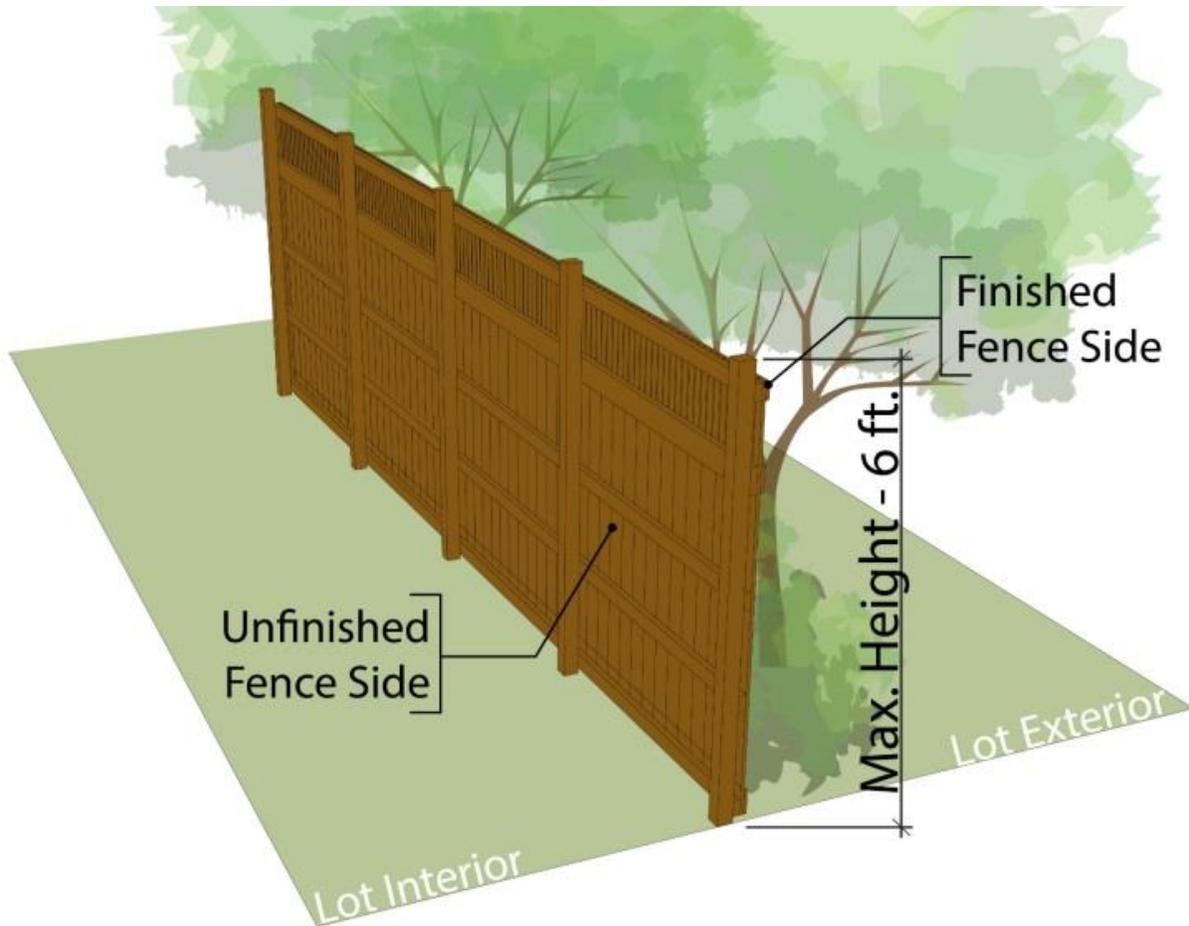
4. Light poles shall be consistent in design with the overall architectural theme of the corridor but shall not exceed 30 feet in height. Pedestrian-oriented lighting should be at smaller scales to light walkways and plazas while parking area lighting should be at larger scales to light parking areas and vehicular circulation routes.
5. All lighting, including but not limited to building lighting, security lights, and architectural lights should be from the same family of fixtures similar to the street lighting located on Main Street between Pike Street and Moore Street to maintain continuity throughout the DC Zone.
6. Lighting should be coordinated with landscaping and signage for proper site integration.

## 7.06 Fences and Walls

### A. General Regulations

The following standards shall apply to all fences and walls in all zoning districts unless otherwise noted.

1. Fences and walls shall be maintained in good order.
2. Fences shall not contain advertising, signs, logos or other lettering unless expressly permitted by the Zoning Administrator.
3. Where a fence or wall is used as part of required screening, all required vegetation shall be planted on the exterior side of the fence or wall (exterior to the lot). See Section 7.07, Landscaping, Screening, and Buffers.
4. Fences are permitted to locate on the property line. Any fence located within a required sight triangle shall not exceed three feet in height.
5. Fences and walls shall be constructed such that the “finished” part of the fence or wall is located to the exterior of the property.



6. Walls and fences used for landscaping or screening shall be constructed of masonry, stone, wood, vinyl or a material similar in composition and appearance as the principal building. Such walls and fences shall be opaque or shall be of a design approved by the Zoning Administrator.

7. Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the International Building Code or Soil Erosion and Sedimentation Control Act requirements.

8. Prohibited Fences

- a. Fences or walls topped with or containing broken glass or similar material is prohibited.
- b. Fences constructed of readily flammable material (traditional wood fences excluded) such as paper, cloth, or canvas are prohibited.
- c. Fence material not listed in Table 7.2, Fence and Wall Types Described and Illustrated are not permitted unless approved by the Zoning Administrator as a like-material that meets or exceeds the intent of the fence standards.

9. Barbed wire and electric fencing are permitted only in the Agriculture district where it is accessory to a permitted agricultural use.

10. In addition to a zoning permit, certain walls and fences may also require a building permit.

**B. Materials and Design**

The following standards shall apply to all fences and walls in all zoning districts unless otherwise noted.

**1. Fence Types Described**

TABLE 7.2 - FENCE AND WALL TYPES DESCRIBED AND ILLUSTRATED		
TYPE	DESCRIPTION	EXAMPLE PHOTOS
Masonry walls	Masonry walls may be made of brick, concrete block, stone, or a combination of such materials. Unfinished concrete block may not be used as a facing material. These walls may be used on many types of building sites to provide privacy, stabilize terraces, secure pets and children, and delineate or set off landscape features.	
Ornamental metal or other (materials designed to resemble ornamental metal)	Decorative metal fencing that has a pattern with a minimum 80 percent or more open. This fencing is most often used in urban areas and small lot subdivisions where the need to balance access control with visibility exists.	
Woven wire, including chain link	Wire woven into a fencing material that has a pattern with a minimum 80 percent or more open. This fencing is most appropriate for agricultural areas to control livestock and delineate pasture.	
Wood or other (materials designed to resemble wood such as composite or vinyl)	Wooden picket or slat fencing either opaque (privacy fencing) or semi-opaque. Wooden slats and pickets on these fences must be a minimum of 3 inches wide.	

**TABLE 7.2 - FENCE AND WALL TYPES DESCRIBED AND ILLUSTRATED**

TYPE	DESCRIPTION	EXAMPLE PHOTOS
<b>Mixed-material</b>	<p>Fences typically combining two or more fence materials. This fence type does not include woven wire fencing where fence posts made of wood or other materials may be used. These fences are often found in suburban or rural areas as visually lower-impact pet or child enclosures.</p>	
<b>Hedge</b>	<p>A fence or boundary formed by closely growing bushes or shrubs planted in a fashion that provides an opaque or nearly opaque barrier.</p>	
<b>Barbed wire / sharp-pointed fences</b>	<p>A fence discouraging climbing or sitting through the use of sharp points or objects welded to or embedded in fence posts or walls.</p>	
<b>Flood retaining walls</b>	<p>Walls in this category are designed and intended to contain or redirect flood waters.</p>	

**TABLE 7.2 - FENCE AND WALL TYPES DESCRIBED AND ILLUSTRATED**

TYPE	DESCRIPTION	EXAMPLE PHOTOS
<p><b>Sports</b></p>	<p>These fences typically surround active sport areas such as tennis courts, volleyball courts, basketball courts, baseball fields, and football fields. They serve to keep the ball close to the field of play and to control access to the play area. Fences must be made of coated chain link or similar material.</p>	
<p><b>Security</b></p>	<p>Security walls and fences, including but not limited to razor wire, concertina wire, and similar high security fencing material required to secure industrial properties.</p>	

**2. Fence Types Limited**

**TABLE 7.3 - FENCE TYPES LIMITED**

"X" means that the fence type is permitted.  "." means that the fence type is not permitted.  Maximum heights are in feet	ZONING DISTRICTS									
	RESIDENTIAL					COMMERCIAL	EMP	OTHER	SPECIAL	
	R-LLS	R-CVS	R-U	R-MF	COND USE	NC	RI	CO	DC	PUD
a. Masonry walls	X	X	X	X	X	X	X	X	X	
Maximum Height, Front	-				-	6 feet		-	-	The type, location, and height of all fences and walls shall be approved on the Concept or Final Development Plan Type, location, and height of all fences & walls shall be approved on Concept or Final Development Plan
Maximum Height, Side	4 feet				-			8 feet	6 feet	
Maximum Height, Rear	6 feet				6 feet					
b. Ornamental metal or other	X	X	X	X	X	X	X	X	X	
Maximum Height, Front	3 feet				-	6 feet		8 feet	4 feet	
Maximum Height, Side	4 feet				-				6 feet	
Maximum Height, Rear	6 feet				6 feet				6 feet	
c. Woven wire, including chain link	X	X	X	X	X	X	X	X	-	
Maximum Height, Front	3 feet				-	6 feet		8 feet	-	
Maximum Height, Side	4 feet				-				-	
Maximum Height, Rear	6 feet				6 feet					
d. Wood or other, more than 50% open	X	X	X	X	X	X	X	X	X	
Maximum Height, Front	3 feet				-	6 feet		-	4 feet	
Maximum Height, Side	4 feet				-			8 feet	6 feet	
Maximum Height, Rear	6 feet				6 feet					
e. Wood or other less than 50% open	X	X	X	X	X	X	X	X	X	
Maximum Height, Front	-				-	6 feet		-	4 feet	
Maximum Height, Side	4 feet				-			8 feet	6 feet	
Maximum Height, Rear	6 feet				6 feet					

**TABLE 7.3 - FENCE TYPES LIMITED**

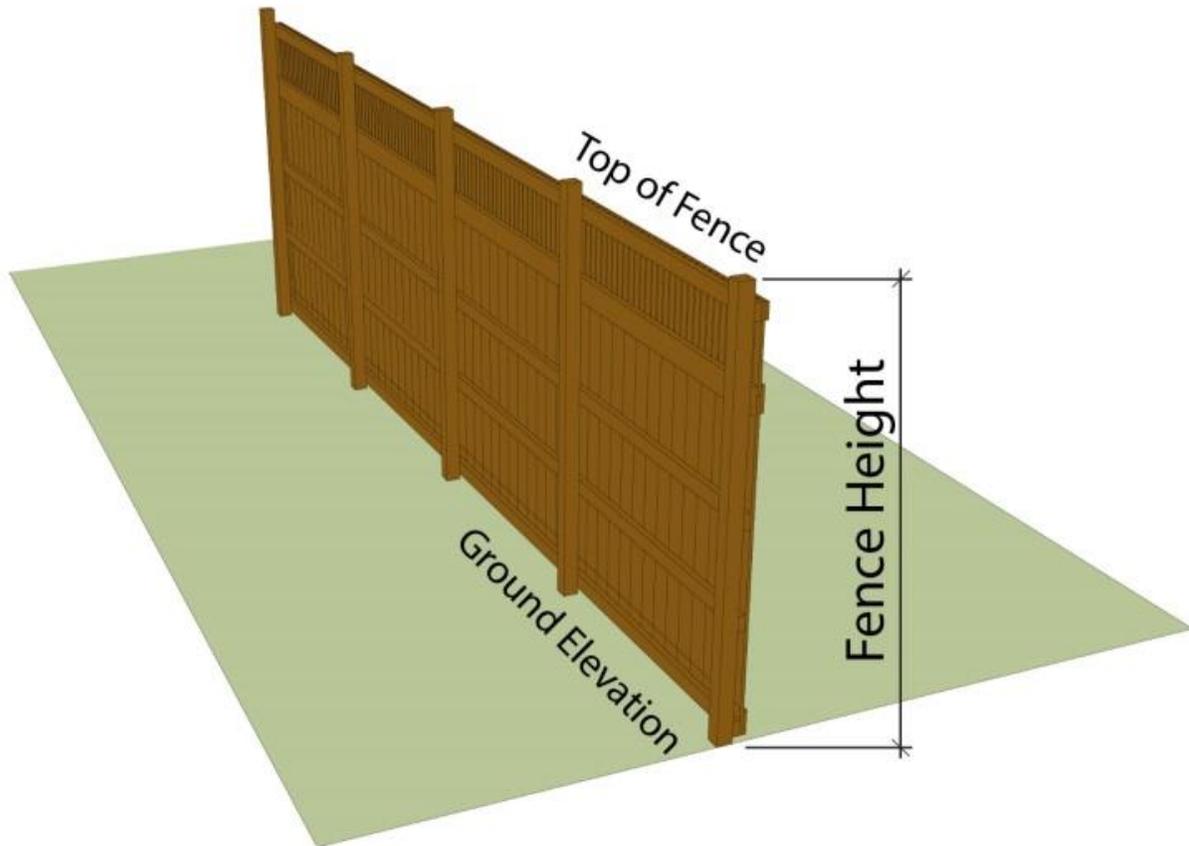
"X" means that the fence type is permitted.  "-" means that the fence type is not permitted.  Maximum heights are in feet	ZONING DISTRICTS									
	RESIDENTIAL					COMMERCIAL	EMP	OTHER	SPECIAL	
	R-LLS	R-CVS	R-U	R-MF	COND USE	NC	RI	CO	DC	PUD
f. Mixed material	X	X	X	X	X	X	X	X	X	
Maximum Height, Front	-				-	6 feet		-	4 feet	
Maximum Height, Side	4 feet				-			8 feet	6 feet	
Maximum Height, Rear	6 feet				6 feet					
g. Hedge	X	X	X	X	X	X	X	X	X	
Maximum Height, Front	3 feet				-	6 feet		-	4 feet	
Maximum Height, Side	4 feet				-			8 feet	6 feet	
Maximum Height, Rear	6 feet				6 feet					
h. Barbed wire/sharp-pointed	-	-	-	-	-	-	-	X	-	
Maximum Height, Front								-		
Maximum Height, Side								8 feet		
Maximum Height, Rear										
i. Flood retaining walls	X	X	X	X	X	X	X	X	X	
Maximum Height, Front	Per Engineering Requirements									
Maximum Height, Side										
Maximum Height, Rear										
j. Sports	X	X	X	X	X	X	X	X	X	
Maximum Height, Front	12 feet									
Maximum Height, Side										
Maximum Height, Rear										
k. Security [1] [2]	-	-	-	-	-	-	X	-	-	
Maximum Height, Front	-									
Maximum Height, Side										
Maximum Height, Rear										
[1] Barbed wire, razor wire, concertina wire, or other sharp pointed materials must be at least 5' above grade										
[2] The maximum height of a security fence includes the height of the barbed wire, razor wire, concertina wire, or other sharp pointed material										

**3. Maintenance and Safety**

Walls and fences shall be erected and maintained in a safe manner. Walls and fences not erected or maintained in a safe manner through neglect, lack of repair, manner of construction, method of placement, or otherwise deemed unsafe by the City shall be repaired, replaced, removed, or subject to enforcement action as a violation of this Ordinance.

**4. Fence and Wall Measurements**

- a. All fences or wall heights must be measured from ground level where the fence or wall meets the ground to the highest point of the fence or wall.
- b. Fence post finials are permitted to extend a maximum of 8 inches above the maximum height of any permitted fence.

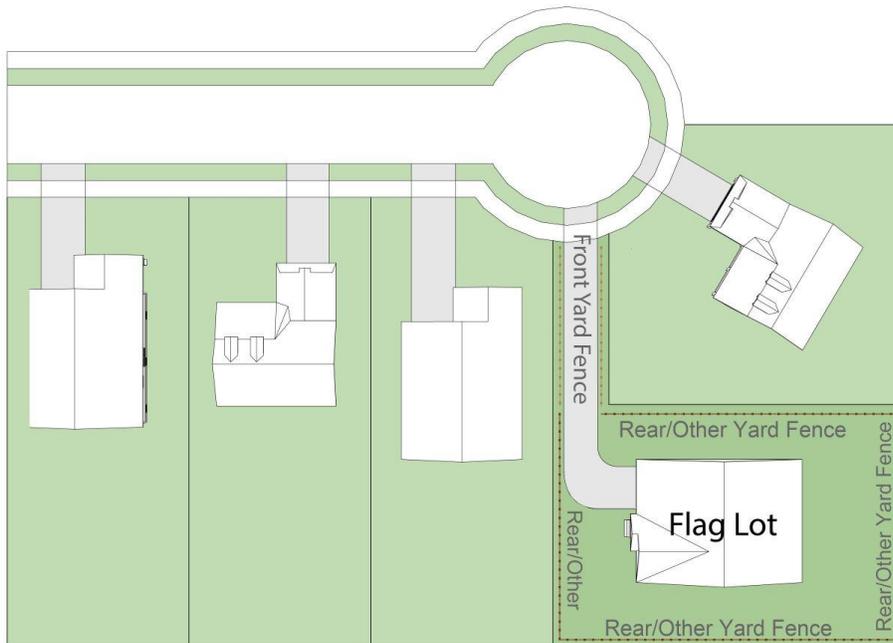


#### 5. Retaining Walls

- a. Walls greater than six feet in height must be terraced or offset to prevent sheer vertical walls.
- b. A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to a level of the highest finished grade. The fence portion must be of the class and height permitted within the zone. The measurement of fence height shall be taken from the highest grade.

#### 6. Fences on Flag Lots

The stem portion of flag lots are restricted to the front yard fence regulations. All other portions of the lot are permitted to have front, side, and/or rear yard fences, unless a more restrictive fence type or height is required on adjacent lot line. Where this occurs, the flag lot must use the more restrictive fence type or height standard.



### 7. Fences on Corner Lots and Double Frontage Lots

Corner lots and double frontage lots are restricted to the front yard fence regulations within any front yard area adjacent to a street, with side yard fences permitted in all other yard areas. Rear yard fences are only permitted within the rear yard areas, as defined within Article 14, for corner lots.

## 7.07 Landscaping, Screening, and Buffers

### A. Purpose

The purpose of this section is to establish minimum standards for the provision, installation, and maintenance of landscaped areas to physically separate and visually screen adjacent uses and zoning districts that are not compatible. These regulations are intended to:

1. Increase the compatibility of development with both adjacent development and the natural environment;
2. Provide direct and important physical and psychological benefits to human beings using landscape materials to reduce noise and glare, and to break up the monotony and soften the harsher aspects of the built environment;
3. Protect and enhance property values;

4. Improve environmental quality through the numerous beneficial effects of landscaping upon the environment.
5. Foster aesthetically pleasing development that will protect and preserve the appearance and character of the community.

**B. Applicability**

1. The section shall apply to all public or private development (except where exempt from zoning by KRS 100), where any provision of the section requires landscaping. The regulations of this section shall apply to any new construction, redevelopment, expansion, relocation or redesign of existing parking areas, and substantial additions to buildings. To comply, a landscape plan, which meets the requirements of this section, must be submitted for review along with any site plan or development plan.
2. Any existing buildings that are substantially expanded per the defined criteria below are required to install perimeter landscaping. The table below dictates the level of expansion that would require conformity with the provisions of this Section. For example, if a business is 12,000 square feet and expands less than 30 percent (less than 3,600 square feet) then the requirements of this Section would not apply. However, if the expansion of the building is 30 percent or greater then these standards shall apply to the entire site.

TABLE 7.4	
Existing Structure Square Feet	Expansion Beyond Square Feet of Existing Structure
1,000 square feet or less	101 percent or greater
1,001 to 10,000 square feet	40 percent or greater
10,001 to 25,000 square feet	30 percent or greater
25,001 to 50,000 square feet	20 percent or greater
50,001 square feet or greater	10 percent or greater

3. New parking lots or parking lot expansions containing more than ten parking spaces or more than 1,500 square feet, which whichever is larger, shall be landscaped accordingly. If an existing parking lot is moved or redesigned, the parking lot landscape standards shall apply. If an existing parking lot is expanded, then these standards shall apply to the expanded area only. Normal maintenance, such as paving or restriping, will not invoke the parking lot landscape standards.
4. When multiple types of landscaping are required, each type must be provided, except in the following cases:
  - a. For areas on lots that require both perimeter landscape and buffer yards, the more restrictive standard shall apply;
  - b. Street trees may be counted towards the perimeter landscaping requirement;
  - c. Any type of landscaping may be used to meet the interior landscaping requirements.

**C. Landscape Plan**

A landscaping plan shall be required for the submission of any new development or redevelopment. This plan shall be submitted in accordance with the procedures and requirements in the Landscape and Planting Manual. Additional procedural requirements may be found in Article 13, Process and Procedure.

**D. Types of Landscaping Required**

**TABLE 7.5 - LANDSCAPE & REQUIREMENTS STANDARDS**

TABLE 7.5 - LANDSCAPE & REQUIREMENTS STANDARDS											
		RESIDENTIAL					COMM	EMP	OTHER	SPECIAL	
	SECTION	R-LLS	R-CVS	R-U	R-MF	COND USE	NC	RI	CO	DC	PUD
<p>“X” means that the standard is required.</p> <p>“-” means that the standard is not required.</p>											
<p><b>Interior Site Landscaping</b> Interior landscaping is the base landscape requirement that will increase aesthetics, encourage open space and an increase in the amount of natural vegetation within a site or development and shall be provided for all new construction.</p>	7.07, I.	X	X	X	X	X	X	X	-	-	X
<p><b>Foundation and Fence/Wall Landscaping</b> Foundation and fence/wall landscaping is required to break up commercial or industrial building foundations, fences, and walls. The purpose of this type of landscaping is to increase aesthetics, and to soften foundations, fences, and walls.</p>	7.07, J.	-	-	-	-	-	X	X	-	-	-

**TABLE 7.5 - LANDSCAPE & REQUIREMENTS STANDARDS**

TABLE 7.5 - LANDSCAPE & REQUIREMENTS STANDARDS											
		RESIDENTIAL					COMM	EMP	OTHER	SPECIAL	
	SECTION	R-LLS	R-CVS	R-U	R-MF	COND USE	NC	RI	CO	DC	PUD
<p>“X” means that the standard is required.</p> <p>“-” means that the standard is not required.</p>											
<p><b>Perimeter Landscaping</b> Perimeter landscaping is required to soften the perimeter or outside of the site or development, and expansions of existing buildings. The purpose of the perimeter landscape is to provide a slight separation between similar intensity uses.</p>	7.07, K.	-	-	-	X	X	X	X	-	-	X

**TABLE 7.5 - LANDSCAPE & REQUIREMENTS STANDARDS**

TABLE 7.5 - LANDSCAPE & REQUIREMENTS STANDARDS											
		RESIDENTIAL					COMM	EMP	OTHER	SPECIAL	
	SECTION	R-LLS	R-CVS	R-U	R-MF	COND USE	NC	RI	CO	DC	PUD
<p>“X” means that the standard is required.</p> <p>“-” means that the standard is not required.</p>											
<p><b>Parking Lot Landscaping</b>                      Parking lot landscaping shall be provided for all new parking lots and garages, relocated parking lots, and expanded parking lots. The purpose of this is to help screen the parking lot from view of the street or other lower intensity development. Types of parking lot landscaping required include parking perimeter landscaping, landscaping islands, and parking median landscaping.</p>	7.07, L.	-	-	-	X	X	X	X	-	X	X
<p><b>Buffer Yards</b>                      Buffer yards provide an opaque buffer to limit the view of adjacent use and shall be provided for adjacent incompatible uses.</p>	7.07, M.	-	-	-	X	X	X	X	-	X	X

**TABLE 7.5 - LANDSCAPE & REQUIREMENTS STANDARDS**

TABLE 7.5 - LANDSCAPE & REQUIREMENTS STANDARDS											
		RESIDENTIAL					COMM	EMP	OTHER	SPECIAL	
	SECTION	R-LLS	R-CVS	R-U	R-MF	COND USE	NC	RI	CO	DC	PUD
<p>“X” means that the standard is required.</p> <p>“-” means that the standard is not required.</p>											
<p><b>Site Element Landscaping</b> Site element landscaping shall be provided to screen elements on a site that may have additional noise, odor, or susceptible to trash and debris build-up such as dumpsters and mechanical equipment.</p>	7.07, N.	-	-	-	X	X	X	X	-	X	X
<p><b>Street Trees</b> Street trees provide additional aesthetic enhancement along City of Bromley streets if determined by the Zoning Administrator that a street has established street trees lining the right-of-way. The purpose of street trees are to maintain the established aesthetic and character of a street.</p>	7.07, O.	X	X	X	X	X	X	X	X	X	X



### E. Materials

1. The Landscape and Planting Manual shall be used to determine the appropriate plant materials, form, and density used in any landscape plan.
2. Areas of a site that are not being used for the building, off-street parking and loading, and interior sidewalks and walkways, must be covered with grass or other types of ground cover. Grass and other types of living ground cover shall cover at least 75 percent of all open space areas, the other 25 percent may be non-living natural ground cover such as rocks and stones. Parking lot islands may be covered by grass, other living ground covers, or non-living natural ground cover. This provision does not apply to inert stabilization in areas subject to severe runoff or erosion. Use of native species is encouraged. Tire mulch and impervious materials shall not be used as ground cover anywhere on a site, except for playgrounds.
3. When calculating the number of plants required, the number of plants shall be rounded up to the nearest whole number.

### F. Installation and Maintenance

1. At the time of installation, plant materials must meet the minimum caliper and height requirements identified in the Landscape and Planting Manual.
2. Concrete or similar curbing shall be installed around all landscape areas adjacent to parking lots, drives, sidewalks, bikeways, or streets to contain landscape material and to provide protection from vehicles. In low-impact design landscape areas, wheel-stops or curb breaks can be substituted.

3. Maintenance of the required landscape and buffers are the responsibility of the property owner. Maintenance includes actions necessary to keep landscape materials healthy, neat and orderly in appearance and free of litter and debris. The minimum standards for all maintenance of required plant materials shall be per the Tree Care Industry Association ANSI A300 Standards. Any living plant material that dies or is destroyed shall be replaced by the property owner.
4. Buffer yards over time may lose their screening ability and shall be replanted to meet the requirements of this Ordinance. The Zoning Administrator may order required buffer yard landscape plants to be replaced for as long as the conditions requiring the buffer exist.
5. The Zoning Administrator may order all other diseased, infested, dying, dead, or damaged landscape plants required in this Section to be replaced within an eight-year period from the date the Certificate of Zoning Compliance was granted. This does not apply to required buffer yards which are covered in subsection 5 above.
6. Replacement of trees and landscape is permitted and shall be in accordance with applicable provisions of this Ordinance.
7. Once streets have been accepted by the street trees shall be maintained and cared for by the property owner adjacent to the tree except in subdivisions where the property owners' association provides maintenance and care. Prior to street acceptance, the developer shall be responsible for ensuring maintenance and care. Maintenance shall include replacement and trimming as necessary. A maintenance responsibility statement shall be provided on the Final Plat and documented within the homeowners' association articles of incorporation or the restrictive covenants/deed restrictions for the development.

**G. Alternative Compliance**

1. The Landscape and Planting Manual includes plant lists which shall be used when selecting trees and shrubs to meet the requirements of this section. For design flexibility, plant substitutions may be made on the following basis, unless otherwise noted:

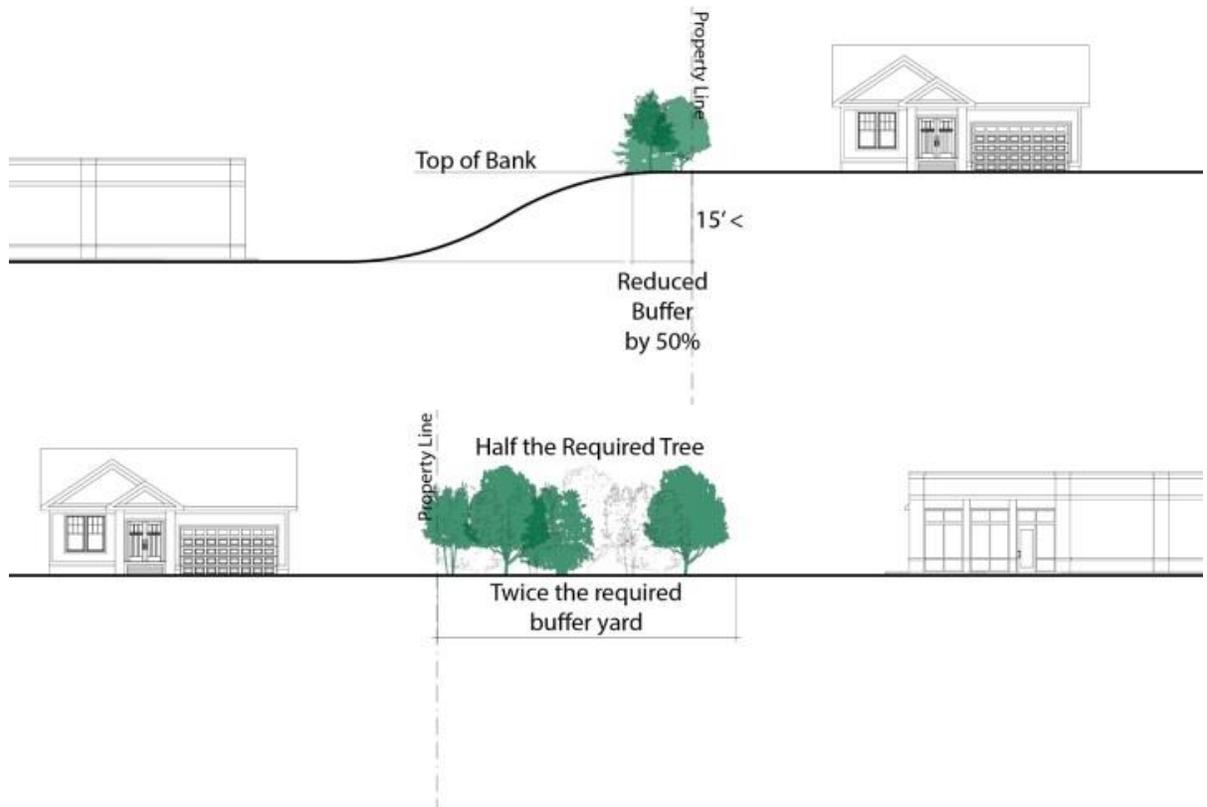
1 large tree = 2 medium trees = 2 evergreen trees

1 medium tree = 1 evergreen tree

1 large shrub = 2 medium shrubs = 4 small shrubs

1 medium shrub = 2 small shrubs

2. Where evergreen trees or shrubs are required for screening, substitutions as noted above are not permitted.
3. Unless specifically required, trees and shrubs do not have to be equally spaced but may be grouped together.
4. Where a property has unique conditions, the following adjustments are permitted:
  - a. When there is a topographical change of 15 feet or greater, a buffer yard width may be reduced by 50 percent. The required landscaping must be placed at the top of the bank.
  - b. When there is an undisturbed area twice as wide as the required buffer yard width, the number of required trees can be reduced by 50 percent.



- H. Existing trees can be preserved to meet the requirements of any of the landscape requirements.
1. The trees being preserved must be in the same general location and be able to fulfill the same purpose as required landscaping.
  2. Barriers shall be used to protect trees during the development of the site. Substantial barriers shall be specified on the landscape plan and shall be placed at or beyond the critical root zone (an area equal to a 1-foot radius from the base of the tree's trunk for each one inch of the tree's trunk diameter at 4.5 feet above grade). These barriers shall remain in place during heavy construction on the site and no vehicles, machinery, tools, chemicals, construction materials, or temporary soil deposits may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees.
  3. If these trees are removed by any means, the property owner shall be responsible to provide new landscaping that meets these requirements.
- I. Under conditions where a strict interpretation of the requirements of this Section may be either physically impossible or create practical difficulties, an alternative compliance procedure may be used to maintain the spirit rather than the literal interpretation of the Ordinance. The proposed solution must equal or exceed standard landscaping requirements. Requests to the Zoning Administrator for use of alternative landscaping schemes are justified only when one (1) or more of the following conditions apply:
1. The sites involve space limitations or unusually shaped parcels;
  2. Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical;
  3. Due to a change of use of an existing site, the required buffer is larger than can be provided;
  4. Safety considerations are involved; or
  5. Existing utility lines or easements complicate the placement of required plant materials.

## J. Clearance Areas

1. Landscaping in required landscaped areas shall not obstruct the sight lines between the street and the access drives and parking aisles near the entries and exits in accordance with the standards provided for in Section 6.07, **Clear Sight Distance Required**. Landscaping shall not be located where it creates an obstruction of view in the radius of any curb return.
2. Large and medium trees shall be planted or preserved so that when they reach maturity, there will be a minimum ten-foot clearance between the tree trunk and structures, building overhangs, walls, fences, utilities, or signs. Small trees shall be planted or preserved so that when they reach maturity, there will be a minimum ten-foot clearance between utilities or signs.
3. Trees shall maintain a minimum of eight feet of vertical clearance over any pedestrian or bicycle areas and a minimum of 14 feet over all vehicular areas.



## K. Interior Landscaping

1. Ten percent of each lot must be landscaped with trees, shrubs, or planting beds. Grass or other types of ground cover does not count towards these requirements. Plants, bioretention areas, filter strips, swales, and constructed wetlands used to meet another landscaping requirement can be used to meet this requirement.
2. Primary entryways to developments shall be landscaped. The landscape shall be set back from the right-of-way to avoid impeding sight lines at the intersection according to Section 6.07, **Clear Sight Distance Required**. These areas can include signage, wayfinding, shrubbery, trees, and ornamental planting.
3. The table below contains the minimum requirements for interior landscaping. All trees required within this subsection shall be planted within the private lot or common open space and must be spaced at a width sufficient to accommodate mature growth.

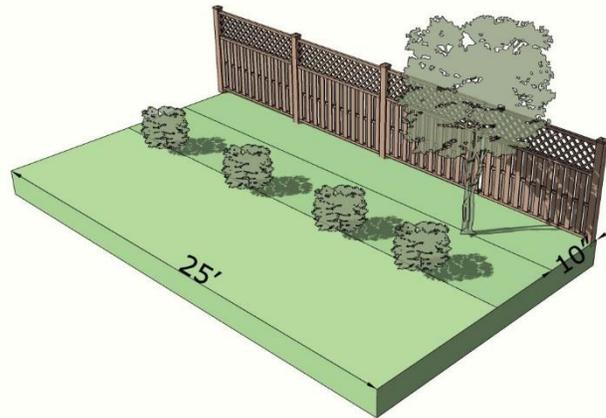
**TABLE 7.6 - LOT PLANTING**

Lot Size	< 12,000 sf	12,000 – 22,000 sf	22,000 – 45,000 sf	> 45,000 sf
Min. Number of Trees <sup>1</sup>	2	3	4	5 +1 per 15,000 sf of lot area over 45,000 sf
Large Tree	1	1	1	1/3 of all trees
Tree Placement	At least 1 in Front Yard	At least 2 in Front Yard	At least 2 in Front Yard	At least 3 in Front Yard

<sup>1</sup> Trees can be either large, medium, or evergreen, unless specified in the chart above.

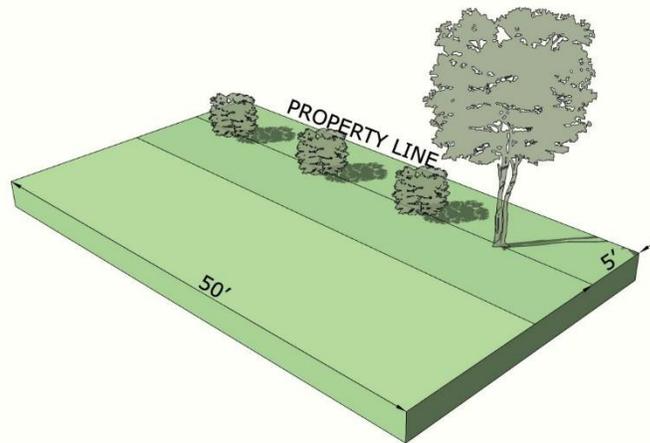
**L. Foundation and Fence / Wall Landscaping**

1. This subsection shall apply to walls and fences that are visible from and within a yard that abuts the public right-of-way and have a foundation, fence, or wall greater than 25 feet in length.
2. There shall be at least one small tree and four large shrubs for every 25 feet of the foundation, fence, or wall. These must be planted within 10 feet of the foundation, fence, or wall. These can be clustered in groups instead of placing on center to promote a more natural setting.
3. Where required, this landscaping may be counted toward any required interior landscaping.



**M. Perimeter Landscaping**

1. Perimeter landscaping shall be required for any new buildings, or the expansion of an existing building meeting the requirements in Section 7.07, B.,2., Applicability
2. Perimeter landscaping shall be located within the front, rear, and side yard setbacks and shall include one medium tree or medium street tree planted and two large shrubs every 50 feet of linear feet. These must be planted within five feet of the front, rear, and side property line. These can be clustered in groups instead of placing on center to promote a more natural setting.



3. Perimeter landscaping may include bioretention areas, filter strips, swales, and constructed wetlands provided they meet the requirements of the Storm Water Best Management Practice Manual prepared for the Northern Kentucky region.

**N. Parking Lot Landscaping**

1. All landscaped areas shall be separated from vehicular use areas by concrete curbing. Roll curbs may not be used for this separation. In low-impact designed landscape areas, wheel-stops or curb breaks can be substituted.
2. Parking lot landscaping consists of perimeter parking lot landscaping, parking lot peninsula and island landscaping, landscaping between multiple parking bays, and parking garage landscaping.

**a. Perimeter Parking Lot Landscaping**

**TABLE 7.7 - PERIMETER PARKING LOT LANDSCAPING REGULATIONS**

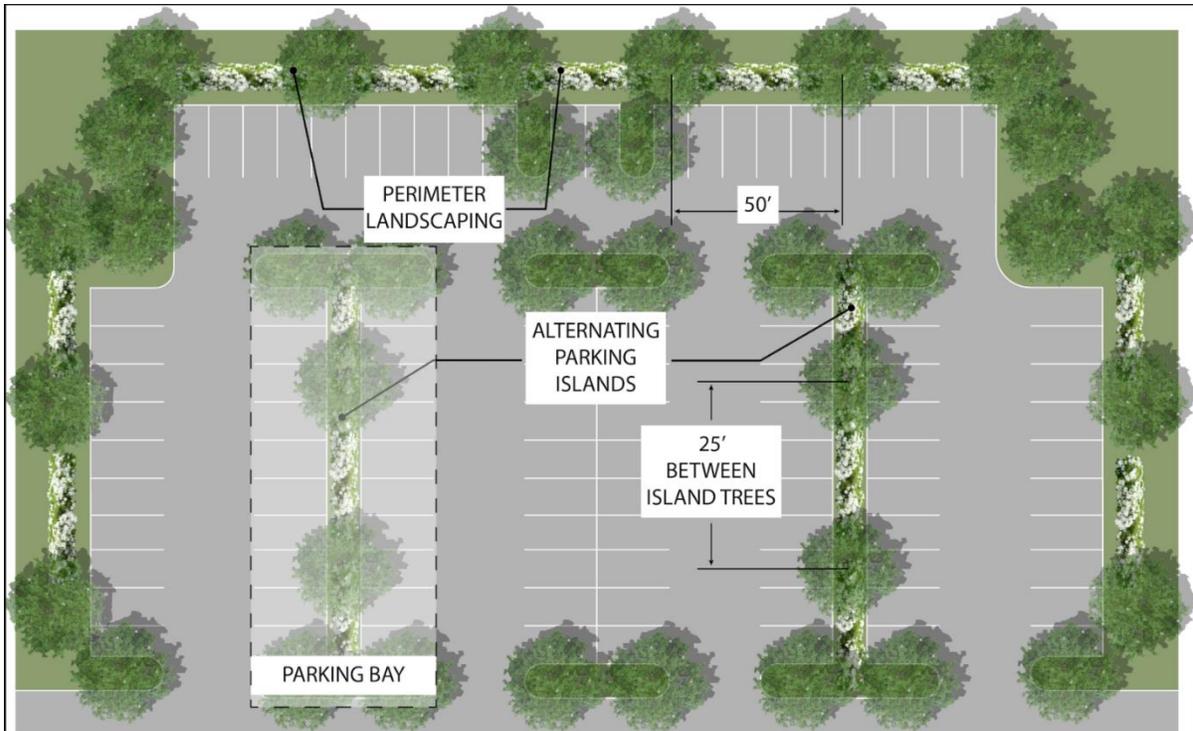
Parking Lot location	Min. Perimeter Landscape width	Min. Required Trees (per 50 LF)	Min. Required Evergreen Shrubs (per 50 LF) <sup>1</sup>
Front and adjacent to public right-of-way	10 feet	(1) 2 large; or (2) 4 medium; or (3) 4 evergreen	(1) 15 large; or (2) 30 medium; or (3) 45 small
Rear/Side Adjacent	5 feet	(1) 3 large; or (2) 6 medium; or (3) 6 evergreen	
Residential Adjacent <sup>2</sup>	15 feet	(1) 3 large; or (2) 6 medium; or (3) 6 evergreen	

<sup>1</sup> Dense or very dense shrubs

<sup>2</sup> A solid fence may be used adjacent to residential (if the type and location is permitted by the fence regulations). If a fence is used, trees are not required. Shrubs are still required and shall be planted between the fence and the adjacent property line.

**b. Parking Lot Peninsula and Island Landscaping**

1. All rows of parking shall be capped with a parking lot peninsula or island.
2. A parking lot peninsula or island is required for every 10 continuous parking spaces.
3. Peninsulas and islands shall be a minimum size of 9 feet wide by 19 feet long. Peninsulas and islands only adjacent to compact parking spaces (if permitted) shall be a minimum of 8 feet wide by 17 feet long.



4. Parking lot peninsulas and islands shall require at least one medium tree or medium street tree. Every peninsula and island shall also contain two large shrubs with ground cover, mulch, or decorative rock.
5. Low Impact Development practices are encouraged including: native grasses and vegetation, bioretention or rain gardens, grassed swales, and soil improvements.

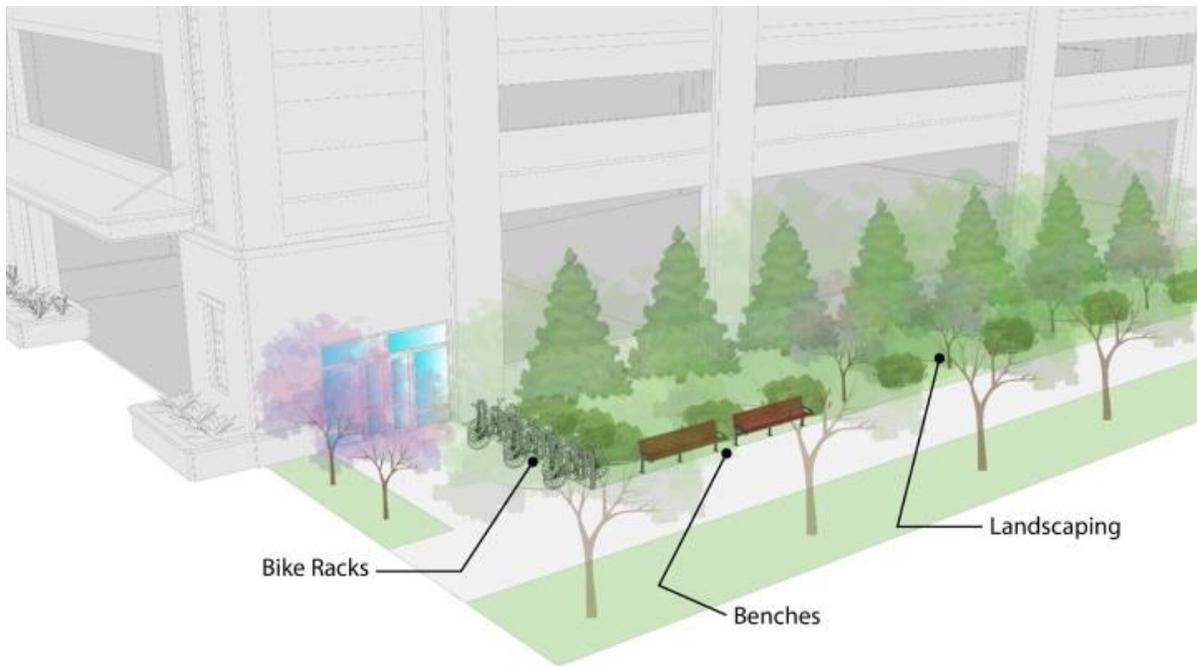
**c. Multiple Parking Bays**

1. When a parking lot contains two or more parking bays, there shall be a continuous landscape island down the middle of every other bay. One medium tree and two large shrubs are required for every 25 feet. The remainder must be covered with ground cover, mulch, decorative rock, or pedestrian walkways that meets the requirements of Section 10.20, C. Low Impact Development practices are encouraged, such as rain gardens, bioretention cells, and infiltration trenches.

**d. Parking Garages**

1. Perimeter Parking Garage Foundation Landscape

A parking garage shall meet the perimeter parking lot landscaping requirements found in Section 7.07, L., 2., a., Parking Lot Landscaping.



## 2. Pedestrian Amenities

Adjacent to any primary street frontage there shall be pedestrian-oriented amenities which can include benches, planters, bicycle racks, scooter storage areas, vehicular drop off, street lights, trash cans, charging station, etc. Two amenities should be chosen to be located on primary street frontage. The applicant may propose another alternative that meets the intent of the requirements approved by the Zoning Administrator. These amenities can be located within the right-of-way provided that written approval has been provided by the appropriate government jurisdiction.

## 3. Garage Screening Requirements

Trellises or hanging baskets may be used to further enhance parking garage parapets or around the exterior of the parking structure, especially when visible to adjacent residential spaces. Appropriately irrigated and drained planting boxes should be used. Planter boxes should be provided at the top level of the parking garage. If a parking garage is effectively hidden by a building, has an architectural façade, or has first floor retail or office, Perimeter Parking Garage Foundation Landscape and Pedestrian Amenities are not required.

## O. Buffer Yard Requirements

**TABLE 7.8 - BUFFER YARD REQUIREMENTS**

DEVELOPING USES		ADJACENT USES							
Based on Table 4.1		Residential		Recreation	Lodging	Institutional	Commercial, Office, and Lodging	Industrial/Transportation	Interstate Limited Access Roadway
		Single/2/3/4 Family Residential	Multi-Family Residential	ALL	Bed and Breakfast, and Short Term Rentals	ALL	All Commercial and Office, and all other Lodging	ALL	ALL
Residential	Single/2/3/4 Family Residential	-	-	-	-	-	-	-	2
	Multi-Family Residential	1	-	-	-	-	-	-	2
Recreation	ALL	1	1	-	-	-	-	-	2
Lodging	Bed and Breakfast, and Short Term Rentals	1	1	1	-	-	-	-	2
Institutional	ALL	2	2	1	1	-	-	-	2
Commercial, Office, and Lodging	All Commercial and Office, and all other Lodging	2	2	2	2	1	-	-	2
Industrial/Transportation	ALL	3	3	2	2	1	1	-	2

**TABLE 7.9 - BUFFER YARD TYPES**

BUFFER YARDS	ARCHITECTURAL AND VEGETATIVE	VEGETATIVE
1	<p><b>Minimum 7.5' wide Buffer Yard</b>  <b>6' tall fence or wall (must be an allowable type and height per Section 7.06)</b>                      and  <b>Trees- planted between fence and adjacent property</b>                      2 trees per 1,000 square feet of buffer area, 25% large, 25% medium, and 50% evergreen                      and  <b>Shrubs- planted between fence and adjacent property</b>                      2 medium or large shrubs per 1,000 square feet of buffer area, 100% evergreen, any density</p>	<p><b>Minimum 15' wide Buffer Yard</b>  <b>Trees</b>                      4 trees per 1,000 square feet of buffer area, 25% large, 25% medium, and 50% evergreen                      and  <b>Shrubs</b>                      4 medium or large shrubs per 1,000 square feet of buffer area, 100% evergreen, any density</p>
2	<p><b>Minimum 15' wide Buffer Yard</b>  <b>6' tall solid fence (less than 50% open) or wall (must be an allowable type and height per Section 7.06)</b>                      and  <b>Trees- planted between fence and adjacent property</b>                      3 trees per 1,000 square feet of buffer area, 50% large and 50% evergreen                      and  <b>Shrubs- planted between fence and adjacent property</b>                      4 medium or large shrubs per 1,000 square feet of buffer area, 75% dense or very dense evergreen</p>	<p><b>Minimum 30' wide Buffer Yard</b>  <b>Trees</b>                      5 trees per 1,000 square feet of buffer area, 50% large and 50% evergreen                      and  <b>Shrubs</b>                      8 medium or large shrubs per 1,000 square feet of buffer area, 75% dense or very dense evergreen</p>

**TABLE 7.9 - BUFFER YARD TYPES**

BUFFER YARDS	ARCHITECTURAL AND VEGETATIVE	VEGETATIVE
3	<p><b>Minimum 37.5' wide Buffer Yard</b>  <b>6' tall solid fence (less than 50% open) or wall (must be an allowable type and height per Section 7.06) or a 6' high berm (3:1 slope max, 2.5:1 slope if designed by a geotechnical engineer)</b>                      and  <b>Trees- planted between fence and adjacent property</b>                      3 trees per 1,000 square feet of buffer area, arranged in a double row with 100% evergreens                      and  <b>Shrubs- planted between fence and adjacent property</b>                      4 medium or large shrubs per 1,000 square feet of buffer area, 100% dense or very dense evergreen</p>	<p><b>Minimum 75' wide Buffer Yard</b>  <b>Trees</b>                      5 trees per 1,000 square feet of buffer area, arranged in a double row with 100% evergreens                      and  <b>Shrubs</b>                      8 medium or large shrubs per 1,000 square feet of buffer area, 100% dense of very dense evergreen                      Another option can be presented as long as there is 100% opacity.</p>

**P. Site Element Landscaping**

1. All trash dumpsters, trash pads, and ground-mounted heating and cooling units shall be screened from residential uses, residential zones, and all adjacent public roads. This equipment shall use a six-foot-high solid fence or wall (if the type and location is permitted by the fence regulations) along with three small or medium evergreen shrubs per 10 lineal feet. The evergreen shrubs must be within five feet of the equipment and may be grouped together. An alternative option is a six-foot high evergreen screen planted in a double staggered row with three medium evergreen shrubs per 10 lineal feet. The evergreen shrubs must be within five feet of the equipment.
2. Detention/retention basins and ponds shall be landscaped per the interior landscape regulations and are encouraged to be shaped to replicate a natural form of a pond. Such landscaping should include shade and ornamental trees, evergreens, shrubbery, hedges, or other plant materials. Use of native species is encouraged.
3. Any service structure that can be seen from the first floor of a residence or from any street shall be screened with a solid evergreen screen surrounding the service structure. Structures may be grouped together; however, screening height requirements shall be based upon the tallest of the structures. Service structures shall include but are not limited to propane tanks, electrical transformers, utility vaults which extend above ground, ground mounted utility equipment and any electrical or other equipment or elements providing service to a building or a site. All service structures shall be adequately screened so it is not visible from adjacent residential developments or public right-of-way.
4. Site elements such as outdoor lighting, signage, trash receptacles and fencing should be considered integral parts of the landscape plans.

**Q. Street Trees**

1. Street trees shall be provided if it is determined by the Zoning Administrator that a street has established street trees lining the right-of-way.
2. Street trees can be placed in the required area between the property line and the front, rear and side yard setbacks. Street trees can be placed in an easement if written approval is granted by the holder of the easement. Street trees can be placed in the right-of-way provided that written approval has been provided by the appropriate government jurisdiction.

**TABLE 7.10 - STREET TREE REQUIREMENTS**

	QUANTITY	MAX. DISTANCE BETWEEN TREES	LOCATION
Arterial and Collector Streets	1 medium street tree per 50 linear feet	60 feet	Sec. 7.07, H.
Local Streets	1 medium street tree per 40 linear feet	50 feet	

3. Street trees should be planted in a row between the street curb and sidewalk. If this zone is not available, the trees shall be planted adjacent to the right-of-way, no more than five feet from it.
4. Street trees shall be, at a minimum, planted two and one-half feet from the curb edge or from a sidewalk. It is recommended that a greater distance be used if possible.
5. When a developer is faced with circumstances which prevent street trees from being planted, the developer can pay the City in lieu of the tree placement. The developer will submit an itemized cost estimate prepared by a certified arborist, nurseryman, or licensed landscape architect.

**R. Tree Preservation**

1. To accomplish the purposes of the landscape regulations, existing trees shall be saved upon development of a property unless it can be demonstrated that the site design restrictions necessitate their removal.
2. A tree preservation plan must be prepared by a Certified Arborist and submitted with a required Final Development Plan or permit application. The determination of which trees shall be saved shall be guided by the following principles:
  - a. The practicability of arranging site plan components around existing features. In general, plans for groups of structures should be designed to preserve tree masses, individual tree specimens, and small stands of trees. Natural woodland areas shall be protected wherever feasible.
  - b. The condition of the vegetation with respect to continued vitality.
  - c. The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation.
  - d. The desirability or lack thereof a particular tree or species by reason of its appearance, historic or ecological significance, botanical characteristics, and the function the vegetation would fulfill as a site plan component.
  - e. The potential for interference with utility services or with passage or visibility along roads or walkways.
  - f. The possibility of preserving the vegetation while meeting the development needs through pruning rather than removal.
    1. Development Plans for sites with existing trees or stands of trees should make reasonable efforts to protect and incorporate them into the overall site design.
    2. Prior to the approval of the development and the issuance of a permit, the developer shall inventory trees on the site which have a caliper of eight inches or greater, following the “American Standard for Nursery Stock” standards that are intended to be saved. The inventory shall contain the location, size, and common name of an existing stand-alone tree, areas of dense trees or shrubs, and other natural features. Existing trees saved in the development of the site shall be credited toward the landscaping requirements as identified in sub-subsection 3 below.
3. To encourage tree preservation, each tree preserved greater than eight inch caliper shall convert as credits for required landscaping. Credits for each preserved eight inch caliper tree shall be:
  - a. Two (2) required shade trees; or

- b. Four (4) ornamental trees.
- 4. Barriers shall be used to protect trees during the development of the site. Substantial barriers shall be specified on the landscape plan and shall be placed at or beyond the critical root zone (an area equal to a 1-foot radius from the base of the tree's trunk for each one inch of the tree's trunk diameter at 4.5 feet above grade). These barriers shall remain in place during heavy construction on the site and no vehicles, machinery, tools, chemicals, construction materials, or temporary soil deposits may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees.

## **ARTICLE 8 NATURAL RESOURCES AND ENVIRONMENTAL STANDARDS**

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### **Contents:**

#### **8.01 Purpose and Applicability**

#### **8.02 Hillside Development Standards**

#### **8.03 RESERVED**

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#### **8.09 Excavation, Grading, Movement of Soil, Tree Removal, and Erosion and Sedimentation Control**

### **8.01 Purpose and Applicability**

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#### **A. Purpose**

The purpose of these standards is to:

1. Establish development standards to protect functions and values of environmentally-sensitive features;
2. Protect the public and public investment from injury, loss of life, property damage, or financial loss due to flooding, erosion, landslides, soil subsidence, environmental degradation, and steep slope failures;
3. Protect unique, fragile and valuable elements of the environment by maintaining and promoting native biodiversity and habitat;
4. Prevent cumulative adverse environmental impacts on water quality, ground water, wetlands and aquatic areas; and
5. Preserve and enhance the natural beauty of the landscape and open ridgelines.

#### **B. Applicability**

These standards shall apply to all development in all zoning districts unless otherwise stated.

### **8.02 Hillside Development Standards**

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#### **A. Intent**

It is the intent of these regulations to:

1. Reduce the alteration of hillside topography through grading and paving;

2. Permit development on certain hillside areas by adjusting topography, preserving existing vegetation, and revegetating as needed to address the impacts of construction activities;
3. Use the best accepted landscape design, architecture, and civil engineering practices to preserve, enhance, and promote the existing and future appearance and integrity of hillside areas;
4. Encouraging the maximum retention of natural topographic features such as natural drainage swales, streams, slope ridge lines, rock outcroppings, vistas from and of the hillsides, trees, and other natural plant formations and to retain the sense of identity and image that the hillside areas now impart to the City.

#### **B. Applicability**

1. Development proposed on land areas identified in the Comprehensive Plan as “Developmentally Sensitive Areas” containing slopes of greater than 20 percent, other areas which have slopes of 20 percent or greater, or which have underlying Kope formations as identified on the Northern Kentucky Geographic Information System shall meet these standards.
2. Lots indicated as developmentally sensitive that have been graded and filled prior to a development application and no longer have slopes of 20 percent or greater are subject to the site safety and stability requirements of this section.
3. Areas identified in the Comprehensive Plan as Developmentally Sensitive Areas containing unaltered slopes less than 20 percent and that do not contain Kope formations are exempt from these standards.

#### **C. Design Standards**

For applicable areas, the following design element shall apply:

1. Design and construction must correct problems related to drainage, erosion, slippage, and other hazards as may be identified during planning or construction.
2. Buildings and other improvements should be sited to conform to topography and take advantage of existing site features.
3. Grading should conserve natural topographic features and appearances by minimizing the amount of cut and fill and by blending graded slopes and benches with the natural topography; straight graded cut and fill slopes are discouraged.
4. Retaining walls should blend with the natural topography and follow existing contours to the greatest extent practicable. Retaining walls that are visible from a public street should have a veneer of natural stone, stained concrete, or earth toned textured surface to help blend the wall with the natural hillside environment and existing character.
  - a. Structures should be designed and built of materials and use colors that blend into the natural terrain.
  - b. In locations with limited vegetation and open visibility to properties and roadways at lower elevations, additional trees and shrubs may be required to screen the structure.
  - c. Fence lines that are along ridgelines or are highly visible from a distance should be avoided.
  - d. Existing natural vegetation must be preserved to the greatest extent practicable whenever it is determined that retaining the vegetation is important to slope stability and erosion control.
  - e. The Zoning Administrator may provide relief from zoning requirements such as setbacks, buffer yards, and other dimensional requirements per Section 5.03 to facilitate compliance with the Hillside Development Standards if they would have an egregious effect on the development or use.

#### **D. Safety and Stability**

For applicable areas, the following site certification process shall apply:

1. A subsurface investigation shall be performed by a qualified geotechnical engineer for the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis, indicating

that any structural or physical changes proposed in the area will be completed in a manner which will minimize hillside slippage or soil erosion.

2. In addition to applicable site plans or Final Development Plans, the applicant must submit the following:
  - a. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion, sedimentation basins, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area.
  - b. A geotechnical investigation for the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis. Such investigation shall be made by a qualified geotechnical engineer, indicating that any structural or physical changes proposed in the area will be completed in a manner which will minimize hillside slippage and soil erosion, and prescribe any necessary hillside stabilization and hillside design requirements for the development.
3. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures in areas identified as DSA may occur until plans and specifications for such work have been submitted for review.
4. At the conclusion of the earthwork operations, a written statement shall be provided by the geotechnical engineer of record that, to the best of their knowledge and belief, all earthwork operations were performed in general conformance with the recommendations contained in the associated geotechnical exploration report. No final zoning approval shall be given until the applicant has provided the final certification of the site by the geotechnical engineer.

## 8.03 RESERVED

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## 8.04 Flood Protection Development Standards

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### A. Findings of Fact

1. The flood hazard areas of Kenton County are subject to periodic inundation which result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

### B. Purpose

It is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize public and private loss due to flooding by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood water, or which may increase flood hazards to other areas.

### **C. Applicability**

These regulations shall apply to all Special Flood Hazard Areas (SFHA), areas applicable to KRS 151.250 and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the legislative body of Kenton County from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the legislative body of Kenton County which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare of the citizens of Kenton County.

### **D. Special Flood Hazard Areas; Flood Insurance Study; Flood Insurance Rate Maps**

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Kenton County, dated May 16, 2013, with the accompanying Flood Insurance Rate Maps (FIRMS), other supporting data and any subsequent amendments, are hereby adopted by reference and declared to be a part of these regulations. This FIS and attendant mapping is the minimum area of applicability of this section and may be supplemented by studies for other areas which allow implementation of this section and which are recommended to the administrative body by the Floodplain Administrator and are enacted by the administrative body pursuant to statutes governing land use management regulations. The FIS and FIRMS are permanent records of Kenton County and are on file and available for review by the public during regular business hours at Planning and Development Services of Kenton County (PDS).

### **E. Interpretation**

In the interpretation and application of this section, all provisions shall be:

1. Considered minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

### **F. Warning and Liability Disclaimer**

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside special flood hazard areas or uses permitted within such areas will be free from flooding or flood damage. This section shall not create liability on the part of the Local Floodplain Administrator of Kenton County or any of its officers or employees for any flood damages that result from reliance on this section or any administrative decision lawfully made pursuant to these requirements.

### **G. Application; Endorsement Required**

All applications for construction, use, or development subject to floodplain regulations shall be made on forms provided by the Zoning Administrator. Endorsement by the Floodplain Administrator is specifically required prior to application for a state floodplain construction permit. Once a state floodplain permit is issued, the applicant can file for a local floodplain permit.

### **H. As-built Elevation and Floodproof Certification Required**

Upon placement of the lowest floor, and before construction or flood proofing by whatever means continues in areas noted as AE, A1-30, AH, and A zones where a regulatory Base Flood Elevation has been adopted, it shall be the duty of the permit holder to submit a certification of the elevation relative to mean sea level of the lowest floor or flood-protected elevation, as built, to the Floodplain Administrator and the State. This certification must be sealed and prepared by or under the direct supervision of a registered land surveyor or professional engineer.

1. When floodproofing is used the certification must be sealed and prepared by or under the direct supervision of a professional engineer or architect registered in Kentucky. Any work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood proofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make required corrections shall be cause to issue a stop-work order for the project.

#### **I. General Construction Standards**

In all Special Flood Hazard Areas the following standards are required.

1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
3. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
5. Electrical, heating, ventilation, plumbing, air condition equipment, and other service facilities shall be designed and located to prevent water from entering or accumulating within the components during conditions of flooding.
6. Within Zones AH or AO, adequate drainage paths are provided around structures on slopes to guide flood waters around and away from proposed structures.
7. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
8. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
9. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
10. Nonconforming structures located in a regulated floodplain are subject to restrictions imposed on all nonconforming structures detailed in Article 2, Applicability & Conformity.

#### **J. Specific Construction Standards**

In all special flood hazard areas where base flood elevation data have been provided, the following standards are required.

##### **1. Residential Construction**

New construction and substantial improvement of any residential structure (including a manufactured home) shall have the lowest floor, including basement, mechanical equipment, and ductwork elevated no less than two feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of hydrostatic flood forces on walls shall be provided in accordance with the elevation standards included in this subsection.

- a. In an AO zone, the lowest floor shall be elevated above the highest adjacent grade to a height equal to or higher than the depth number specified in feet on the FIRM or elevated at least two feet above the highest adjacent grade if no depth number is specified.
- b. In an A zone, where no technical data has been produced by the Federal Emergency Management Agency, the Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include, but are not limited to, detailed hydrologic and hydraulic analyses, use of existing data available from other sources, approximate methods, use of historical data, best supportable and reasonable judgement in the event no data can be produced. The lowest floor shall be elevated no lower than two feet above such base flood elevation. Title 401 KAR (Kentucky Administrative Regulations) Chapter 4, Regulation 060, Section 5, (6),a, states as a part of the technical requirements for a State Floodplain Permit: The applicant shall provide cross sections for determining floodway boundaries (and thereby Base Flood Elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than + 0.5 foot. Cross sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. If necessary, to ensure that significant flood damage will not occur, the cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.
- c. In all other Zones elevated two feet above the base flood elevation, upon the completion of the structure, the elevation of the lowest floor (including basement) shall be certified by a registered professional engineer or surveyor and verified by the building inspection department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.
- d. Manufactured homes shall meet the following additional standards.
  1. All new and substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. This standard is required whether the home is on an individual parcel or lot as a primary or secondary structure, in an area of expansion to an existing manufactured home park or subdivision, in a new manufactured home park or subdivision, or within the boundaries of an existing manufactured home park or subdivision that has incurred "substantial damage" resulting from flooding.
  2. All regulated manufactured homes must be elevated on a permanent foundation, have their lowest floors elevated no less than two feet above base flood elevation, and be securely anchored to an adequately set foundation system resistant to flotation, collapse, and lateral movement.
  3. Except for manufactured homes that have incurred substantial damage resulting from flooding, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength standing no less than 36 inches in height above the highest adjacent grade.

## **2. Non-residential Construction**

New construction and substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes used for non-residential purposes) shall be elevated to conform with the elevation standards included in this subsection or, together with attendant utility and sanitary facilities, made to meet the following standards.

- a. Buildings shall be floodproofed to an elevation of two feet above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water.

- b. Structures shall have components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy and debris.
- c. Construction must have a certification sealed by a registered professional engineer or architect stating that the standards of this subsection are satisfied. Such certification along with the design and operational maintenance plans shall be provided to the Floodplain Administrator prior to issuance of a certificate of occupancy.
- d. Recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the permit requirements for new construction including anchoring and elevation requirements for "manufactured homes." A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Kentucky motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- e. All new construction and substantial improvement with fully enclosed areas below the lowest floor (including basements) that is usable solely for parking of vehicles, building access, or storage, and which is subject to flooding shall meet the requirements for elevated structures. Flood resistant materials shall be used for any building materials utilized below 2 ft. above BFE.

### **3. Elevated Structures**

New construction and substantial improvements of elevated structures on columns, posts, or pilings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor shall be designed to preclude finished living space and to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Openings for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
  - 1. There shall be a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - 2. The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade).
  - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator).
- c. The interior portion of such enclosed areas shall not be finished or partitioned into separate rooms.

### **4. Floodways**

Because floodways are extremely hazardous due to the velocity of flood waters which carry debris, potential projectiles, and resulting erosion potential, encroachments including fill, new construction, substantial improvements, and other changes or uses are prohibited unless certified (with acceptable supporting technical data) by a registered professional engineer is provided demonstrating that the encroachments will not result in any increase in base flood elevation levels during a base flood event.

### **5. Standards for Utilities**

- a. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
  - 1. Infiltration of flood waters into the systems, and

2. Discharge from the systems into flood waters.
3. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flood.

**K. Standards for Streams Without Established Base Flood Elevation or Floodways**

Where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, encroachments including fill material or structures are prohibited within special flood hazard areas unless certified (with acceptable supporting technical data) by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

**L. Standards for Shallow Flooding Zones**

In areas that have flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate, the following standards shall apply.

1. All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to or above two-foot freeboard above base flood elevation, three feet above grade or, in Zone AO, the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.
2. All new construction and substantial improvements of non-residential structures shall also, together with attendant utility and sanitary facilities, be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

**M. Standards for Accessory Structures in All Flood Zones Beginning with the Letter "A"**

All accessory structures must:

1. Be uninhabitable,
2. Be anchored to resist floatation and lateral movement,
3. Be provided with flood openings in accordance with the standards of this section,
4. Be built of flood resistant materials to two feet above the base flood elevation,
5. Have utilities elevated two feet above the base flood elevation,
6. Only be used for storage or parking, and
7. Not be modified for a different use after permitting.

**N. Critical Facilities**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

**O. Appeals and Variance Procedures**

## 1. Nature Of Variances

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the legislative body to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

## 2. Designation of Variance and Appeal Board

- a. The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of these regulations.

## 3. Duties of Board of Adjustment

- a. The Board of Adjustment shall hear and decide requests for variances from the requirements of this ordinance and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- b. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Circuit Court, as provided in Kentucky Revised Statutes.

## 4. Variance Procedures

In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:

- a. Danger that materials may be swept onto other lands to the injury of others;
- b. Danger to life and property due to flooding or erosion damage;
- c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- d. Importance to the community of the services provided by the existing or proposed facility;
- e. Necessity that the facility be located on a waterfront, in the case of functionally dependent use;
- f. Availability of alternative locations, which are not subject to flooding or erosion damage;
- g. Compatibility of the proposed use with existing and anticipated development;
- h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. Safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges and culverts.

## 5. Conditions for Variances

Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

- a. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- b. Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the legislative body need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the legislative body believes will both provide relief and preserve the integrity of the local ordinance.
- c. Variances shall only be issued upon:
  1. A showing of good and sufficient cause;
  2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  3. A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in the definition section under "Public safety and nuisance"), cause fraud or victimization of the public (as defined in the definition section) or conflict with existing local laws or ordinances.
- d. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor being situated below the base flood elevation.
- e. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request
- f. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Article 6 (4) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

#### 6. Variance Notification

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;
- b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Kenton County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- c. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance or denial, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

#### 7. Historic Structures

Variations may be issued for the repair or rehabilitation of “historic structures” (see definition) upon determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

#### **P. Severability**

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

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

### **8.05 Green Development, Infill, and Grayfield Development**

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#### **A. Purpose**

The City encourages the creation of green development, infill development, and grayfield development and establishes incentives for such in order to:

1. Promote energy independence,
2. Conserve natural resources,
3. Encourage clean energy,
4. Improve environmental quality,
5. Maximize public investment and minimize public cost, and
6. Reduce sprawl and greenfield development.

#### **B. Criteria**

In order to be eligible for consideration for incentives, one or more of the following criteria must be met.

1. Proof of certification by the US Green Building Council as LEED Silver compliant or higher for new development and substantial redevelopment sites (buildings or subdivisions).
2. Proof of Green Globe certification by the Green Building Initiative for new or existing buildings with a point score of 2 Globes (55 percent of total points) or higher.
3. Proposed development is for infill or grayfield sites where existing public infrastructure capacity is sufficient or proposed for expansion or improvement that would bring it up to sufficiency.
4. Permanent open space dedication and protection of more than 40 percent of the development site provided ownership and maintenance of the open space is acceptable to the Zoning Administrator. For the purposes of this criterion, open space includes but is not limited to environmental space (e.g. native forest, aquatic habitat, floodplain, stream or wetland sites), trails, passive and active recreation sites, and viewsheds.
5. Projects which resolve a pre-existing stormwater problem by either;
  - a. Optimizing a pre-existing stormwater management facility that does not comply with current stormwater regulation standards; or
  - b. Maximizing new stormwater management facilities to exceed the required standard to improve an existing stormwater problem.
6. Projects including a dedicated stream or wetland mitigation bank site included in the Clean Water Act, Section 404 permit program or other approved stream or wetland mitigation or restoration site.

### **C. Applications and Review**

Applicants may apply for one or more of the following incentives. The Zoning Administrator shall review each application and shall determine whether or not the project is eligible for these incentives. Applications shall be submitted prior to construction.

### **D. Incentives Available**

Eligible developments may be granted one or more of the following incentives based upon the number of criteria met in Section 8.05, B., Green Development, Infill, and Grayfield Development Criteria. Each criteria shall qualify for one incentive, except for projects meeting criteria five or six, which shall be eligible for two incentives:

1. An allowable dwelling unit bonus equal to 130 percent of the maximum dwelling units per acre permitted in the zoning district in which it is located.
2. A floor area ratio bonus equal to 130 percent of the maximum floor area ratio permitted in the zoning district in which it is located for non-residential and mixed-use buildings.
3. An additional 10 feet (1 story) of building height.
4. A 25 percent reduction in lot size and up to a 25 percent reduction in required setbacks provided any reduction in a setback is the minimum necessary to accommodate the lot size reduction.
5. In no case shall bonuses permit a building or development to encroach upon any required buffer or open space.

## **8.06 Storm Water Management**

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### **A. Compliance Required**

All new development, except single and two-family residential uses on individual lots, must comply with the Northern Kentucky Regional Storm Water Management Program Rules and Regulations of Sanitation District No. 1 (Sanitation District No. 1's Storm Water Regulations) for stormwater management for water quality and quantity, regardless of property size, as noted in Section 6.09, Required Improvements for Developments.

### **B. Downspouts, Drains, and Sump Pumps**

1. Roof downspouts, footing, foundation drains, and sump pumps that are discharged above ground shall be discharged onto the same parcel of land from which the water is generated, as far from the property line as practical and at least five feet from the residence.
2. Roof downspouts, footing, foundation drains, and sump pumps discharging toward the street shall be discharged onto a pervious area no closer than 20 feet from the edge of the sidewalk, edge of pavement, or back of curb.
3. In all cases, downspouts shall not discharge directly onto driveways, roads, or sidewalks or in any manner which causes the discharge to freely flow across these surfaces.
4. Connecting roof downspouts, footing, foundation drains, and sump pumps to the public sewer system is prohibited unless approved by Sanitation District No. 1 in writing.

### **C. Low Impact Development (LID)**

1. Low Impact Development Encouraged. To balance growth needs with environmental protection, reduce infrastructure and utility maintenance costs (e.g. streets, curbs, gutters, sidewalks, storm sewer), reduce storm water management costs, preserve the integrity of ecological and biological systems, protect water quality by reducing sediment, nutrient, and toxic loads to water bodies, and to preserve trees and natural vegetation, low impact development is encouraged.

2. Low Impact Storm Water Development. Design of individual and collective low impact storm water development systems must meet the requirements of SD1's Storm Water Best Management Practice Manual prepared for the Northern Kentucky region.
3. Site Design Strategies. Generally, site design strategies will address the arrangement of buildings, roads, parking areas, and other features, and the conveyance of stormwater runoff across the site. LID site design strategies are intended to complement the natural and built environment while minimizing the generation of runoff. Site design strategies should address some or all of the following considerations:
  - a. Necessary grading and land disturbance should be designed to encourage sheet flow and lengthen stormwater flow paths.
  - b. Natural drainage divides should be maintained to keep flow paths dispersed.
  - c. Areas of impervious surfaces should be separated, and stormwater should be conveyed across vegetated areas. This assists runoff filtration and encourages infiltration.
  - d. Distribute small-scale LID strategies across the development site in order to maximize benefits.
  - e. To the maximum extent possible, treat pollutant loads where they are generated.
  - f. Preserve naturally vegetated areas and soil types that slow runoff, filter pollutants, and facilitate infiltration.
  - g. LID systems and structures should be integrated into the natural and built landscape with attention to flow paths, infiltration areas, and the use of appropriate native plant materials.
4. Site Design Elements. In addition to water quality impacts, LID site design elements when successfully implemented, perform three necessary functions: filtration and infiltration, capture and reuse, and reductions in impervious surfaces.
5. Site Design Location. Required open space areas may be used for onsite treatment of stormwater consistent with an approved stormwater plan.
  - a. For residential projects, LID Best Management Practices can be included in the acreage requirement for open space as prescribed in applicable residential zones provided the intent of the project's required buffer is met as prescribed in Section 7.07, Landscaping, Screening, and Buffers. Acceptable LID practices include, but are not limited to, swales, pocket wetlands, bioretention areas, and infiltration trenches. Basins and other retention and detention facilities, however, may not be included in required open space.
  - b. For non-residential projects, LID Best Management Practices can be incorporated into the landscaping and buffer areas as required in Section 7.07, Landscaping, Screening, and Buffers.

## 8.07 RESERVED

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## 8.08 Odor, Noise, Dust, Vibration, Debris, and Glare

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### A. Applicability

These standards apply to all uses, structures, and activities on all land within the City jurisdiction unless otherwise expressly exempted.

### B. Odor

Odors detectable beyond the property line that are offensive to persons with normal sensibilities are prohibited with the following exceptions.

1. Odors common to permitted agricultural operations.
2. Odors associated with seasonal applications of fertilizer regardless of their location.

3. Odors associated with road construction and maintenance, roofing, and similar transient, non-repetitive activities.

#### **C. Noise**

The use of outdoor loud speakers to communicate with workers, customers or other individuals, to amplify or project phone signals or ringers, or to broadcast music or information of any kind that can be heard beyond the property line is prohibited with the following exceptions.

1. Outdoor broadcasts of emergency sirens shall be permitted.
2. The use of outdoor loud speakers at or in conjunction with any outdoor event, theatrical production, or similar occasion approved by the City shall be permitted.
3. Noise associated with outdoor business activities that are permitted in the use standards.
4. Noise associated with permitted site development activities from 7:00 AM to 9:00 PM.

#### **D. Dust**

Dust shall be kept to a minimum by appropriate screening, design, landscaping, paving, oiling with biodegradable oils, sprinkling, or other acceptable means. Any source that creates dust impacting adjacent properties or rights-of-way is prohibited with the following exceptions.

1. Dust associated with permitted agricultural operations.
2. Dust associated with permitted site development activities from 7:00 AM to 9:00 PM.

#### **E. Vibration**

No use, operation, or activity shall create earthborn vibrations which are transmitted through the ground and discernible beyond the property line except for vibrations associated with permitted site development activities from 7:00 AM to 9:00 PM.

#### **F. Debris**

Debris including but not limited to litter, mud, grass, and gravel must not be allowed to blow onto or to be carried onto adjacent properties or public roadways.

#### **G. Glare**

There shall be no direct or reflected glare from any source including high temperature processing, combustion, welding, metal structures, or surfaces that impact adjacent properties, rights-of-way, or aircraft.

1. Safety hazard. Any source that creates glare or reflection observable within the normal range of vision from any public right-of-way under normal weather conditions is considered a safety hazard and is prohibited.
2. Nuisance. Any source of glare observable within the normal range of vision, under normal weather conditions, from any lot other than the lot where the light source is located or on an adjacent right-of-way is considered a nuisance and is prohibited.

## **8.09 Excavation, Grading, Movement of Soil, Tree Removal, and Erosion and Sedimentation Control**

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#### **A. Approvals Required**

No land shall be stripped, excavated, graded, filled, or otherwise have soil, trees, or vegetation moved or removed without first obtaining a zoning permit. The following activities shall be excluded:

1. Minor filling of small depressions and removal of diseased or dangerous vegetation.
2. Bona fide agriculture and silviculture activities.

3. Normal excavation or grading incidental to the construction or alteration of a building on the premises for which a valid permit has been granted.

#### **B. Area Limited**

Clearing, grading, vegetation and tree removal, and similar activity shall be limited to that portion of a lot or development tract for which a valid zoning permit has been issued or for which a preliminary plat has been approved.

#### **C. Erosion and Sedimentation Control**

Erosion and sedimentation controls for excavation, movement of soil, and tree removal shall meet all requirements of Sanitation District No. 1 regardless of whether Sanitation District No. 1 reviews and permits the proposed development. Furthermore, erosion control activities must be planned, and mitigation applied to conform to the following standards:

1. The smallest practical area of land shall be exposed at any one time during development.
2. When land is exposed during development, the exposure shall be kept to the shortest period of time practicable.
3. Temporary vegetation or mulching shall be used to protect critical areas exposed during development.
4. Sediment basins (debris basins or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.
5. Provisions shall be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development.
6. Permanent final vegetation and structures shall be installed as soon as practical in the development.
7. The development shall be fitted to the topography and soils to create the least erosion potential.
8. Wherever feasible, natural vegetation shall be retained and protected.

## **ARTICLE 9 SEXUALLY-ORIENTED BUSINESSES**

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### **Contents:**

#### **9.01 Purpose and Applicability**

#### **9.02 [RESERVED]**

#### **9.03 [RESERVED]**

#### **9.04 Individual Business Standards**

#### **9.05 [RESERVED]**

#### **9.06 Severability**

### **9.01 Purpose and Applicability**

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#### **A. Purpose**

The purpose of these standards is to establish comprehensive regulations for sexually-oriented businesses within the City of Bromley. These regulations are designed to protect and promote the public health, safety and welfare by regulating the location and design of sexually-oriented businesses to minimize the nature and extent of adverse secondary effects. It is the desire of the legislative body to balance the Constitutional rights of businesses that present sexually-oriented entertainment with the legislative body's interests in ensuring that this community not suffer from adverse effects. The facts and other matters set forth in Appendix 15.01, Preamble to the Regulations of Sexually Oriented Businesses are hereby adopted as findings of fact in support of the legislative body's action.

## **B. Definitions**

The definitions specific to this Article are found in Section 14.04, Definitions for Sexually Oriented Businesses.

## **C. Applicability**

These standards shall apply to sexually-oriented businesses in all districts unless otherwise stated.

### **1. Prohibited Uses**

The following uses are prohibited in the City under Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually-oriented businesses and service-oriented escort bureaus. No Zoning Permit shall be issued for the following prohibited businesses:

- a. Sexually-oriented motion picture arcade or booth;
- b. Sexually-oriented encounter center;
- c. Sexually-oriented motel;
- d. Sexually-oriented massage parlor or any business offering massages that is operated by a person who is not licensed as a massage therapist in accordance with the provisions of KRS 309.350 et seq.;
- e. Sexually-oriented modeling studio;
- f. Sexually-oriented nude modeling studio; and
- g. Sexually-oriented escort bureau.

### **2. Other Prohibited Uses.** Because there are no suitable sites for such sexually-oriented businesses, the following additional uses are prohibited:

- a. Sexually-oriented media store;
- b. Sex shop;
- c. Service-oriented escort bureau;
- d. Sexually-oriented motion picture theatre; and
- e. Sexually-oriented cabaret or theatre.

## **9.02 [RESERVED]**

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## **9.03 [RESERVED]**

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## **9.04 Individual Business Standards**

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### **A. Standards for a Service-Oriented Escort Bureau**

A service-oriented escort bureau shall be subject to the following additional standards:

#### **1. Room Size**

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

## **2. Lighting**

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

### **B. Standards for a Media Store with Some Sexually-Oriented Media**

A retail book, video or other media store that has sexually-explicit media that constitutes more than ten percent but not more than 40 percent of its inventory or that occupies more than ten percent but not more than 40 percent of its gross public floor area shall not be classified as a sexually-oriented business but shall be subject to the following standards:

1. Separate room. The sexually-explicit media shall be kept in a separate room from the rest of the inventory of the store and shall not visible outside the room;
2. Age limit. Sexually-explicit media shall be available only to persons 18 years or older;
3. Access. Access to the room shall be through a solid door, accessed by an electronic control device monitored by the clerk or manager on duty through direct visual control;
4. Visibility. Customers and activities in the room shall be visible at all times to the clerk or manager on duty through a video system located at the clerk's or manager's counter; and
5. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured three feet from the floor.

### **C. Standards for a Sexually-Oriented Media Store or Sex Shop**

A sexually-oriented media store or sex shop shall be subject to the following additional standards:

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

### **D. Standards for a Sexually-Oriented Motion Picture Theatre**

A sexually-oriented motion picture theater shall be subject to the following additional standards:

#### **1. Presentation Area**

All screenings and presentations of motion pictures, videos or other media shall occur in a room open to all customers of the establishment and containing at least 1,000 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room.

#### **2. Lighting**

The lighting level in the area occupied by customers shall be at least five footcandles as measured at the floor.

#### **3. Seating**

Seating shall consist of individual, theater-style chairs, with solid arms separating the chairs. No couches, benches, portable chairs, beds, loose cushions or mattresses, or other forms of seating may be provided. Separate spaces for wheelchairs shall be provided in accordance with the applicable provisions of the building code and the Americans with Disabilities Act.

#### **E. Standards for a Sexually-Oriented Cabaret or Theatre**

A sexually-oriented cabaret or theater shall be subject to the following additional standards:

##### **1. Presentation Area**

All entertainment shall occur in an unobstructed room of at least 600 square feet of floor area with a person in any part of such room having a clear view of all entertainment areas.

##### **2. Performance Stage**

All entertainment shall take place on stage elevated at least 24 inches above the surrounding floor area, with a minimum area of 100 square feet, and with a horizontal separation of at least 60 inches between the edge of the stage and the nearest space to which customers have access—the horizontal separation shall be physically enforced by a partial wall, rail, or other physical barrier, which may be located either on the stage (to keep the entertainers back from the edge) or on the floor (to keep the customers back from the stage).

##### **3. Lighting**

The lighting level in the area occupied by customers shall be at least 15 footcandles as measured three feet from the floor.

##### **4. Seating**

Seating shall consist of chairs or open booths; no couches, beds, or loose cushions or mattresses, or of any form shall be provided.

## **9.05 [RESERVED]**

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## **9.06 Severability**

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It is hereby declared to be the intention of the Bromley's City Council that the sections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any phrase clause, sentence, paragraph or section of this Chapter shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Chapter, since the same would have been enacted by the Bromley's City Council without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

## **ARTICLE 10 PARKING & LOADING STANDARDS**

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### **Contents:**

#### **10.01 General Parking Requirements**

#### **10.02 Location of Parking**

#### **10.03 Circulation**

#### **10.04 Calculation of Off-Street Parking Requirements**

#### **10.05 Off-Street Parking Requirements**

## **10.06 Parking for Uses Not Listed**

## **10.07 Accessible Parking**

## **10.08 Off-Street Parking Exemptions**

## **10.09 Parking for Changes in or Expansions of an Existing Use**

## **10.10 Parking Flexibility**

## **10.11 Shared Parking**

## **10.12 Parking or Storage in a Front or Side Yard**

## **10.13 Parking, Storage, or Use of Campers, Boats, Trailers, or Recreational Vehicles and Other Similar Equipment**

## **10.14 Parking, Storage, and Use of Non-Recreational, Commercial, and Industrial Vehicles**

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## **10.16 Overflow and Special Event Parking**

## **10.17 Design**

## **10.18 Access Management and Circulation**

## **10.19 Traffic Impact Studies**

## **10.20 Bicycle and Pedestrian Facilities**

## **10.21 Drive-In or Drive-Through Lanes and Stacking Spaces**

## **10.22 Loading Areas**

### **10.01 General Parking Requirements**

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- A. Every lot shall provide off-street parking unless otherwise stated in this Ordinance. No site plan shall be approved, or zoning permit issued unless the proposed use conforms to the parking requirements of this section.
- B. Off-street parking is permitted in required yard and setback areas as provided in this section, but shall not be permitted in any required landscaping area.
- C. Permitted on-street parking directly in front of and adjacent to the zoning lot shall count toward fulfilling the parking requirement of that lot, except for single-family detached residential uses.
- D. All vehicles must maintain current license plates and inspection stickers. Unlicensed vehicles shall not be stored or parked on any lot, unless in a completely enclosed buildings, except for motor vehicle sales and rental, motor vehicle service, junk, scrap, or salvage yard or where otherwise permitted as a commercial use.

### **10.02 Location of Parking**

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- A. Required off-street parking must be provided:
  - 1. On the same parcel or within 500 feet of the principal use for which it is required,
  - 2. On a lot with a title or permanent access easement,
  - 3. Offsite in an area approved by the Zoning Administrator as shared parking, or
  - 4. As otherwise approved by the Zoning Administrator.
- B. In the R-MF and DC districts, onsite parking shall be located primarily to the rear of the principal building and may be accessed from the front, side, or rear of the property. In the R-U and NC districts, onsite parking shall be located primarily to the rear or side of the principal building and may be accessed from the front, side, or rear of the property. None of the parking provided shall be located between a primary façade and a public street.

- C. The location of detached garages, carports, and surface parking lots for any multi-family development within any district shall not be located between any primary building and the adjacent public street frontage.
- D. The location of off-street parking within PUD districts shall be approved through the Development Plan Process.
- E. Parking lots and parking garages shall not abut an intersection or occupy lots which terminate a vista (a distant view through or along a street or public space).

### 10.03 Circulation within Off-Street Parking Areas

#### A. General Standards

1. All off-street parking shall be served by interior circulation drives. No private off-street parking spaces shall directly connect to public streets, except for single-family (attached and detached) residential. All maneuvering into and out of parking spaces shall be conducted onsite.
2. At least one vehicular and one pedestrian connection shall be provided between adjacent mixed-use and commercial buildings, such as shops and offices and mixed-use buildings, that require public access. This vehicular connection must meet the requirements of the Access Control Regulations of the Kenton County Subdivision Regulations following the procedures in Section 6.09, Required Improvements for Developments. A public sidewalk can be counted as the pedestrian connection if there is no parking within the front yard. If there is parking within the front yard, then a more direct connection between buildings must be provided.
3. All parking lots shall be designed to allow continuous vehicular circulation. In situations where dead end parking aisles are unavoidable, a vehicular turnaround shall be provided.

### 10.04 Calculation of Off-Street Parking Requirements

- A. All parking and loading requirements that are based on square footage shall be calculated using the gross floor area of the subject use, unless otherwise noted.
- B. Parking spaces designated specifically for recreational vehicles, motorcycles, scooters, fleet vehicles, delivery vehicles, or vehicles on display for sale or rental shall not be counted towards the parking requirements of this section, unless otherwise stated.
- C. The number of parking spaces required shall be calculated so that any fraction of 0.5 or greater shall be rounded up to the next whole number.

### 10.05 Off-Street Parking Requirements

- A. The number of off-street parking spaces required within PUD districts shall be approved through the Development Plan Process.
- B. The following table lists the parking requirements for all other zoning districts:

TABLE 10.1 - REQUIRED OFF-STREET PARKING	
USE	PARKING REQUIREMENT
<b>AGRICULTURE</b>	
Agriculture, Exempt	No Parking Requirement
Agriculture, Non-Exempt	Per 10.10,B.
On-farm sales (farm markets, roadside stands)	No Parking Requirement
Agritourism	Determined by type of use, e.g. retail, brewery, assembly, or winery, or per 10.10,B.
<b>RESIDENTIAL</b>	
Accessory Dwelling Unit	1 per unit
Cottage Court	1 per unit
Live/Work Unit	2 per unit

**TABLE 10.1 - REQUIRED OFF-STREET PARKING**

USE	PARKING REQUIREMENT
Manufactured Home, Qualified	In addition to any provided garage spaces, 2 per unit if on-street parking is provided or 4 per unit if no on-street parking is provided
Manufactured Home	1 per unit
Mobile Home	1 per unit
Multi-family	1 per unit
1-Bedroom	1.5 per unit
2-Bedroom	2 per unit
3+ Bedroom	In addition to any provided garages spaces, 2 per unit
Single-Family, attached	In addition to any provided garage spaces, 2 per unit if on-street parking is provided or 4 per unit if no on-street parking is provided
Single-Family, detached	1 per unit
Upper Floor Housing	2 per unit if on-street parking is provided or 4 per unit if no on-street parking is provided
Two-Family	1 per unit
Three/Four-Family	1 per unit
<b>COMMERCIAL</b>	
Animal care, Veterinary Clinic - enclosed and outdoor activity	1 per 400 sf
Assembly, Commercial	1 per 4 seats or 1 per 300 sf if no permanent seats
Bar or Drinking Place	1 per 200 sf
Brewery, Distillery, Winery	1 per 200 sf, plus 1 per employee on shift of largest employment
Building Material Sales	1 per 1,000 sf, plus 1 per 2,500 sf of outdoor display or storage
Car Wash	1 per employee, plus 1 per owner or manager, and stacking space equal to 5 times the capacity of the facility
Carpenter shops, electrical, plumbing and heating shops, furniture upholstery and similar establishments	1 per employee on shift of largest employment
Check Cashing and Title Loan Business	1 per 400 sf
Commercial Printing	1 per employee on shift of largest employment
Conversions	1 per 300 sf
Day Care or Child Care Center, Type I and Type II	1 per 400 sf
Dry Cleaner	1 per 300 sf
Equipment Sales, Rental, Repair	1 per 1,000 sf
Farmer's Market	No Parking Requirement
Financial Services	1 per 300 sf
Funeral Home, Mortuary	1 per 4 seats
Gas Station	1 per gas pump island, plus 2 per working bay, plus 1 per employee on shift of largest employment
Liquor Store	1 per 300 sf
Medical Office	1 per 400 sf
Motor Vehicle Sales and Rental	1 per 500 sf of sales and service area
Motor Vehicle Service, Major	1 per 500 sf of service area
Motor Vehicle Service, Minor	1 per 500 sf of service area
Nursery / Garden Supply	1 per 300 sf of retail sales area
Office	1 per 400 sf
Personal Services	1 per 300 sf

**TABLE 10.1 - REQUIRED OFF-STREET PARKING**

USE	PARKING REQUIREMENT
Restaurant with drive-in or drive-through only	1 per 300 sf
Restaurant with sit-down only, or sit down and drive-in / drive-through combination	1 per 200 sf
Restaurant carryout only	1 per 300 sf
Retail Store	1 per 300 sf
Sexually-Oriented Business	1 per 4 seats
Studios for Work or Teaching	1 per 400 sf
Tattoo or Body Art Services	1 per 300 sf
<b>INSTITUTIONAL</b>	
Assembly, Institutional and Civic	1 per 4 seats or 1 per 300 sf if no permanent seats
Cemeteries and Crematories	No Parking Requirement
College or University	Per 10.10,B.
Community Center, Civic Center	1 per 500 sf
Emergency Medical Facility/Urgent Care/Surgery Center	1 per 300 sf
Hospital	1 per 3 beds
Library	1 per 500 sf
Meeting, Banquet, or Conference Facility	1 per 250 sf
Museum	1 per 500 sf
Park	No Parking Requirement
School, primary or secondary	Per 10.10,B.
<b>INDUSTRIAL</b>	
Fabrication, light	1 per employee on shift of largest employment
Manufacturing, heavy	1 per employee on shift of largest employment
Mini-warehouse, personal storage	1 per 30 units
Mining, quarrying and crude petroleum and natural gas production	1 per employee on shift of largest employment
Outdoor storage	1 per employee on shift of largest employment
Research and Development	1 per 1,000 sf
Warehouse and Logistics	1 per 1,000 sf
<b>LODGING</b>	
Bed and Breakfast	1 per guest room, plus 2 spaces for owners/employees
Short Term Rentals, Owner and Non-Owner Occupied	1 per sleeping room, plus 1 for the caretaker
Convalescent homes, nursing homes, assisted living facilities	1 per 2 beds, plus 1 per employee on shift of largest employment
Hotel, Motel	0.8 per room, plus 1 per 800 sf of public meeting, event, or restaurant area
Residential Care Facility	1 per 2 beds, plus 1 per employee on shift of largest employment
Rehabilitation Home	1 per 2 beds, plus 1 per employee on shift of largest employment
<b>RECREATION</b>	
Athletic Fields	Per 10.10,B.
Indoor Commercial Recreation	1 per 400 sf
Golf Course, Country Club	1 per 300 sf of club house, plus 3 per hole
Outdoor Commercial Recreation	1 per 400 sf of building, plus 1 per 10,000 sf of outdoor recreation area
Shooting Range or Archery	1 per 300 sf of sales area, plus 1 per lane
Stadium	Per 10.10,B.

**TABLE 10.1 - REQUIRED OFF-STREET PARKING**

USE	PARKING REQUIREMENT
<b>TRANSPORTATION</b>	
Airport	1 per 4 seating accommodations for waiting passengers, plus 1 per 2 employees on shift of largest employment
Boat Harbor, Marina	1 per in-water boat slip
Railroad Facilities	1 per employee on shift of largest employment
Truck Terminals	1 per employee on shift of largest employment
<b>UTILITY</b>	
Public or Quasi-public Utilities and Related Facilities	No Parking Requirement

### 10.06 Parking for Uses Not Listed

A. Parking requirements for uses not expressly listed in Table 10.1, Required Off-Street Parking shall be determined by the Zoning Administrator who shall apply the unit of measurement set forth in the table for a use that the Zoning Administrator deems to be most similar to the proposed use, or the applicant can submit a parking study per Section 10.10, B.

### 10.07 Accessible Parking

- A. Accessible spaces shall be provided and designed as required to meet the requirements of the Americans with Disabilities Act (ADA).
- B. Accessible spaces shall count towards the minimum parking requirements of Table 10.1, Required Off-Street Parking.

### 10.08 Off-Street Parking Exemptions

A. Due to the unique characteristics of the neighborhood commercial zone, including service by public transportation, the availability of on-street parking, and the provision for municipal parking lots, no off-street parking spaces are required for the rehabilitation or reuse of existing structures within the neighborhood commercial zone.

### 10.09 Parking for Changes in or Expansions of an Existing Use

- A. Change in the use of an existing structure or site shall require compliance with the minimum parking requirements applicable to the new use. However, if the new use also requires additional buffer or parking lot landscaping, the Zoning Administrator may permit a reduction of up to 20 percent in the required number of spaces to accommodate additional landscaping and buffering.
- B. Any expansion of an existing building or use including addition of dwelling units, personnel, seats, chairs, and similar changes shall require review by the Zoning Administrator to determine additional off-street parking necessary to accommodate the expansion area or change.

### 10.10 Parking Flexibility

A. A reduction to the required parking may be granted by complying with any one or combination of the parking flexibility options listed in this Section provided that the total reduction is not greater than 35 percent below the parking requirements in Table 10.1, Required Off-Street Parking.

#### 1. Shared Vehicle or Fleet Vehicle Parking Credit

For each shared vehicle and fleet vehicle provided, which is available throughout the day for employee use, the minimum number of required off-street parking spaces may be reduced by four. Each shared or fleet vehicle space shall be signed for such use and shall count toward the minimum number of required parking spaces.

## **2. Electric Vehicle Charging Station Credit**

For each electric vehicle charging station provided, the minimum number of required off-street parking spaces may be reduced by two. Each charging station counts toward the minimum number of required parking spaces.

## **3. Bicycle Parking Credit**

The number of required off-street parking spaces may be reduced at a ratio of one motor vehicle parking space for each four secured bicycle parking spaces provided above the minimum bicycle parking requirements, up to a maximum reduction of five percent of the required motor vehicle parking spaces.

## **4. Public Parking Credit**

The Zoning Administrator may allow for a reduction or elimination of parking requirements if the applicant can demonstrate that adequate spaces are available in a nearby public parking lot or structure, and that the reduction or elimination of parking requirements will not result in excessive traffic congestion or on-street parking in any nearby residential district. For the purposes of this provision, on-street parking and parking located within public parks and open space areas shall not constitute a nearby public parking lot or structure.

## **5. On-street Parking Credit**

Any on-street parking space, at least one-half the length of which is located immediately adjacent to the subject property, may be counted towards on-site parking requirements. Each on-street parking space may only be counted once towards the parking requirements of the adjacent lot, regardless of the number of individual buildings or tenants on the lot. The use of this credit does not entitle the property owner to the continued availability of those on-street parking spaces over time; management of on-street parking spaces is subject to the City parking management policies and practices. In cases where on-street parking is available but is not marked, the City shall determine the number of spaces available.

## **6. Parking Requirements for Multi-Tenant Sites with Three or More Connected Tenant Spaces**

The Zoning Administrator may authorize a single parking standard for an entire multi-tenant site provided that:

- a. The uses have similar or complementary traffic patterns and parking needs.
- b. None of the uses involve outdoor storage, display, or events, within the parking area, not clearly marked on the site plan.
- c. Individual parking spaces are not limited to specific tenants.

The standard shall be 1 per 250 gross square feet of building space for commercial, retail, and restaurant sites, and 1 per 300 gross square feet for office and institutional sites.

## **B. Alternative Parking Requirements**

1. The Zoning Administrator may approve the total number of parking spaces required by this Section, for applicants that demonstrate proof of parking needs based on formal parking studies or existing site demand as demonstrated on similar sites, or a combination of both. However, the Zoning Administrator may require that the unconstructed parking area be reserved for future parking. Reserved parking areas must be labeled on the site plan and designed to indicate how they will integrate into constructed parking areas and driveways if needed.

2. The number of off-street parking spaces determined by a parking study should be determined using the latest edition of the ITE Parking Generation Manual, or use the following methodology:
  - a. Estimate the maximum number of employees on the greatest shift and provide one space for each two employees;
  - b. Estimate the total number of inbound and outbound trips generated during the peak conditions using the latest edition of the ITE Trip Generation Manual;
  - c. Estimate the parking duration per trip in minutes and divide by 60 minutes;
  - d. Multiply the total number of inbound and outbound trips generated during the peak conditions by the number generated in subsection c. above;
  - e. Add the results from subsection a. to the result from subsection d. This is the required number of off-street parking spaces.

## 10.11 Shared Parking

A. Shared parking can be used when any site or building is under the same ownership, or when two or more owners provide satisfactory guarantee of a shared parking agreement. The number of minimum required parking spaces shall be computed by multiplying the minimum number of parking spaces normally required for each land use by the appropriate percentage for each of the five time periods shown in Table 10.2 Shared Parking Credit Table. Each column would then be totaled which would determine the number of parking spaces required for each time period. The time period column that generates the highest number of parking spaces becomes the minimum parking requirement for both uses. (Two examples follow the table.)

TABLE 10.2 - SHARED PARKING CREDIT TABLE					
USE	TIME OF OPERATION				
	Weekday		Weekend		All Days
	Daytime (6am-6pm)	Evening (6pm-Midnight)	Daytime (6am-6pm)	Evening (6pm-Midnight)	Nighttime (Midnight-6am)
Office/Industrial	100%	10%	10%	5%	5%
Retail/Personal Service	60%	90%	100%	70%	5%
Hotel/Motel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Theater/Commercial Recreational Establishment	40%	100%	100%	100%	10%

### Example 1: Two Similar Uses

Parcel A use is classified as retail/personal service and has a building of 10,000 square feet, while Parcel B use is classified as a restaurant without drive-in or drive-through (sit down only) and has a building of 5,000 square feet. The parcel has two different owners who have agreed to provide a parking agreement.

The minimum number of required parking spaces shall be calculated as follows using the information in the above paragraph and Table 10.2.

According to Table 10.1, Retail/personal Service requires 1 parking space per 300 square feet which equates to approximately 33 parking spaces ( $10,000/300 = 33.33$ )

The restaurant without drive-in or drive-through (sit down only) requires 1 parking space per 200 square feet which equates to approximately 25 parking spaces ( $5000/200 = 25$ )

Then using the percentages in Table 10.2, the following calculations would be made:

TABLE 10.3 - SHARED PARKING CREDIT TABLE (EXAMPLE 1)					
USE	TIME OF OPERATION				
	Weekday		Weekend		Nighttime
	Daytime (6am-6pm)	Evening (6pm-Midnight)	Daytime (6am-6pm)	Evening (6pm-Midnight)	(Midnight-6am)
Parcel A: Retail / Personal Services	$33 \times 0.6 = 19.8$	$33 \times 0.9 = 29.7$	$33 \times 1.0 = 33$	$33 \times 0.7 = 23.1$	$33 \times 0.05 = 1.65$
Parcel B: Restaurant	$25 \times 0.5 = 12.5$	$25 \times 1.0 = 25$	$25 \times 1.0 = 25$	$25 \times 1.0 = 25$	$25 \times 0.1 = 2.5$
<b>Total Spaces</b>	32.3	54.7	58	48.1	4.15

The conclusion for this example, is that there would be no shared parking credit since the total parking spaces required for each individual use is the same as the total shared parking required. There would be no reduction of spaces.

### Example 2: Two Different Uses

Parcel A use is classified as an office building that has a building of 25,000 square feet and Parcel B use is classified as retail/personal service and has a building of 10,000 square feet. The two parcels have the same owner and a shared parking easement will be noted on the recorded development plan.

The minimum number of required parking spaces shall be calculated as follows using the information in the above paragraph and Table 10.2.

According to Table 10.1, the office requires 1 parking space per 400 square feet which equates to approximately 63 parking spaces ( $25,000/400 = 62.5$ )

The retail/personal Service requires 1 parking space per 300 square feet which equates to approximately 33 parking spaces ( $10,000/300 = 33.33$ )

Then using the percentages in Table 10.2, the following calculations would be made:

TABLE 10.4 - SHARED PARKING CREDIT TABLE (EXAMPLE 2)					
USE	TIME OF OPERATION				
	Weekday		Weekend		Nighttime
	Daytime (6am-6pm)	Evening (6pm-Midnight)	Daytime (6am-6pm)	Evening (6pm-Midnight)	(Midnight-6am)
Parcel A: Office	$63 \times 1.0 = 63$	$63 \times 0.1 = 6.3$	$63 \times 0.1 = 6.3$	$63 \times 0.05 = 3.15$	$63 \times 0.05 = 3.15$
Parcel B: Retail / Personal Service	$33 \times 0.6 = 19.8$	$33 \times 0.9 = 29.7$	$33 \times 1.0 = 33$	$33 \times 0.7 = 23.1$	$33 \times 0.05 = 1.65$
<b>Total Spaces</b>	82.8	36	39.3	26.25	4.8

The conclusion for this example is that there is a benefit to sharing parking. Each individual site would require 63 and 33 parking spaces respectively or a total of 96 parking spaces. Under the shared parking scenario, only 83 parking spaces are required, thereby saving 13 spaces between the two uses.

B. A shared parking plan shall be provided with the site plan or Development Plan. The plan should address the following:

1. Site plan of parking spaces intended for shared parking and their proximity to land uses they will serve.
2. A directory signage plan that directs drivers to the most convenient parking area for each particular use, if such distinctions can be made.
3. A pedestrian circulation plan that shows connections and walkways between parking areas and land uses.

4. A photometric plan that addresses lighting.
5. The written shared parking agreement shall be provided to the Zoning Administrator.

**C. The Zoning Administrator shall review the request for shared parking against the following criteria:**

1. Proximity to the shared parking area, its connectivity to the intended site, and the reasonableness that it can be used as intended (e.g. slope issues, safety, physical barriers, etc.).
2. Any property using shared parking facilities shall be located within 500 feet walking distance of the parking facility, using established sidewalks and crosswalks where available.
3. Individual parking spaces are not limited to specific tenants.
4. Shared parking may be used for other uses, which are not shown in the parking credit table. The applicant shall prepare a similar calculation for the proposed uses, indicating the estimated percentage of each time period, based upon current parking information. Documentation shall be submitted by the applicant to demonstrate that the normal and regular operating hours of the uses proposing a shared parking arrangement do not coincide or overlap in any manner.
5. When reviewing a shared parking agreement, the Zoning Administrator may consider any additional reductions in minimum parking requirements that are to be obtained pursuant to Section 10.10, Parking Flexibility.

## **10.12 Parking or Storage of Vehicles in a Front or Side Yard**

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The following standards apply to all single-family and two-family residential properties in all residential and mixed-use districts. The intent of this section is to apply to Class 1, Class 2, and Class 3 vehicles according to the Federal Highway Administration's vehicle category classification.

- A. No vehicle shall be parked or stored in a front or side yard of a residential property, except in:
  1. A driveway that is paved per Section 10.17, B., Paving, not to exceed the maximum curb cut width set forth in Section 10.17, A., Width of Access Points.
  2. A parking space composed of a paved surface, accessed by means of a driveway, depicted on an approved site plan, and set back a minimum of five feet from all City rights-of-way.
- B. The addition of impervious surfaces including driveways, parking spaces and adjacent areas may not cause total impervious surface ratio to exceed the maximums allowed by Section 7.04 Character Standards - Residential Construction.
- C. Parking or storage of a recreational vehicles on a residential property is subject to the standards set forth in Section 10.13, below.

## **10.13 Parking, Storage, or Use of Campers, Boats, Trailers, or Recreational Vehicles and Other Similar Equipment**

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- A. Within residential and mixed-use zones
  1. Only one such vehicle or piece of equipment may be stored or parked on a residential lot, except within an enclosed building.
  2. No such vehicle or equipment shall be permanently stored in a front or side yard, and must be stored on an all-weather surface in the rear yard. Access must be provided entirely on the lot, or via an access agreement, but a paved driveway is not required.
  3. A vehicle may be stored in a front yard or side yard for the purpose of unloading a vehicle, washing a vehicle or some other similar, temporary purpose. The vehicle, however, must be removed from the front yard or

side yard once the purpose for temporarily parking the vehicle is accomplished. Temporary for this regulation shall mean less than 72 hours.

4. No such equipment shall be used for living, sleeping, or housekeeping purposes on any lot.

B. Within non-residential zones where permitted

1. Must be screened from public view by building facades or solid fence.

2. Shall be maintained with a paved surface or compacted gravel or crushed stone.

## 10.14 Parking, Storage, and Use of Non-Recreational, Commercial, and Industrial Vehicles

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A. The following applies in all residential and mixed-use districts.

1. For this section, refer to the Federal Highway Administration's vehicle category classification for non-recreational, commercial, and industrial vehicles.

2. Classes 1 through 3, and Class 5 vehicles (with or without signs) which are properly licensed, inspected, and used for commercial purposes may be parked anywhere on a residential lot designed, constructed and approved for vehicle parking.

3. Class 4, and Classes 6 through 13 vehicles (with or without signs) used for commercial, industrial, farm, or construction purposes are prohibited on residential lots, except within completely enclosed structures or when actively involved in pick-up or delivery to the residence.

4. Moving trailers, vans, or POD storage units may be placed no closer than five feet from adjoining residential property lines on a residential lot for a period not to exceed 90 days while owners are moving in or out of a residence.

5. Dumpsters used for debris during construction and renovation of a residence may be placed no closer than five feet from adjoining residential property lines on a residential lot for a period not to exceed the period of construction.

B. Any area used for commercial, industrial, or heavy vehicle and equipment parking located to the rear of primary buildings on industrial sites may be maintained with a paved surface or compacted gravel or crushed stone.

## 10.15 Parking Vehicles for Sale

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A. In all residential zones, vehicles for sale must meet the parking and location requirements of the Article that pertain to the type of vehicle being sold.

B. In all non-residential zones, vehicles for sale are not permitted except when motor vehicle sales are permitted within the zone.

## 10.16 Overflow and Special Event Parking

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Any non-paved surface used for overflow and special events parking that cannot be maintained with healthy, living turf grass or similar ground cover shall be paved with asphalt, concrete, pervious pavement or brick pavers. Pervious pavement will be required where stormwater control limits impervious surfaces or if located in a floodplain. This section does not apply to single-family detached residential lots.

## 10.17 Design

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A. **Width of Access Points**

1. In the R-LLS, R-CVS, and R-U Zones, no access point shall be less than nine feet nor more than 20 feet in width. In all other zones, access points shall not be less than 12 feet nor more than 48 feet in width. The width shall

be as measured from the point of curb return to point of curb return, or edge of pavement if no curb exists, excluding the curb radius.

2. The zoning administrator may modify (enlarge or reduce) the width to provide for a more efficient and safe channelization and/or flow of traffic.

**B. Paving**

1. All required off-street parking areas, drive aisles, and driveways shall be paved with asphalt, concrete, permeable pavement, or other approved material as determined in Appendix 15.03, Specifications For Paving of Off-Street Parking and Loading Areas. If the driveway is longer than 100 feet and located in the R-LLS, R-CVS, R-U, and R-MF Zones, the first 100 feet is required to be paved and the remaining length of the driveway may be laid with gravel or crushed stone. If the driveway is longer than 100 feet and located in the R-RE and A Zones, the first 20 feet is required to be paved and the remaining length may be laid with gravel or crushed stone.
2. All drive aisles used to access dumpsters shall be paved with heavy duty asphalt or concrete.
3. Except for single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses, all parking spaces shall be striped or otherwise designated to clearly mark each space.
4. See Article 7, Section 7.04 Character Standards - Residential Construction for limitations on impervious surfaces in front yards on residential lots.

**C. Parking Space Dimension Requirements and Design**

All parking areas shall be constructed according to the following:

1. All parking aisles shall terminate with a bump-out for turnaround maneuverability.
2. All parking spaces shall have a vertical clearance of at least seven feet.
3. Parking space dimensions:

TABLE 10.5 - PARKING SPACE DIMENSIONS			
	ANGLE	LENGTH	WIDTH
	0° (parallel)	8 ft	22 ft
	1° to 45°	18 ft	9 ft
	46° to 60°	18 ft	9 ft
	61° to 90°	18 ft	9 ft

**TABLE 10.5 - PARKING SPACE DIMENSIONS**

ANGLE		LENGTH	WIDTH
<b>0° (parallel)</b>	<b>1° - 45°</b>	<b>46° - 60°</b>	<b>61° - 90°</b>

**D. Compact Vehicle Spaces**

1. Up to 15 percent of required parking may be designed for compact vehicles. Each space must be clearly marked for use by compact vehicles only.
2. Compact vehicle spaces shall be a minimum of 8 ft in width by 16 feet in length.
3. Where compact vehicle spaces are the only spaces located along an aisle, the aisle width may be decreased by 2 feet.

**10.18 Access Management and Circulation**

**A. Purpose**

It is the intent of the City to maximize safety and minimize disruption of traffic flow by directing access from abutting properties to existing or planned public streets, and to maximize the City investments in their roadway infrastructure for mobility’s sake. These regulations are being implemented to implement Goal 6, Objective A and Mobility Element Recommendation 2, Task 1 of the Kenton County Comprehensive Plan, and the subsequent and tasks related to access management on roadways. These regulations shall apply to all street identified by the legislative body, or in the case of new or proposed Streets, as identified on the submitted subdivision.

**B. General Standards**

1. All developments must meet the requirements of the Access Control Regulations of the Kenton County Subdivision Regulations following the procedures in Section 6.09, Required Improvements for Developments.

2. All developments shall be subject to the Traffic Impact Studies Requirements and mitigation of traffic impacts following the procedures in Section 6.09, Required Improvements for Developments.
3. The design of all roadway elements shall be in compliance with the [Kenton County Subdivision Regulations Article 4, Section 4.1, Streets](#).
4. Modifications to the access management requirements of this Article may be granted following the procedures in the Section 6.09, Required Improvements for Developments

### **C. Congestion Mitigation Corridor**

1. In addition to subsections a. and b. above, the City has established Congestion Mitigation Corridors. Access roads, access easements, turning restrictions or shared access points may be required where they have been determined to be beneficial and necessary for the safe operations of a transportation corridor.
2. Establishment
  - a. The City hereby establishes designated Congestion Mitigation Corridors. These areas are designated as follows:
    1. Bromley Crescent Springs Road and Highwater Road corridor to include:
      - a. From the intersection of Main Street and Highwater Road to 1,650 feet south on Highwater Road
      - b. From the intersection of Moore Street and Main Street to include the intersection of Main Street and Bromley Crescent Springs Road to 1,740 feet south on Bromley Crescent Springs Road
3. Policy
  - a. It is the policy of the City to reduce and prevent congestion and improve safety within these designated areas through careful access management and circulation design and removal of unnecessary access points as redevelopment or new development occurs.
  - b. Within these areas, it is the policy of the City, that access to contiguous nonresidential developments shall be coordinated to form one or more private access (such as frontage or rear private access) roads serving adjoining parcels and contiguous development areas. These roads should be designed to collect and funnel traffic onto collector and arterial streets at appropriately spaced shared access points.
  - c. Reducing congestion and implementing access management is of vital importance on these roadways. Therefore, certain development standards may be modified if necessary in order to implement this access management policy.
  - d. It is understood by the City that temporary access may need to be provided to sites within a Congestion Mitigation Corridor until the full implementation of the access management plan can be achieved.
4. Process
  - a. Developments located within designated Congestion Mitigation Corridor require additional coordination of access management and circulation design. The following process shall guide the determination of access management requirements within these areas:
    1. Applicants must request an access management pre-application meeting in addition to any required pre-application meeting for the overall development proposal.
    2. At the time of the pre-application meeting, the applicant will be provided with an access management plan for the identified access management area, or staff will provide a timeline for the establishment of an access management plan for which the applicant must comply. At the time of the pre-application meeting, the applicant will be given Traffic Impact Study scope requirements per the Kenton County Subdivision Regulations, Article 7, Section 7.4, Study Requirements.
    3. The access management plan will establish required locations for access roads, access points, access easements, and any turning restrictions that have been determined to be beneficial and necessary for the safe operations of the transportation corridor.

- a. The applicant must furnish a Traffic Impact Study based upon the scope identified in the pre-application meeting.
- b. The City, together with recommendations from PDS staff, and the Kentucky Transportation Cabinet (where applicable) shall establish an access management plan for the identified access management area.
  - i. The access management plan may be established prior to proposed developments, or in response to proposed development plans along corridors for which successful implementation of access management requires the coordination of multiple properties and parcels.
  - ii. The access management plan shall account for unique needs of the adjacent roadways and intersections, and topography of the surrounding land uses.
  - iii. The access management plan shall identify access locations, including common access points and cross access location and design.
  - iv. The access management plan shall establish the timing of termination of any temporary access points or access points that are not compliant with the access management plan.
- c. No permit shall be issued which is not in compliance with the access management plan.
- b. Once an access management plan has been established, all new developments or redevelopments that occur within the access management area shall be required to have a development agreement between the property owner and the City prior to development approval.
  - 1. The development agreement shall require the development to adhere to the access management plan.
  - 2. The development agreement shall require that any access restrictions, required easements or access point to be terminated shall be recorded as a land use restriction on each property within the development agreement.
  - 3. As a part of the development agreement, the Zoning Administrator may provide relief from zoning requirement such as setbacks, buffer yards and other dimensional requirements to facilitate compliance with the access management plan where the implementation of such plan would have an egregious effect on the development or use.

## 10.19 Traffic Impact Studies

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Traffic Impact Studies shall be required when the full build out potential of the proposed development requesting access meets any or all of the criteria identified in the Kenton County Subdivision Regulations, Article 7, Sections 7.2-1 through 7.2-4. The full build out potential shall be defined as the proposed development and future development for which connections are accommodated in the development plan as required in the Kenton County Subdivision Regulations, Article 4, Public and Private Infrastructure.

## 10.20 Bicycle and Pedestrian Facilities

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- A. Bicycle parking shall be provided for all uses except single-family, two-family, three/four family, manufactured housing, and mobile home dwellings, at a rate of five percent of automobile parking requirements.
- B. The rack area shall be no more than 120 feet from the entrance it serves, or as close as the nearest non-handicap, off-street auto parking space, whichever is farther. Rack area(s) should be clearly visible from the entrance they serve and should be provided near each actively used entrance. In general, multiple buildings should not be served with a combined, distant rack area. It is preferred to place smaller rack areas in locations that are more convenient.
- C. For parking lots with over 25 spaces, pedestrian walkways shall be provided to connect off-street parking areas to buildings. These walkways must be designed and constructed per the [Kenton County Subdivision Regulations](#),

Section 4.1-11 Sidewalks and Section 4.1-12 Alternative Pedestrian Walkways. Lighting fixtures shall be provided along the walkway area placed at regular intervals to provide continuous ground plane overlap. The lighting shall be in accordance with Section 7.05, Site Lighting.

**D. Bicycle Parking Design**

1. Bike lockers and racks shall be securely anchored to the ground and on a hard surface.
2. Each required bicycle parking space shall be accessible without moving another bicycle.
3. Required bicycle parking spaces shall be available for residents, visitors, customers and employees of the use.

## **10.21 Drive-In or Drive-Through Lanes and Stacking Spaces**

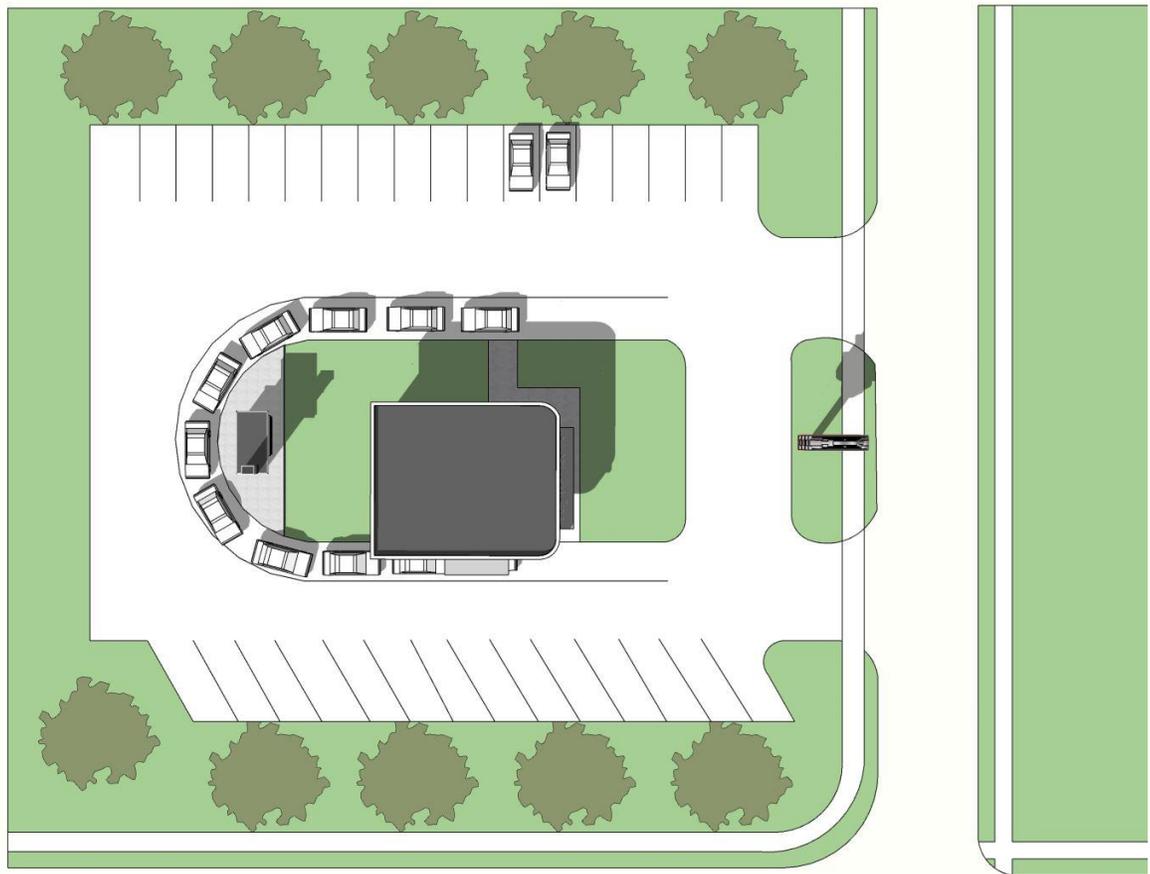
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**A. Stacking Spaces & Lanes**

Vehicle stacking spaces and the number of lanes shall be provided in accordance with Table 10.6, below.

**TABLE 10.6 - REQUIRED DRIVE THROUGH STACKING SPACES & LANES**

Drive-Through Activity	Minimum Required Stacking Spaces Per Lane	Begin Stacking Space Measurements At	Maximum Number of Stacking Lanes
Bank, Financial Institution, ATM	3	Teller Window or ATM	3
Restaurant/Drive-up, Drive-through	8	Pick-Up Window	2
Car Wash (Full Service)	4	Outside of Washing Bay	2
Car Wash (Self Service or Automated)	2	Outside of Washing Bay	2
Pharmacy	3	Pick-Up Window	1
Other	Determine by the Zoning Administrator based on anticipated demand.		



*Ex. Restaurant / Drive-up, Drive-thru Stacking Space Requirement*

**B. Location**

1. Stacking spaces shall be located entirely within the site, and outside of a required driveway or parking aisle needed to access required parking spaces.
2. No drive-through lane may pass between the front façade of the primary building and the front lot line.
3. Drive-through accessory facilities, such as menu boards, order boards, order stations, and service windows shall be located to the side or rear of the building. They shall not be located on any side of the principal building abutting a residential district or the residential component of a PUD or DC district.

4. The speaker or order station shall not be in any required yard or less than 100 feet from the property line shared with any residential district.
5. Any required stacking space must be located a minimum of 20 feet from an access point.

#### **C. Size of Stacking Space**

For the purposes of determining compliance, stacking spaces shall measure 9 feet in width and 18 feet in length, and shall be illustrated on the site plan submitted for development plan review.

#### **D. Other Requirements**

1. Drive-up and drive-through accessory facilities shall be designed and located to avoid impairing pedestrian mobility or creating risks to pedestrian safety
2. If a drive-through lane is adjacent to residential district, the hours of operation of the drive-through service shall be no earlier than 6:00 am or later than 11:00 pm.
3. Electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be audible beyond the property line with any adjacent Residential district.
4. Vehicles using drive-through facilities may not encroach on or interfere with the public use of streets and sidewalks by vehicles or pedestrians.
5. Drive-through lanes shall be physically marked or separated from all parking areas and driveways using pavement markings, decorative pavement, raised islands, or other forms of barriers.

## **10.22 Loading Areas**

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#### **A. General Loading Requirements**

1. When loading and unloading will occur during business hours, loading spaces shall be permanently available, marked and maintained for loading purposes for the use they are intended to serve. The Zoning Administrator may approve the temporary reduction of loading spaces in conjunction with a seasonal or intermittent use.
2. For uses requiring loading and unloading during business hours, entrances, exits, or driveways shall not be computed as any part of a required loading and unloading space.
3. When loading and unloading will occur during nonbusiness hours only, loading spaces can be located within any required off-street parking area provided the spaces meet the requirements of Subsections B., C., and D., below. If the delivery hours change to business hours, then the loading spaces will need to be permanently available.
4. Plans for all loading and unloading facilities shall be submitted to the Zoning Administrator for review and for compliance with the provisions of this Ordinance and such other pertinent ordinances of the legislative body. Such plans shall show the number and location of loading and unloading spaces, including necessary maneuvering of trucks, and dock and apron approach, and arrangements of access aisles, location of access points onto adjacent streets, provisions for truck circulation, location of curbs on or adjacent to the property, typical cross-sections of pavement, and such other information or plans as the circumstances may warrant.
5. The approaches to loading and unloading areas on non-residential sites shall be designed to minimize conflict with onsite vehicular, pedestrian, and bicycle traffic and with adjacent residential uses.

#### **B. Calculation of Loading Requirements**

##### **1. Loading Requirements**

- a. The number of loading spaces to be required shall be determined by the Zoning Administrator based upon the requirements set forth in Table 10-7. For land uses not addressed in Table 10-7, the Zoning Administrator shall determine the applicable loading space standards.

- b. As an alternative to the requirements in Table 10-7, any applicant may provide the Zoning Administrator with a loading space study to determine loading space demand. The Zoning Administrator may approve an alternative loading space requirement based upon the study.
- c. When any land or building is under the same ownership, or when two or more owners provide satisfactory guarantee of a shared loading agreement, the Zoning Administrator may approve shared loading.

**TABLE 10.7 - LOADING SPACE REQUIREMENTS**

Type of Land Use	Total Gross Floor Area	Minimum Loading Spaces Required
Industrial Uses	Less than 20,000 s.f.	1 space
	20,000 s.f. or more	2 space plus 1 per every 100,000 s.f.
Institutional and Office	Less than 50,000 s.f.	1
	50,000 s.f. or more	1 space for every 50,000 s.f.
Commercial, retail, service, restaurant, and other allowed commercial uses	Less than 40,000 s.f.	1
	40,000 s.f. or more	2 spaces plus 1 per every 100,000 s.f.

**2. Loading Space Study**

- a. For the purposes of determining the loading space requirements, any submitted loading space study shall take into the consideration the following:
  - 1. Estimated and projected arrival and departure rates for scheduled and unscheduled trucks.
  - 2. Estimated and projected length of truck stop duration for loading and unloading of each truck.
  - 3. Estimated number of trips by vehicle type (i.e., two axle vehicles, semi-tractor trailers, etc.) and size.
  - 4. The Zoning Administrator shall review the study of estimated and projected loading and unloading needs and decide if the number of spaces provided are adequate for the use proposed.

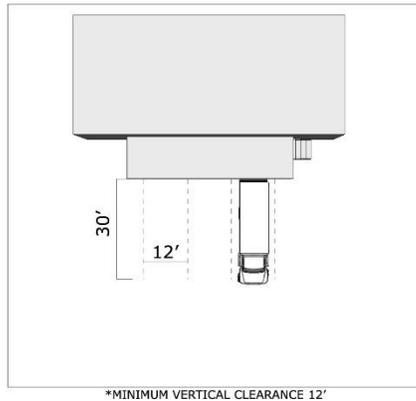
**C. Location of Loading Areas**

- 1. All designated loading and unloading areas shall be located on the same lot as the use served and in a side or rear yard.

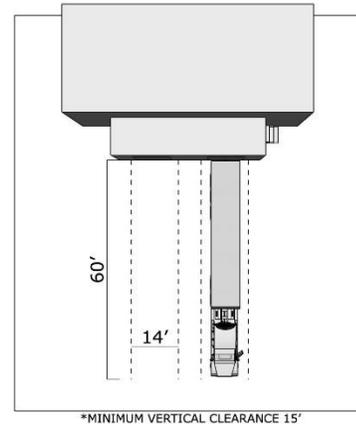
**D. Design of Loading Areas**

- 1. The minimum requirements for loading spaces are:
  - a. For local pick-up and delivery trucks (Class 3 and Class 5 trucks according to the Federal Highway Administration’s vehicle category classification for delivery vehicles): 12 feet in width by 30 feet in length with a 45-foot maneuvering apron, and a twelve-foot height clearance.
  - b. For over-the-road tractor-trailers trucks (Class 6 through 10 trucks according to the Federal Highway Administration’s vehicle category classification for delivery vehicles): 14 feet in width by 60 feet in length with a 60-foot maneuvering apron, and a 15 foot height clearance.
- 2. Loading and unloading areas and drive aisles used to access those areas shall be paved with heavy duty asphalt or concrete as determined in Appendix 15.03, Specifications For Paving of Off-Street Parking and Loading Areas.
- 3. The design of loading and unloading areas shall prevent any portion of any vehicle using the loading facility from projecting into a public right-of-way.

## Local Pick-Up and Delivery Trucks



## Over-The-Road Tractor Trailer Trucks



## ARTICLE 11 SIGNS

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### Contents:

- 11.01 Title
- 11.02 Purpose and Intent
- 11.03 Scope, Authority, and Applicability
- 11.04 Prohibited Sign Types
- 11.05 Temporary Signs
- 11.06 Signs Allowed Without a Permit
- 11.07 Other Actions Allowed Without a Permit
- 11.08 Installation, Design, and Construction Standards
- 11.09 Allowed Signs
- 11.10 Murals
- 11.11 Sign Measurements
- 11.12 Policies and Rules of Construction

### 11.01 Title

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This Article shall be known as the Sign Ordinance of Bromley, Kentucky.

### 11.02 Purpose and Intent

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The purpose of this Article is to establish a comprehensive scheme for the regulation of signs within the jurisdiction of the City. These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical dimensions of signs, to prevent the disruptions, obstructions, and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts. The basis for adopting these regulations can be found in Appendix 15.02, Preamble to the Sign Regulations.

## 11.03 Scope, Authority, and Applicability

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### A. Scope

This Article is adopted pursuant to [KRS 100](#).

### B. Authority

This Article regulates signs, as defined herein, when mounted, located, or displayed on property located within the limits of Bromley, on land that is either private land or public land over which the City Council has land use regulatory authority.

### C. Applicability, General

This Article shall apply to all signs erected, placed, painted, installed or otherwise made visible on private or public property in the City, except as otherwise provided herein. All signs displayed in the City shall comply with all requirements of this Article and all other applicable law. Permits shall be required for all signs in the City, except as specified herein. No sign, outdoor advertising, structure, billboard or display shall be erected, installed, located or maintained in any zoning district of the City, except in conformity with these regulations. New signs, additional signs, relocations or structural alterations of existing signs also require sign permits.

### D. Compliance Required

It shall be unlawful and a violation of this Article for any person to fasten, place, paint, or attach in any way: any sign, handbill, poster, advertisement, or notice of any kind, or cause the same to be done in or upon any curbstone, lamp post, utility pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, restroom, bus stop kiosk or shed, bus stop station building, tree, or in or upon any portion of any public sidewalk, street, or sign, except as specifically allowed within this Article.

### E. Actions Requiring a Permit

The following actions require a permit, unless a particular sign is exempt from obtaining a permit under this Article.

1. New Sign: If any new sign is erected, a permit shall be obtained.
2. Replacements: If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location, subject to all requirements of this Article.
3. Relocation: If any sign is removed from one location and erected at a new location, a new permit shall be obtained.
4. Alteration: Alteration or enlargement of any sign shall require a permit the same as for a new sign. Any change in technology for a sign shall be considered an alteration; this shall expressly apply but not be limited to the conversion of a sign to changeable copy technology of any type.

### F. Illumination

1. Unless installed and maintained as permitted in this Article, illumination of signs is prohibited. The prohibition on separate illumination for a sign does not prohibit indirect, incidental illumination that spills over from a light serving another lawful purpose.
2. In no case shall any sign illumination exceed one foot-candle at any property line.

### G. Exemptions

The following signs or sign elements are exempt from the provisions of this Article but are subject to any other applicable laws and regulations.

1. Any sign installed in a building or enclosed space and not legible from the public right-of-way or from private or public property other than the property on which it is located.

2. Any sign with a sign area of less than four square feet in area and less than four feet in height (if freestanding), that is not separately illuminated and that is not legible from the public right-of-way or from private or public property other than the property on which it is located.
3. Signs on mass transit vehicles operating in or passing through the jurisdiction.
4. Signs on vehicles and watercraft which are regularly used in the operation of a business; signs on vehicles which are parked for long periods of time, which are not operational or which are not regularly used in the operation of a business at the same location where the vehicle is most frequently parked shall be considered detached signs and subject to regulation under this Article. For purposes of this subsection, a "long period of time" shall be a continuous period of 30 days or separate periods that total 40 days or more out of any 60-day period.
5. Signs and plaques designating historic properties, events, or features provided such signs have been approved by the City.
6. Flags representing governmental entities and institutions not used for commercial advertising.

#### **H. Exempt Signs Subject to Other Standards**

Signs listed in this Section shall be exempt from the permit requirements of this Article, but shall, to the maximum extent allowed by law, be subject to the other standards of this Article. Where a sign is erected pursuant to a statute or a court order, the sign may exceed the size standards of this Article or otherwise deviate from the standards set forth in this Article to the extent that the statute or court order expressly required the larger size or other deviation. In all other respects, such signs shall conform to the standards of this Article. This subsection shall apply to all the following types of signs.

1. Signs conforming to the Manual of Uniform Traffic Control Devices and bearing no commercial message.
2. Signs installed by employees or officials of the City, state, or federal agency in the course of their governmental duties.
3. Signs required by a state or federal statute.
4. Signs required by an order of a court of competent jurisdiction.
5. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the use and provide contact information regarding the facility or provide contact information regarding the facility.
6. Signs installed by a transit company with a franchise or other right to operate in the City, where such signs are installed along its routes and relate to schedules or other information about the transit route.

#### **I. Product Displays, Sales Devices, Menu Boards**

1. Nothing in this Article shall prohibit or limit the outdoor display of products where allowed under the zoning ordinance, although a particular product may be a thing which would be prohibited by this Article if used as a sign and although one or more such products may have on them permanent labels that might otherwise fall under this Article. This Article shall, however, apply to any sign, banner, pennant, or other attention-attracting device affixed to a product displayed outdoors. For example, the label "Chevrolet" on an automobile or "John Deere" on a tractor shall not be considered a sign for purposes of this Article, but a separate sign attached to such a product shall be considered a sign and subject to regulation.
2. Signs on gasoline pumps, vending machines, news racks and similar machines and devices used for the sale or dispensing of products shall be allowed without a sign permit if they do not flash and if they are either not legible from any public right-of-way, public property or private property other than the site on which the sign is located; or they consist entirely of letters, numerals or symbols that are less than four inches in height. All other signs on vending machines, gas pumps, news racks and similar machines and devices shall be considered "signs" and shall be subject to all of the regulations of this Article.

3. In districts where drive-through and drive-up facilities are allowed, drive-thru signs or other instructional or informational devices related to the drive-through or drive-up facilities shall be allowed without a sign permit, provided that such device is less than 12 square feet in size, and that the only words, numerals, symbols or pictures on such device that are legible from any location other than the site on which it is located shall include no commercial message but shall simply identify the device as a “menu,” “directory,” “instructions,” “information” or something similar or a logo that is no larger than one foot in any dimension. In such districts, directional information and logos installed on drive-through canopies and clearance bars are also permitted and are not considered signs.

#### **11.04 Prohibited Sign Types**

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Unless specifically authorized in this Article, or by other law, the following sign types are prohibited at all times and in all zones.

- A. Any sign, handbill, poster, advertisement, or notice of any kind that is fastened, placed, painted, or attached in any way to a curbstone, lamp post, utility pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy bench, restroom, bus stop kiosk or shed, bus stop station building, tree, or in or upon any portion of any public sidewalk, street, or sign, except as specifically allowed within this Article. Such signs may be removed and destroyed without notice if located on a public structure.
- B. Any sign placed on, in, or over any public property, including the public right-of-way, without the written consent of the public authority having jurisdiction over the property and in full compliance with this Ordinance. Such signs may be removed and destroyed without notice.
- C. New billboards.
- D. Any freestanding sign of which the area exceeds 10 percent of the area of the site or parcel on which it is located; or two percent of the lawful, as-built floor area of the principal building on the site; note that this is intended as a circuit-breaker and that all signs are subject to other size and dimensional requirements in this Ordinance.
- E. Portable signs, including folding portable signs and flashing portable signs. This does not pertain to sidewalk signs when they are specifically permitted.
- F. Pennants, banners, streamers, balloons, and similar devices.
- G. Animated, projecting, revolving, and moving signs, including those which create the appearance of animation, projection, revolving or other movement, or use flashing or intermittent lights, or lights of changing degrees of intensity; automatic changeable copy signs that conform with this Article are not subject to this limitation.
- H. Signs which are not traffic, control or safety signals, but by their shape, color, or manner of mounting or display, appear to be traffic, control or safety signals, and thus create confusion for drivers and pedestrians, as well as signs which create or constitute traffic hazards.
- I. Signs on vacant lots in non-residential zones larger than 12 square feet in area.
- J. Signs for which a separate structure is mounted on a roof or parapet; this provision does not prevent signs which are integral to the building; and
- K. Signs which emit or transmit audible sound, odor, or visible matter.

#### **11.05 Temporary Signs**

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One temporary sign will be permitted on each site in a non-residential zone, subject to the following standards and conditions:

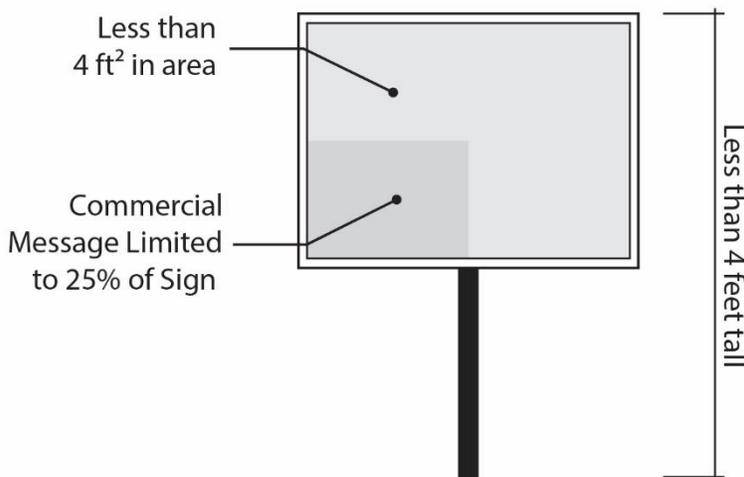
1. It shall not exceed 12 square feet in area;
2. It shall be attached at all four corners or otherwise firmly affixed to a wall of the principal building or it may be freestanding;

3. If it is freestanding, it shall be supported by one or more posts or similar devices in the ground and shall not exceed six feet in height;
4. In no case shall such a sign be affixed to a tree or other natural feature, a fence, a utility pole, or a fixture or structure on the property other than the principal building;
5. If freestanding, it shall be set back a minimum of 10 feet from any property line;
6. It shall not be separately illuminated;
7. If the message relates to an event, such sign shall be removed within seven days following the conclusion of the event;
8. Such a sign may bear any commercial or noncommercial message.

### 11.06 Signs Allowed Without a Permit

The following signs or sign-like devices are allowed in all zoning districts without a sign permit and are not to be included in determination of the allowable numbers, type and area of a sign that requires a sign permit. If a sign otherwise falling under this Section is electrified, it will require an electrical permit. Signs subject to this Section shall conform to the requirements specified.

- A. Address Numbers used for the purpose of identifying the address of any building shall not be counted toward allowed sign area.
- B. Detached signs smaller than four square feet in area and less than four feet in height, of which not more than 25 percent may be used for a commercial message (e.g., “Enter” or “Exit” signs).



- C. Detached signs smaller than six square feet, allowed in residential, conservation, and agricultural zoning districts in accordance with this Article.
- D. Temporary signs not greater than 12 square feet located in non-residential zones.
- E. Wall signs containing no commercial message and not larger than four square feet in area.
- F. Cultural decorations or displays of noncommercial nature, mounted on private residential property, which pertain to cultural observances.
- G. Building marker signs such as cornerstones, foundation stones and memorial signs or tablets, when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material, provided that no such sign shall exceed six square feet in area nor shall any such sign be separately illuminated.

- H. Symbols that do not bear or include any commercial message and that are integrated into the architecture of a building.
- I. Gravestones when erected in a lawful cemetery or graveyard.
- J. Graphic images which are visible only from aircraft flying above.

### **11.07 Other Actions Allowed Without a Permit**

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- A. Changing of the advertising copy or message on an existing painted or printed sign, marquee, changeable copy sign or a similar compliant sign, whether electrical, illuminated, electronic message center or non-illuminated painted message, provided that the copy on an electronic message board shall not change more frequently than allowed under this Article.
- B. Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural alterations. If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.
- C. Installation of permanent signs smaller than four square feet where such signs are allowed by this Article, contain no commercial message and involve no electrical installation.
- D. Installation of temporary signs not larger than four square feet, where such signs are allowed by this Article and conform with this Article in all respects.

### **11.08 Installation, Design, and Construction Standards**

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#### **A. Location**

1. No sign shall be located so that it obstructs access to or from a doorway, fire escape or required escape window.
2. No sign shall be located so that it blocks the free air flow through windows in residential units.
3. No sign located within a clear sight triangle (see Section 6.07 Clear Site Distance Required) shall obstruct the vision of motorists or pedestrians between a height of 30 inches and 108 inches off the ground.
4. No wall sign shall extend above the top of the wall of the building, including parapets and architectural extensions.
5. No sign shall be located within eight vertical feet or four horizontal feet of overhead electrical or other wires.

#### **B. Sign Maintenance**

1. The property owner shall be liable to maintain such sign, including its illumination sources, in neat and orderly condition and good working order at all times and to prevent the development of any deterioration in the safety of such sign. The property owner may assign such responsibility to a tenant or other party, but the property owner shall remain accountable for the maintenance.
2. Nothing in this Article shall prohibit the routine maintenance of any nonconforming sign or the changing of the copy or content of any nonconforming sign, except where such maintenance or change in copy would increase the degree of its nonconformity.

#### **C. Additional Standards for Flashing, Moving, and Changeable Copy Signs**

1. General Rule. Signs that move, flash or simulate movement are prohibited except as allowed under this section. A changeable copy sign is considered a different classification of sign under this Article; conversion of an existing sign to a changeable copy sign or to add changeable copy elements to it is allowed only if the modified sign will conform with all standards in this Section and with all other applicable standards related to the location, height, size and other characteristics of the sign.
2. Rules for Automatic Changeable Copy Signs Allowed under this Article. Automatic changeable copy signs shall be allowed only in those districts in which “automatic changeable copy sign” is listed as a permitted sign type.

The term automatic changeable copy sign does not include signs that change less than four times per day. All automatic changeable copy signs and programmable signs shall be subject to all the following additional restrictions.

- a. Signs shall be programmed so that the message or image on the sign changes no more often than every eight seconds.
- b. There shall be no effects of movement, flashing, scintillation, or similar effects in the individual images.
- c. Changes of image shall be substantially instantaneous as seen by the human eye and shall not use fading, rolling, window shading, dissolving or similar effects as part of the change.
- d. Video technology in signs shall use automatic level controls to reduce light levels at night and under cloudy or other darkened conditions, in accordance with all the following standards.
  1. All electronic or digital display unit message boards shall have installed ambient light monitors and shall at all times allow such monitors to automatically adjust the brightness level of the electronic board based on ambient light conditions.
  2. Maximum brightness levels for electronic or digital display boards shall not exceed 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours and 500 nits when measured from the board face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset.
- e. Any sign using electronic or electro-mechanical technology for changeable copy message boards, which malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing therein motion, movement, flashing or any other similar effects, shall be repaired or disconnected within 48 hours by the owner or operator of such billboard.
- f. The area of a sign consisting of electronic or electro-mechanical message board elements shall not constitute more than 200 square feet of a sign.
- g. The following limitations shall apply to the location of signs using electronic or electro-mechanical technology for a message board.
  1. A sign on which the electronic or electro-mechanical message board includes 100 or more square feet of sign area shall not be erected within 500 feet of property falling in one of the City's or other jurisdiction's residential zoning districts, although this restriction shall not apply to mixed use districts and commercial districts allowing residential uses.
  2. A sign on which the electronic or electro-mechanical message board includes 20 or more square feet of sign area but less than 100 square feet of sign area shall not be erected within 200 feet of property falling in one of the City's or other jurisdiction's residential zoning districts, although this restriction shall not apply to mixed-use districts and commercial districts allowing residential use.
  3. A sign on which the electronic or electro-mechanical message board includes less than 20 square feet of sign area shall not be erected within 100 feet of property zoned and used exclusively for single-family uses; it is the express intent of this provision to allow the use of such technology on signs for institutional uses located in residential districts, provided that the required separation is maintained between the sign and any property zoned and exclusively used for a single-family use.

## 11.09 Allowed Signs

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### A. Sign Requirements by District

The following table contains relevant regulations for signs within each district. A sign permit is required, unless identified in Section 11.06 as a sign allowed without a permit.

**TABLE 11.1 - PERMITTED SIGNS**

ZONING DISTRICT	SIGN TYPE	MAXIMUM NUMBER ALLOWED	MAXIMUM AREA (SQ FT)	MAXIMUM SIGN HEIGHT (FT)	ILLUMINATION	CHANGEABLE COPY	MINIMUM SETBACK (FT)		ADDITIONAL REGULATIONS
							STREET	OTHER PROPERTY LINE	
Institutional uses in any zoning district (except the INST Zone)	Wall	1 per street frontage	2 per lineal foot of building width on the side of the building which the sign is located - 150 maximum	N/A	Concealed source	No	N/A	N/A	1. Letters can only be 36" in height.
	Additional Wall	1 per public entrance	4	N/A	No	No	N/A	N/A	
	Detached Principal	1	40	6	External or internal, direct or concealed source	Automatic or manual - Can't exceed 30% of the sign area	5	10	
CO	Wall	1 per dwelling	2	N/A	No	No	N/A	N/A	

									<p>1. Signs related to the sale of personal property shall be removed within 24 hrs after the end of a sale.</p> <p>2. Sales related to the sale, lease, or rental of the premises shall be removed no later than the date on which the deed, lease, or other document representing the transaction is complete.</p> <p>3. If a sign relates to an election or special event, the sign shall be removed 7 days following the conclusion of the election or special event.</p> <p>4. The only commercial messages allowed are messages related to commercial activity lawfully conducted on the premises, including the sale of agricultural products, the lawful occasional sale of personal property, or the sale, rental or lease of the premises.</p>
	Detached Yard	4 - 1 may be permanent	6	6	No	No	N/A	N/A	
	Temporary Subdivision	1 sign at each principal entrance. No more than 1 sign	32	6	No	No	5	10	<p>Must be removed upon the earlier of the following:</p> <p>1. Installation of a permanent</p>

**TABLE 11.1 - PERMITTED SIGNS**

ZONING DISTRICT	SIGN TYPE	MAXIMUM NUMBER ALLOWED	MAXIMUM AREA (SQ FT)	MAXIMUM SIGN HEIGHT (FT)	ILLUMINATION	CHANGEABLE COPY	MINIMUM SETBACK (FT)		ADDITIONAL REGULATIONS
							STREET	OTHER PROPERTY LINE	
		for each 50 lots proposed							entrance sign; 2. Sale of more than 90% of the lots in the subdivision; or 3. 2 years from the date of installation.
	Permanent Entrance	1 per main entrance	50 - Can be divided between 2 signs located on opposite sides of the same entrance	6	External or internal, direct or concealed source	No	5	10	1. Must be located at the main entrances.
R-LLS, R-CVS, R-U	Wall	1 per dwelling	2	N/A	No	No	N/A	N/A	

										<p>1. The permanent sign shall not contain a commercial message, and no more than 2 signs (including wall signs) may contain commercial messages.</p> <p>2. Signs related to the sale of personal property shall be removed within 24 hrs after the end of a sale.</p> <p>3. Sales related to the sale, lease, or rental of the premises shall be removed no later than the date on which the deed, lease, or other document representing the transaction is complete.</p> <p>4. If a sign relates to an election or special event, the sign shall be removed 7 days following the conclusion of the election or special event.</p> <p>5. The only commercial messages allowed are messages related to commercial activity lawfully conducted on the premises, including the lawful occasional sale of personal property, or the</p>
	Detached Yard	4 - 1 may be permanent	6	6	No	No	N/A	N/A		

**TABLE 11.1 - PERMITTED SIGNS**

ZONING DISTRICT	SIGN TYPE	MAXIMUM NUMBER ALLOWED	MAXIMUM AREA (SQ FT)	MAXIMUM SIGN HEIGHT (FT)	ILLUMINATION	CHANGEABLE COPY	MINIMUM SETBACK (FT)		ADDITIONAL REGULATIONS
							STREET	OTHER PROPERTY LINE	
									sale, rental or lease of the premises.
	Temporary Subdivision	1 sign at each principal entrance. No more than 1 sign for each 50 lots proposed	32	6	No	No	5	10	Must be removed upon the earlier of the following: 1. Installation of a permanent entrance sign; 2. Sale of more than 90% of the lots in the subdivision; or 3. 2 years from the date of installation.
	Permanent Entrance	1 per main entrance	50 - Can be divided between 2 signs located on opposite sides of the same entrance	6	External or internal, direct or concealed source	No	5	10	1. Must be located at the main entrances.
R-MF	Wall	1 per dwelling	2	N/A	No	No	N/A	N/A	
	Additional Wall	1 per public entrance	4	N/A	No	No	N/A	N/A	1. For buildings with 3+ units sharing a common entrance. 2. Allowed at the public entrance and not legible from a public right-of-way.
	Detached Principal	1 per street frontage	25	6	External or internal, direct or concealed source	No	5	10	
	Detached Directory	1 per vehicle entrance	6	4	Concealed source	No	5	10	
	Detached Additional	1 per public entrance per building	6	4	Concealed source	No	5	10	

										<p>1. The permanent sign shall not contain a commercial message, and no more than 2 signs (including wall signs) may contain commercial messages.</p> <p>2. Signs related to the sale of personal property shall be removed within 24 hrs after the end of a sale.</p> <p>3. Sales related to the sale, lease, or rental of the premises shall be removed no later than the date on which the deed, lease, or other document representing the transaction is complete.</p> <p>4. If a sign relates to an election or special event, the sign shall be removed 7 days following the conclusion of the election or special event.</p> <p>5. The only commercial messages allowed are messages related to commercial activity lawfully conducted on the premises, including the lawful occasional sale of personal property, or the</p>
	Detached Yard	4 - 1 may be permanent	6	6	No	No	N/A	N/A		

**TABLE 11.1 - PERMITTED SIGNS**

ZONING DISTRICT	SIGN TYPE	MAXIMUM NUMBER ALLOWED	MAXIMUM AREA (SQ FT)	MAXIMUM SIGN HEIGHT (FT)	ILLUMINATION	CHANGEABLE COPY	MINIMUM SETBACK (FT)		ADDITIONAL REGULATIONS
							STREET	OTHER PROPERTY LINE	
									sale, rental or lease of the premises.
	Temporary Subdivision	1 sign at each principal entrance. No more than 1 sign for each 50 lots proposed	32	6	No	No	5	10	Must be removed upon the earlier of the following: 1. Installation of a permanent entrance sign; 2. Sale of more than 90% of the lots in the subdivision; or 3. 2 years from the date of installation.
NC	Wall	1 per building street frontage	2 per lineal foot of building width on the side of the building which the sign is located	N/A	Concealed source	No	N/A	N/A	The total area of all wall and window signs cannot exceed 2 per lineal foot of building width on the side of the building which the sign is located
	Window	Area limit only	25% of window area on that building wall	N/A	No	No	N/A	N/A	
	Additional Wall	1 per public entrance	6	N/A	No	No	N/A	N/A	1. For buildings with 3+ tenants sharing a common entrance. 2. Allowed at the public entrance and not legible from a public right-of-way.
	Detached Principal	1 per street frontage	25	20	Concealed source	No	5	5 - 50 feet from the nearest single-family residential district	

**TABLE 11.1 - PERMITTED SIGNS**

ZONING DISTRICT	SIGN TYPE	MAXIMUM NUMBER ALLOWED	MAXIMUM AREA (SQ FT)	MAXIMUM SIGN HEIGHT (FT)	ILLUMINATION	CHANGEABLE COPY	MINIMUM SETBACK (FT)		ADDITIONAL REGULATIONS
							STREET	OTHER PROPERTY LINE	
RI	Wall	1 per building street frontage	2 per lineal foot of building width on the side of the building which the sign is located	N/A	Concealed source	No	N/A	N/A	
	Window	Not permitted	N/A	N/A	N/A	N/A	N/A	N/A	
	Detached Principal	1 per street frontage	40	10	Concealed source	Automatic or manual - Can't exceed 25% of the sign area	15	20 - 50 from the nearest single-family residential district	
	Detached Directory	1 per vehicle entrance	6	6	Concealed source	No	15	5 - 15 from the nearest single-family residential district	
	Detached Additional	1 for each 4 separate non residential uses or per vehicle entrance, whichever is less  1 per 2 drive-thru lanes	20	6	External or internal, direct or concealed source	No	15	20 - 50 from the nearest residential district	
DC	Wall	1 per building street frontage	2 per lineal foot of building width on the side of the building which the sign is located	N/A	External or internal, direct or concealed source	Automatic or manual - Can't exceed 25% of the sign area	N/A	N/A	The total area of all wall and window signs cannot exceed 2 per lineal foot of building width on the side of the building which

**TABLE 11.1 - PERMITTED SIGNS**

ZONING DISTRICT	SIGN TYPE	MAXIMUM NUMBER ALLOWED	MAXIMUM AREA (SQ FT)	MAXIMUM SIGN HEIGHT (FT)	ILLUMINATION	CHANGEABLE COPY	MINIMUM SETBACK (FT)		ADDITIONAL REGULATIONS
							STREET	OTHER PROPERTY LINE	
	Window	Area limit only	25% of window area on that building wall	N/A	No	No	N/A	N/A	the sign is located.
	Detached Principal	1 per street frontage	25	20	External or internal, direct or concealed source	Automatic or manual - Can't exceed 25% of the sign area	5	10 - 50 from the nearest single-family residential district	
	Detached Directory	1 per vehicle entrance	12	6	Concealed source	No	5	5	
	Projecting	1 per ground floor entrance	36	Height of bottom of sign: 7 min, 10 max Height of top of sign: 16	External or internal, direct or concealed source	Automatic or manual - Can't exceed 25% of the sign area	N/A	N/A	6 feet maximum projection from building face.

TABLE 11.1 - PERMITTED SIGNS									
ZONING DISTRICT	SIGN TYPE	MAXIMUM NUMBER ALLOWED	MAXIMUM AREA (SQ FT)	MAXIMUM SIGN HEIGHT (FT)	ILLUMINATION	CHANGEABLE COPY	MINIMUM SETBACK (FT)		ADDITIONAL REGULATIONS
							STREET	OTHER PROPERTY LINE	
	Sidewalk	1 per business	10	5	No	Automatic or manual - may cover entire sign	N/A	N/A	<ol style="list-style-type: none"> <li>1. Sign shall be in front of the establishment.</li> <li>2. Sign shall be an A-frame or other self-supporting design, without separate structural members.</li> <li>3. Sign shall be placed so it does not block an public entrance or required emergency exit from a building.</li> <li>4. There shall be a clear passage of 6 feet around the sign.</li> <li>5. Signs may be placed only during the hours when the establishment is open for business. If a sign is out during non-business hours, the shall be considered abandoned and may be removed by the [City of Erlanger] without notice and without liability for its value.</li> </ol>
PUD	The type, location, and height of all signs shall be approved on the Concept or Final Development Plan.								

**11.10 Murals**

## **A. Purpose**

The purpose of this section is to establish minimum standards for the provision, installation, maintenance, and repair of murals to ensure compatibility with building environment and protect public safety. These regulations for murals are intended to:

1. Create and preserve original artwork;
2. Encourage artistic expression and neighborhood pride;
3. Increase community cultural assets;
4. Foster community engagement;
5. Deter vandalism; and
6. Enhance environment and quality of life through cultural resources.

## **B. Mural Regulations**

1. The aggregate area of all words or written messages on a static display shall comprise no more than twenty percent (20%) of the area of the display. The mural may contain the signature of the artist and date but not to exceed 1% of total mural area.
2. Murals are allowed in DC and NC zoning district(s).
3. Design, construction, installation, repair, and maintenance of such displays will not interfere with traffic or public safety.
4. No part of a mural shall exceed the height or width of the structure to which it is tiled, painted, or affixed.
5. No part of a mural shall extend more than six (6) inches from the plane of the wall upon which it is tiled, painted, or affixed and shall not project over a public right of way.
6. No mural may consist of, or contain, electrical or mechanical components, or changing images.
7. No murals shall be placed over the exterior surface of any building opening, including, but not limited to, windows, doors, and vents.
8. No mural shall be arranged and illuminated in a manner that will produce a light intensity of greater than three foot candles, as measured at the property line of the nearest commercial property or one foot candle, as measured at the property line of the nearest residential property.

## **C. Installation, Maintenance, Repair, and Removal**

1. It shall be the responsibility of the property owner or the owner's designee to ensure that the mural is maintained in good condition, free from graffiti, and free from chipped, peeled, torn or faded paint or materials for the duration of the mural's existence. Failure to properly maintain the mural, including removal of graffiti, will subject the mural to abatement or removal by the City.
2. In the event that a mural is damaged, vandalized, removed, altered, or destroyed, including graffiti abatement, the property owner or the owner's designee, in consultation with the mural artist, shall be responsible for restoring the mural to the original condition, within 60 days from the date a notice is sent to the property owner regarding damage to the mural. In the event the mural is not timely restored, the City may, with notice sent to the property owner or the owner's designee, remove the mural in its entirety.
3. In the event that a mural requires excessive or unreasonable maintenance or receives significant adverse public reaction, the City may at its discretion, with notice sent to the property owner or the owner's designee, remove the mural in its entirety.

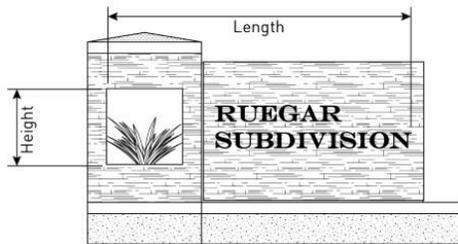
## **11.11 Sign Measurements**

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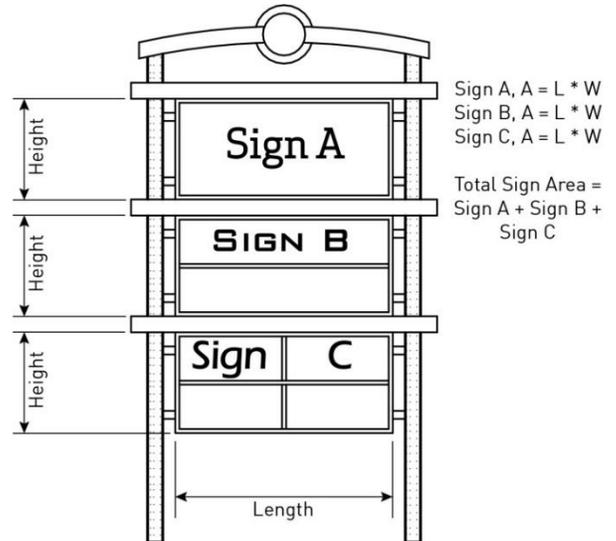
### **A. Calculating the Area of Signs Other than Wall Signs**

1. The gross surface area of a sign, except wall signs, is the entire area contained within a single continuous perimeter enclosing the extreme limits of such sign. For detached signs composed of more than one sign cabinet or module, the gross surface area shall include the sum of the area in each cabinet or module only. If a sign has more than one face, the gross surface area shall be equal to the maximum area of the sign face or faces visible from any ground position along any public right-of-way at any one time.
2. The perimeter of a sign will not include lighting fixtures, pole covers, landscaping, framing, decorative roofing, moldings or aprons or other architectural or decorative embellishments, provided they contain no written copy, logos or symbols.

Measuring the sign area of a detached sign composed of more than one sign cabinet or module

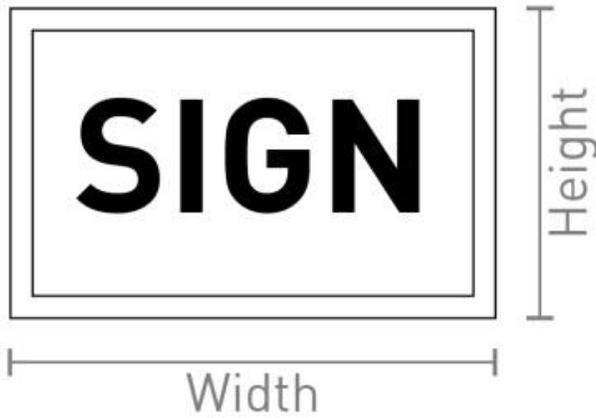


Measuring the sign area of a detached sign where one face is composed of multiple parts



### B. Calculating the Area of Wall Signs

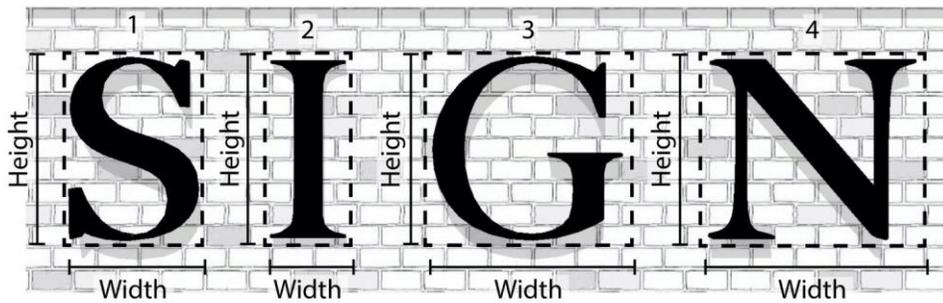
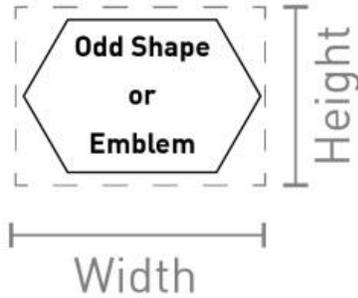
The gross surface area of a wall sign is the entire area contained within a single continuous perimeter composed of any straight-line geometric figure(s) which encloses the extreme limits of the advertising message(s). If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, color or embellishment, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter. The combined area of the individual figures shall be considered the total sign area.



Area = Height x Width



Area =  $\pi r^2$



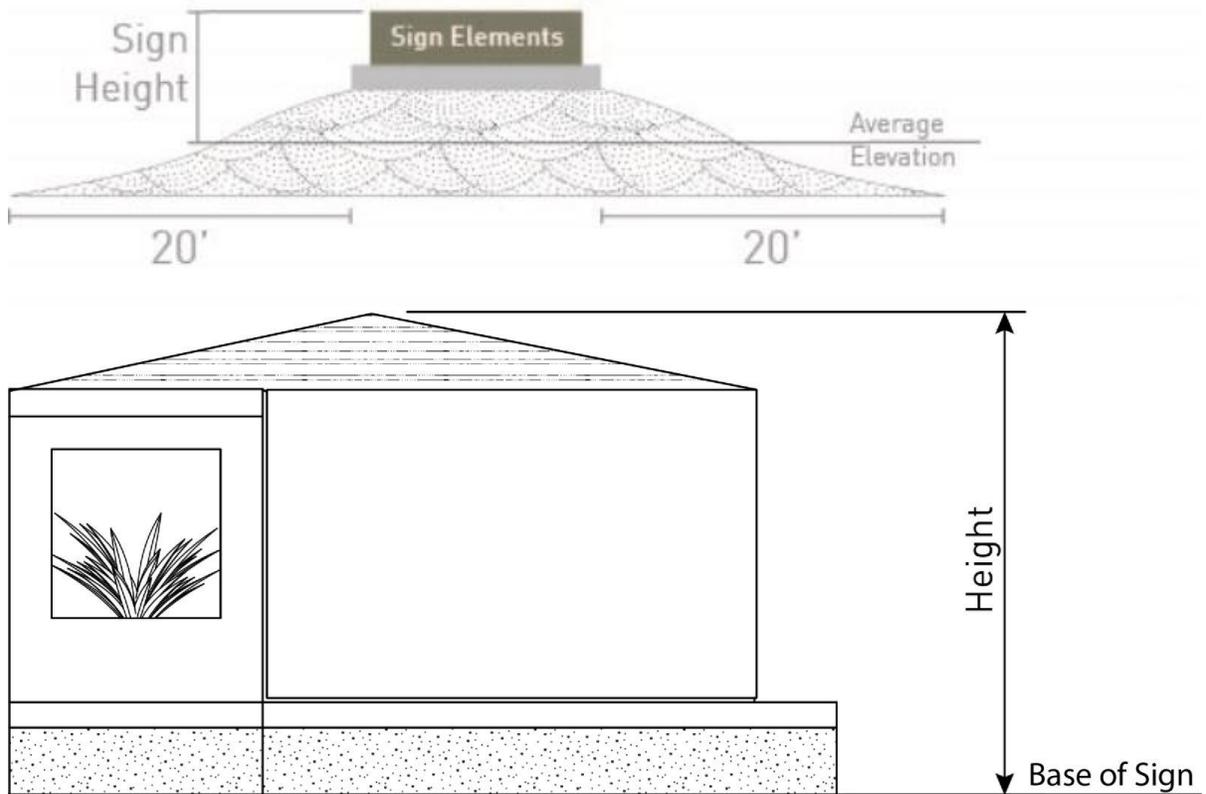
Area = (1Height x 1Width) + (2Height x 2Width) + (3Height x 3Width) + (4Height x 4Width)

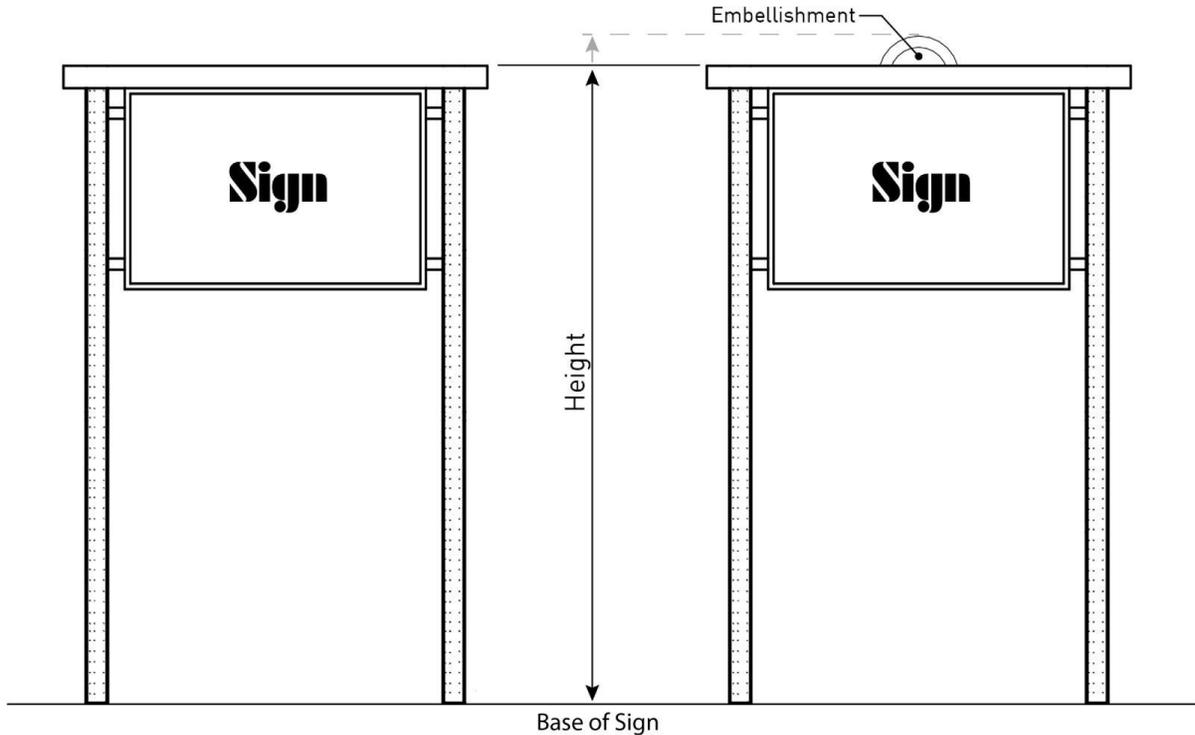
### C. Calculating the Area of Multi-Faced Signs

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

### D. Measurement of Sign Height

Sign height shall be measured from the elevation at the base of the sign to the highest point of the highest element of the sign, excluding any incidental structural element, such as an uplift cable for a projecting sign. Where the sign is located on a mound or berm, the average elevation of the land 20 feet to each side of the sign shall be used as a basis for measuring height.





## 11.12 Policies and Rules of Construction

This Article shall be administered, enforced and construed in accordance with the following policies.

### A. Discretionary Review

When one or more signs are part of a project or development, or a variance, conditional use permit, exception or special use permit is sought for sign(s), which requires discretionary review, then the sign shall be reviewed without regard to the graphic design or visual image on the display face of the sign, and discretion shall be restricted to structural, location and other non-communicative aspects of the sign. This provision does not override the billboard policy.

### B. Message Neutrality

It is the policy of this City to regulate signs in a constitutional manner.

### C. Regulations for Offsite Messages

This Article distinguishes in some cases between commercial messages that relate to products or services not offered at the location of the sign ("off-site commercial messages"). The purpose of that distinction is to acknowledge the need of businesses for identification and notice of their businesses at a business location while limiting the proliferation of commercial messages generally. There is no intent to limit noncommercial messages in any way with this distinction.

### D. Billboard Policy

New billboards, as defined herein, are prohibited. The City Council completely prohibits the construction, erection or use of any billboards, other than those which legally exist within the regulatory zoning jurisdiction of the City Council, or for which a valid permit has been issued and has not expired, as of the date on which this provision is first adopted. No permit shall be issued for any billboard which violates this policy, and the City Council will take immediate enforcement or abatement action against any billboard constructed or maintained in violation of this policy. In adopting this provision, the City Council affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this Article. The City Council intends for this billboard policy to be severable and separately enforceable even if other provision(s) of this Article may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid or unenforceable.

#### **E. Message Substitution**

Subject to the property owner’s consent, a noncommercial message of any type may be substituted in whole or in part for the message displayed on any sign for which the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech or favoring of any particular noncommercial message over any other noncommercial message. In addition, any on-site commercial message may be substituted, in whole or in part, for any other on-site commercial message, provided that the sign structure or mounting device is legal without consideration of message content. This provision does not create a right to increase the total amount of signage on a parcel, lot or land use; does not affect the requirement that a sign structure or mounting device be properly permitted; does not allow a change in the physical structure of a sign or its mounting device, and does not allow the substitution of an off-site commercial message in place of an on-site commercial message or a noncommercial message.

#### **F. Regulatory Interpretations**

All regulatory interpretations of this Article are to be exercised in light of the message neutrality and message substitution policies. Where a particular type of sign is proposed in a permit application, and the type is neither expressly allowed nor prohibited by this Article, or whenever a sign does not qualify as a “structure” as defined in the building code then in effect, then the Zoning Administrator shall approve, conditionally approve or disapprove the application based on the most similar sign type that is expressly regulated by this Article, in light of the policies stated in this Article.

#### **G. Noncommunicative Aspects**

All rules and regulations concerning the non-communicative aspects of signs, such as location, size, height, illumination, spacing, orientation, etc., stand enforceable independently of any permit or approval process.

#### **H. Mixed-Use, Overlay, and PUD Zones**

1. In any zone where both residential and non-residential uses are allowed, the sign-related rights and responsibilities applicable to any particular parcel or land use shall be determined as follows: (1) if specific sign regulations are provided in the zoning district, those regulations shall be applied; or (2) if no sign regulations are provided in the zoning district, residential uses shall be treated as if they were located in a zone where a use of that type would be allowed as a matter of right, and nonresidential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or similar discretionary process.
2. Signs within a PUD district are established during plan approval and must be installed in conformity with the plan.

#### **I. Property Owner’s Consent**

No sign may be displayed without the consent of the legal owner(s) of the property on which the sign is mounted or displayed. For purposes of this policy, “owner” means the holder of the legal title to the property and all parties and persons holding a present right to possession, control or use of the property. The signature of the property owner or authorized agent will be required on all applications for sign permits.

#### **J. Legal Nature of Sign Rights**

As to all signs attached to real property, the signage rights, duties and obligations arising from this Ordinance attach to and travel with the land or other property on which a sign is mounted or displayed. This provision does not modify or affect the law of fixtures, sign-related provisions in private leases regarding signs (so long as they are not in conflict with this Article or other law), or the ownership of sign structures. This provision does not apply to hand held signs or other images which are aspects of personal appearance. Nonconforming signs are regulated by Section 2.07, H.

#### **K. Severability**

##### **1. Generally**

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as limited by this Article.

##### **2. Severability Where less Speech Results**

Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section or elsewhere in this Article or this Ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article is declared unconstitutional, such declaration shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise additional standards.

##### **3. Severability of Provisions Pertaining to Prohibited Signs**

Without diminishing or limiting in any way the declaration of severability set forth above in subsection A of this Section, or elsewhere in this Article or in this Ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or any other laws declared unconstitutional by valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under this Article. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or of any part of this Ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, except as expressly provided in this Article.

##### **4. Severability of Prohibition on Off-premise Signs**

If any part section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or other provisions of this Article, this Ordinance, or this Ordinance are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the limitations on off-premise signs as contained herein.

## ARTICLE 12 ADMINISTRATIVE ROLES AND RESPONSIBILITIES

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### Contents:

#### 12.01 Zoning Administrator

#### 12.02 Floodplain Administrator

#### 12.03 Technical Review Committee

#### 12.04 Planning Commission

#### 12.05 PDS Staff

#### 12.06 Board of Adjustment

#### 12.07 Legislative Body

#### 12.08 [Reserved]

### 12.01 Zoning Administrator

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This Ordinance shall be administered by the administrative officials, who are appointed by the legislative body, and who shall have all powers and duties authorized by statute and Ordinances for administrative officials. It shall be illegal for any person or entity to interfere with the administrative official's performance of duties. The duties of an administrative official shall include, but are not limited to:

- A. Interpretation of terms and provisions of this Ordinance;
- B. Administration of this Ordinance by the issuance of zoning permits and certificates of compliance, including the collection of fees authorized by law;
- C. Enforcement of this Ordinance, investigation, and resolution of zoning complaints including the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences; of illegal additions, alterations, or structural changes; and any other illegal work or activity being done;
- D. Review and issuance of administrative modifications per the requirements of Section 5.03, Flexible Administrative Modification Rules and Section 5.04, Standard Administrative Modifications;
- E. Processing applications for appeals, variances, conditional uses and changes from one nonconforming use to another nonconforming use;
- F. Preparation of the record for appeal from the decisions of the Board of Adjustment as provided by Kentucky Revised Statutes;
- G. Serving as staff and providing administrative assistance to the Board of Adjustment regarding their functions under this Ordinance.

### 12.02 Floodplain Administrator

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The floodplain regulations included within this Ordinance shall be enforced by the Floodplain Administrator, who is appointed by the legislative body, and who shall have all powers and duties authorized by Kentucky Revised Statutes and this Ordinance. It shall be illegal for any person or entity to interfere with the Floodplain Administrator's performance of duties. The duties of the Floodplain Administrator include, but are not limited to:

- A. Reviewing zoning permit applications to determine compliance with floodplain requirements including determining that planned changes and uses will not result in a cumulative increase in the water surface elevation of the base flood more than one foot at any point when combined with all other existing and anticipated development;

- B. Notifying relevant agencies and adjacent communities prior to authorizing any use or change that alters or relocates a watercourse, submitting evidence of such notification to FEMA, and assuring that the flood carrying capacity within the altered or relocated watercourse is maintained;
- C. Maintaining documentation of all floodplain information and activity including all maps, site plans, and certifications and making this documentation reasonably accessible to the public;
- D. Interpreting floodplain maps and boundaries as needed; and
- E. Working with the Zoning Administrator and other local, state, and federal officials to remedy floodplain violations.

### **12.03 Technical Review Committee**

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The powers and duties of the Technical Review Committee (“TRC”) are as generally described below.

- A. Establishment and Membership: The TRC is created and shall consist of PDS staff, regulatory agencies and public utilities agencies, and other agencies or consultants deemed appropriate. The Applicant and their representatives and their invitees, Staff, City staff and officials, regulatory agencies and public utility agencies shall be permitted to attend TRC meetings.
- B. Jurisdiction and Authority: The TRC has the duty to review and make comments to the applicant, pursuant to the procedures and standards in this Ordinance and other applicable regulations.

### **12.04 Planning Commission**

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The Kenton County Planning Commission (KCPC) shall have all general and specific powers, duties, and responsibilities necessary to carry out its functions in accordance with this Ordinance and KRS Chapter 100.

### **12.05 PDS Staff**

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When referenced in this Ordinance, PDS staff is the duly authorized representative of the Kenton County Planning Commission. PDS staff has the duty to review applications submitted to the Kenton County Planning Commission, and make recommendations and comments to applicants and the Planning Commission, and where authorized by this ordinance make final decisions.

### **12.06 Board of Adjustment**

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The Board of Adjustment shall have the following powers, duties, and responsibilities necessary to carry out its functions in accordance with this Ordinance and KRS Chapter 100:

- A. To hear and decide applications for conditional use permits.
- B. To hear and decide applications for variances including variances to the floodplain regulations.
- C. To hear and decide requests for appeals of administrative decisions.
- D. To hear and decide changes from one nonconforming use to another nonconforming use as regulated under [KRS 100.253](#).

### **12.07 Legislative Body**

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The legislative body shall have the following duties related to this Ordinance:

- A. To review and from time to time initiate changes to this Ordinance.
- B. To decide upon any application or request for amendments to this Ordinance or the Official Zoning Map.

C. To decide upon any application or request for a Concept Development Plans.

## 12.08 [Reserved]

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# ARTICLE 13 PROCESS AND PROCEDURE

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### Contents:

- 13.01 General Application Requirements
- 13.02 Development Plan Review
- 13.03 Planned Unit Development Requirements
- 13.04 Map Amendments
- 13.05 Text Amendments
- 13.06 Non-Conforming Uses
- 13.07 Variances
- 13.08 Conditional Use Permits (CUP)
- 13.09 Certificate of Zoning Compliance
- 13.10 Zoning Permits
- 13.11 Enforcement
- 13.12 Appeals

## 13.01 General Application Requirements

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### A. Application Submittal Requirements

Applications required under this Ordinance must be submitted in a form, manner, and number as required by the Kenton County Planning Commission, Board of Adjustment (BOA), or Legislative Body.

### B. Pre-Application Meeting

All applicants for development plan approvals, map amendments, variances, conditional uses, administrative appeals, and changes in nonconforming uses shall arrange a pre-application meeting with the Zoning Administrator before completing and filing the required application. Pre-application meetings are encouraged for text amendments. The Zoning Administrator will review the zoning classification of the site, review the regulatory ordinances and materials, and review the procedures. PDS will assist and advise the petitioners in preparing the application and supportive documents as necessary.

### C. Application Filing Fees

Applications must be accompanied by a fee amount that has been established by the Kenton County Planning Commission, BOA, or Legislative Body.

### D. Application Completeness

The Zoning Administrator shall determine if the application is administratively complete. If the Zoning Administrator determines that the application is not administratively complete, staff shall notify the applicant in writing. No additional review of the application shall occur until the application is determined to be administratively complete.

### E. Public Hearing & Notices

Unless otherwise specified, published public hearing notices must be in accordance with KRS 100 and [KRS 424](#).

**F. Burden of Proof**

In all cases, the burden is on the applicant to show that an application complies with applicable review or approval criteria.

**G. Summarized Review Authority**

The following table summarizes the review and approval authority of the various review bodies and permit/entitlement type in the Ordinance.

Table 13.1								
TYPE OF PERMIT, PROCESS OR DECISION	CROSS REFERENCE	TRC*	ZONING ADMINISTRATOR	KCPC STAFF/PDS*	BOA*	KCPC*	CITY/ COUNTY ADMINISTRATOR	CITY COUNCIL
Concept Development Plan Review	13.02	R		R		<R>		DM
Final Development Plan Review	13.02			R				DM
Map Amendment	13.04	R		R		<R>		DM
Text Amendment	13.05	R		R		<R>		DM
Administrative Appeals	13.12		R			<DM>		
Changes from one nonconforming use to another nonconforming use	13.06		R			<DM>		
Variance	13.07		R			<DM>		
Conditional Use	13.08		R			<DM>		
Certification of Zoning Compliance	13.09		DM			<A>		
Zoning Permits	13.10		DM			<A>		

R = Review Body  
 < > = Public Hearing Required  
 \*TRC Technical Review Committee; KCPC Kenton County Planning Commission; PDS Planning and Development Services of Kenton County; BOA Board of Adjustment  
 DM = Final Decision-Making Body  
 A = Authority to Hear and Decide Appeal of DM's Action

**13.02 Development Plan Review**

**A. Authority**

A Development Plan review process, as set forth herein, is hereby established to ensure adherence to the standards of this Ordinance.

## **B. Purpose**

The purpose of the process is to provide more predictability, a streamlined process, promote flexibility, innovation, and creativity in the design of the built environment, and assure the compatibility of development with the surrounding community.

## **C. Applicability**

The Concept Development Plan review process shall be required for any map amendment to any multi-family, mixed use, commercial, or industrial zone and any Planned Unit Development. In addition to the Concept Development Plan review process, a Final Development Plan review process is required for any construction within a Downtown Core (DC) and PUD Zone. For all other zoning districts not requiring Final Development Plan review, zoning permits must be acquired after approval of a Concept Development Plan.

### **1. Exceptions**

Map amendments to any single-family residential zone shall not require Concept Development Plan approval in accordance with this Article. Map amendments submitted by the legislative body, or the Kenton County Planning Commission, are not required to submit a Concept Development Plan.

## **D. Development Plan Types**

### **1. Concept Development Plan**

- a. The purpose of the Concept Development Plan is: to indicate the future subdivision of the property into lots, blocks, or common areas; to ensure a coordinated development prior to developing a property, and; to ensure compliance with the standards of this Ordinance and the Kenton County Subdivision Regulations with regard to lots (e.g., size, access, general building envelopes), common areas (e.g., perimeter landscaping, shared signage), access and traffic impacts, and shared infrastructure (e.g., drives, streets, cross-access, utilities, drainage).
- b. The Concept Development Plan shall have a recommendation for approval, approval with conditions, or disapproval by the Planning Commission, and final approval, approval with conditions, or disapproval of the Concept Development Plan by the City Council.
- c. The Concept Development Plan may include some flexibility of the location of specific uses (e.g. mixed use or commercial) or flexibility in residential unit types, where that flexibility is clearly defined within the plan and meets the overall density and development standards of the zoning district.
- d. Once approved, the Concept Development Plan is binding, except for the flexibility noted in the paragraph above and minor modifications as noted in Section 13.02, E., 1., i., 1., Amendments to Approved Concept Development Plan, Minor Amendments.

### **2. Final Development Plan**

The purpose of the Final Development Plan is to clearly define all construction matters and special conditions such as construction techniques, specific building locations and design (e.g., architecture), and specific site design (e.g., parking, grading, access and circulation) for an individual lot, block, or phase of development. The Final Development Plan shall be approved by PDS staff to assure that it is in conformity with the Concept Development Plan.

## **E. Approval Process:**

1. Map Amendment/Concept Development Plan
  - a. **Pre-Application Meeting/TRC Review Meeting**

See Section 13.01 B. Pre-Application Meeting. All Map Amendments/Concept Development Plan applicants must meet with the Technical Review Committee for a pre-application project review. The TRC will provide comments and initial input. The TRC will also identify submittal requirements, including the need for a Traffic Impact Study at the Pre-application meeting. Applicants may seek input from the TRC as necessary as development details are refined.

Following review by the TRC, the petitioner may submit revised copies of the proposal that address the comments and concerns. The petitioner shall refer to the specific application packet to determine the format and number of copies to be delivered to PDS staff.

**b. Amendments Prior to Public Hearing**

Amendments to a Concept Development Plan to be considered at the public hearing must be received by PDS staff in accordance with the KCPC bylaws, to allow for the PDS staff written report to include comments and recommendations related to plans that may have been amended in response to comments provided by PDS staff or TRC, in addition to Subsection e. below.

**c. Public Hearing and Notice**

See Section 13.01 E. Public Hearing and Notice.

**d. Amendments Proposed at Public Hearing**

An Applicant may make amendments to a Concept Development Plan pending determination by the Kenton County Planning Commission at any time prior to a vote being called for by the Kenton County Planning Commission. If, in the sole discretion of the Kenton County Planning Commission, the proposed amendment is of such a nature that additional time is needed for review, then the Kenton County Planning Commission may continue its consideration in accordance with the Rules of Procedure of the Kenton County Planning Commission.

**e. Planning Commission Action**

The Kenton County Planning Commission will then hold the public hearing and review the application and required information and shall make a recommendation of approval, approval with conditions or disapproval on the map amendment/Concept Development Plan in accordance with this Ordinance, KRS, and the Rules of Procedure of the Planning Commission.

**f. Amendments Agreed to at Public Hearing**

If amendments are presented by the Applicant and agreed to by the Kenton County Planning Commission at the public hearing, then revised plans indicating all amendments approved by the Kenton County Planning Commission shall be filed with PDS staff after the public hearing but prior to legislative body action.

**g. Legislative Body Action**

The legislative body shall take final action on a Map Amendment/Concept Development Plan, including any amendments accepted by the Kenton County Planning Commission, in accordance with the timeframe and process outlined for Map Amendments, in Section 13.04, Map Amendments.

**h. Concept Development Plan Review Criteria**

Concept Development Plans shall be reviewed by PDS staff and recommendations made by the Planning Commission upon written findings that the Plan complies with the following:

1. Consistency with the Comprehensive Plan

2. Complies with the development requirements of this Ordinance and the Kenton County Subdivision Regulations.
3. Manages traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community such that:
  - a. The design and location of proposed street and highway access points shall minimize safety hazards and congestion.
  - b. The capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development.
  - c. The entrances, streets and internal traffic circulation facilities in the proposed development are compatible with existing and planned streets and adjacent development.
  - d. These impacts shall be evaluated through the completion of a Traffic Impact Study consistent with the Kenton County Subdivision Regulations, if requested by the TRC at the Pre-application meeting.
4. The applicable utilities have sufficient capacity to provide potable water, sanitary sewer facilities, electricity, telephone, natural gas, and cable service at a satisfactory level of service to meet the needs of the proposed development.

**i. Amendments to Approved Concept Development Plan**

Changes to an approved Concept Development Plan which has already received approval by the Legislative Body shall be subject to this Section. The legislative body shall determine whether a change to an approved Concept Development Plan is a Major Amendment or Minor Amendment.

**1. Minor Amendments**

All changes that do not meet the thresholds established below for Major Amendments shall be considered Minor Amendments. Minor Amendments may be administratively approved as part of the Final Development Plan or Zoning Permit without a public hearing.

**2. Major Amendments**

A change shall be deemed a Major Amendment if the Legislative Body determines the change results in any of the following:

- a. An increase in the buildable square footage or number of units above what is permitted in Section 13.02, D., 1., c., or 10%, whichever is greater. In no case shall the density exceed the maximum permitted in the zoning district.
- b. An increase in the area of off-street parking or footprint of building along the perimeter of a development by more than 10 percent of the original off-street parking area or building footprint approved on the Concept Development Plan.
- c. An increase in the off-street parking area or footprint of an interior building by more than 30 percent of the original off-street parking area or building footprint approved on the Concept Development Plan
- d. A change of use that results in a more intense use.
- e. A change that results in an inability to meet a required condition of approval or a requirement of this Ordinance (for instance off-street parking).
- f. Additional driveways, rights-of-way or access points onto the adjacent roadway system.
- g. A change that results in a building or off-street parking area being moved closer to an adjoining property line by more than five percent of the distance that was originally approved on the Concept Development Plan if the adjacent property is zoned residential, and ten percent distance that was

originally approved on the Concept Development Plan if the adjacent property is zoned mixed-use or non-residential.

- h. Other changes considered to be major by PDS staff that are of such nature as to violate the intent or character of the approved Concept Development Plan.

If the Legislative Body determines a change to an approved Concept Development Plan is a Major Amendment, then the applicant shall be required to file a new application of an amendment to the Concept Development Plan, which shall follow the procedures set forth in Section 13.02, E., Approval Process. for the initial approval of the Concept Development Plan.

## **2. Final Development Plan Approval**

Final Development Plans shall be reviewed by PDS staff. After review, PDS staff shall recommend favorable, favorable with conditions, or unfavorable on the Final Development Plan, including written findings that the Plan complies with the applicable articles and sections of the zoning ordinance and any conditions placed upon the approved Concept Development Plan, and all improvements identified or agreed upon resulting from the TIS are shown. The Legislative Body shall approve, approve with conditions, or disapprove the Final Development Plan. All approved Final Development Plans shall be binding upon the applicants, their successors and assigns, and the development shall be limited to all conditions and limitations established in such plans.

## **3. Phasing of Development Plan**

After the Concept Development Plan is approved, the subject area may be developed in phases, provided all of the procedures required by local, state, and federal regulations have been complied with. Each phase may be submitted to the PDS staff at the time the applicant is ready to develop, and that phase will be reviewed against the approved Concept Development Plan. Required public amenities and infrastructure improvements shall be provided proportionally with each phase. Separate zoning permits must be obtained for each individual building after Final Development Plan approval.

## **F. Approval of Individual Buildings**

If the Final Development Plan is for a specific building rather than a phased plan in the Subsection above, then the approval of the Final Development Plan shall also constitute an approved zoning permit. An approved Final Development Plan for an individual building does not replace any other local, state, or federal regulation approvals.

## **G. Final Development Plan Review Criteria**

Final Development Plans shall be reviewed by PDS staff and make written findings that the Plan complies with the following:

1. Complies with the approved Concept Development Plan, including any conditions.
2. Complies with the development requirements of this Ordinance and the Kenton County Subdivision Regulations.
3. Complies with all the requirements of the traffic impact study and access management plan, if applicable.

## **H. Amendment to the Final Development Plan**

Amendments to approved Final Development Plans may be approved by PDS staff using the same criteria in Section 13.02, E., 1. If changes to an approved Final Development Plan are considered minor, an application for Zoning Permit, (see Section 13.10 Zoning Permits), may be filed. If PDS staff determines a change to an approved Final Development Plan is a Major Amendment, then the applicant shall be required to file a new application of an amendment to the Concept Development Plan, which shall follow the procedures set forth in Section 13.02, E., Approval Process, for the initial approval of the Concept Development Plan.

#### **I. Expiration**

1. The legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether the Concept Development Plan should expire, if a Final Development Plan for the first phase of a development has not been filed within two years of obtaining Concept Development Plan approval.
2. The legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether the Concept Development Plan should expire, if substantial construction is not started within one year of obtaining Final Development Plan approval.
3. An extension may be permitted upon approval of the legislative body if sufficient proof can be demonstrated that the Final Development Plan or construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the previous approvals obsolete.

### **13.03 Planned Unit Development Requirements**

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#### **A. Purpose**

The intent of the Planned Unit Development District is to:

1. Implement elements of the Kenton County Comprehensive Plan;
2. Provide flexibility in creating planned communities that typically incorporate a range of uses, including residential, commercial, office, flex industrial, or recreation;
3. Promote the clustering of dwellings on a development site while preserving shared open space;
4. Provide an environment within the layout of a site that contributes to a sense of community and a coherent development style;
5. Encourage the preservation and enhancement of natural amenities and cultural resources;
6. Protect the natural features of a site that relate to its topography, shape, and size, and to provide for a significant amount of open space; and
7. Provide for an efficient arrangement of land uses, buildings, circulation systems, and infrastructure.

#### **B. Requirements for a PUD**

1. The PUD District narrative and development plan shall indicate the land use, development standards, and other applicable specifications, which shall govern the PUD. If the PUD District narrative and development plan does not address specific land use, development standards or other specifications of this Ordinance, the standards of the previous zoning district shall apply and be specifically noted in the narrative.
2. The location of a PUD shall be designated on the Zoning Map and adopted pursuant to this Ordinance.
3. The Concept and Final Development Plans must comply with all required improvements, construction standards, design standards and all other engineering standards contained within this Ordinance and other pertinent regulations, except where specifically exempted through the provisions of this Ordinance.

4. It is the City's expectation that to rezone to a PUD, a site shall be developed at a higher quality of development standard than the zoning district from which it is being rezoned.

### **C. PUD Process**

The PUD application shall be accompanied by all plans and documents. The PUD rezoning will follow the Development Plan Process as described in Section 13.02, Development Plan Review for Concept and Final Development Plans.

### **D. Intensity and Dimensional Standards**

Standards are established for each PUD based on the approved narrative and development plan. In reviewing and approving intensity and dimensional standards, the City will consider the overall impact of the development on adjacent properties and infrastructure, the intent of the Comprehensive Plan, and the quality of the development proposed and its impact on community character.

### **E. District Regulations**

#### **1. Permitted Uses**

Uses permitted in a PUD may be any use that is found in Article 4, Use Regulations & Standards, subject to the approval of the City Council. While use-specific conditions outlined in Article 4 apply, other conditions required to mitigate incompatibilities and address site-specific conditions as imposed by the applicant or required by City Council shall apply and be binding.

#### **2. Open Space/Recreation Area Required**

- a. Open space shall be allocated, designed and maintained as an integral part of all PUDs. Open space shall, at a minimum, be at least 10 percent of the total acreage of the proposed PUD. and recreation area . The open space and recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents.
- b. Required open spaces must be integrated into the proposed development and may not be physically separated by an exterior through-roadway.
- c. Firm, stable, and slip resistant surface paths shall be provided in the following locations:
  1. Paths connecting sidewalks to active recreation areas, such as playgrounds or frisbee golf;
  2. Within prominent open space areas that, because of their location and size within the development, will be a primary amenity for the residents of the PUD;
  3. Connections between cul-de-sacs to form continuous pedestrian routes through the development;
- d. Nature trails finished with other materials may be permissible where topography and other natural elements preclude the construction of firm, stable, and slip resistant surfaces, but they must be integrated into an entire path/trail network that includes firm, stable, and slip resistant paths as well.

### **F. Regulations to be addressed within the PUD District narrative and development plan:**

1. The following items must be presented with the Concept Development Plan and narrative:
  - a. Uses
  - b. Density
  - c. Area
  - d. Height, Yard and Setbacks
  - e. Off-Street Parking and Loading Requirements
2. In addition to the items in subsection a above, the following must be presented with the Final Development Plan
  - a. Any development standards that may deviate from Article 7 Development Standards

b. Any deviations from the requirements in Section 4.05, Use-Specific Standards.

c. Signage

**G. Amendments**

For amendments to approved plans, see Section 13.02, E., 1., i., Amendments to Approved Concept Development Plan.

**H. PUD Abandonment**

1. Abandonment may be deemed to have occurred when the PUD Final Development Plan has not been filed for within one year of PUD Concept Development Plan approval or no substantial construction has been made pursuant to the approved PUD Final Development Plan for one year, or upon the expiration of one year from the date of approval of the PUD Final Development Plan. The City Council may grant a one year extension upon written request of the developer.
2. Under the abandonment of a development authorized under this Subsection, the Planning Commission or City Council, may initiate an amendment to the Zoning Map so that the land identified as the abandoned PUD shall be zoned into a category or categories that approximate the previous zoning district, the existing use, or any other such zoning category or categories which it deems appropriate. Until such rezoning is approved by the City Council, the PUD zoning and PUD District narrative and development plan are still valid.

**13.04 Map Amendments**

**A. Findings Necessary for Map Amendment**

Before any map amendment is granted, the Planning Commission or City Council, must find that the amendment is in agreement with the adopted comprehensive plan, or in the absence of such a finding, that one or more of the following apply and such finding and report shall be recorded in the minutes and records of the Planning Commission or City Council.

1. That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and
2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

**B. Minimum Size of New Zones**

No zoning map amendment application may be accepted if the proposed amendment would create a free-standing zone that does not meet the following minimum area standards:

Table 13.2	
PROPOSED ZONE	MINIMUM ZONE AREA
RESIDENTIAL DISTRICTS	
Residential Large Lot Subdivision (R-LLS)	5 acres
Residential Conventional Subdivision (R-CVS)	1 acre
Residential Urban (R-U)	10,000 sq. ft.
Residential Multi-Family (R-MF)	20,000 sq. ft.
COMMERCIAL DISTRICTS	
Neighborhood Commercial (NC)	10,000 sq. ft.
EMPLOYMENT DISTRICTS	
Riverfront Industry (RI)	1 acre
OTHER DISTRICTS	

**Table 13.2**

PROPOSED ZONE	MINIMUM ZONE AREA
Conservation (CO)	5 acres
Planned Unit Development (PUD)	5 acres
Downtown Core (DC)	10,000 sq. ft.

**C. Planning Commission Action****1. Map Amendment**

Following the public hearing held by the Planning Commission on a proposed map amendment, the Commission shall, within 60 calendar days from the date of its receipt, make findings of fact and a recommendation of approval, approval with conditions, or disapproval of the proposed map amendment to the legislative body, including a statement setting forth the reasons and substantiation for such recommendation. The recommendation shall include a summary of the evidence and testimony presented by the proponents, opponents, and neutral parties of the proposed amendment. A tie vote shall be subject to further consideration by the Planning Commission for a period not to exceed 30 days, at the end of which, if the tie has not been broken, the application shall be forwarded to the City Council without a recommendation of approval, approval with conditions, or disapproval.

**D. Legislative Body Action****1. Map Amendment/Concept Development Plan**

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 100.2111, as set forth in the Planning Commission recommendations, unless within 21 days after the final action by the Planning Commission:

- a. Any aggrieved person files a written request with the Planning Commission that the final decision shall be made by the appropriate City Council; or
- b. The City Council files a notice with the Planning Commission that the City Council shall decide the map amendment.

The written request shall be filed with the PDS staff prior to the end of business on the twenty-first day after the Planning Commission's action. The written notice shall be either on the form provided by the PDS staff or on a letter addressed to the Chairman of the Planning Commission. If a letter is sent, it shall be clearly marked on the exterior "Request under KRS 100.2111" and be delivered to the PDS staff prior to the end of business on the twenty-first day after the Planning Commission's action.

- c. If a request with the Planning Commission is filed, the legislative body shall take final action upon a proposed zoning map amendment within 90 days of the date upon which the Planning Commission takes its final action upon such proposal.
- d. The legislative body shall not act upon a proposed amendment to the Official Zoning Map until it has received the recommendation, written findings of fact, and the summary of evidence and testimony presented by the proponents, opponents, and neutral parties from the Planning Commission.
- e. It shall take a majority of the entire legislative body to override the recommendation of the Planning Commission and it shall take a majority of the entire legislative body to adopt a zoning map amendment whenever the Planning Commission forwards the application to the legislative body without a recommendation of approval or disapproval due to a tie vote.
- f. Unless a majority of the entire legislative body votes to override the Planning Commission's recommendation, such recommendation shall become final and effective and if a recommendation of

approval was made by the Planning Commission, the ordinance of the legislative body adopting the zoning map amendment shall be deemed to have passed by operation of law.

#### **E. Concurrent Processing of Variances and Conditional Use Permits**

1. In accordance with KRS 100, an applicant, at the time of filing an application for a zoning map amendment, may elect to:
  - a. Have any necessary variances or conditional use permits for the subject property be heard and finally decided by the Planning Commission at the public hearing on the proposed zoning map amendment, or
  - b. Have any necessary conditional use permits or variances for the subject property be heard and finally decided by the Board of Adjustment.
2. A zoning map amendment application that includes proposed variances or conditional use permits must be accompanied by a Concept Development Plan.
3. In acting on variances and conditional use permits processed concurrently with zoning map amendments, the Planning Commission is granted all the powers and duties otherwise exercised by the Board of Adjustment, pursuant to [KRS 100.231](#), [100.233](#), [100.237](#), [100.241](#), [100.243](#), [100.247](#), and [100.251](#).
4. Any judicial proceedings to appeal the Planning Commission's actions in granting or denying any variance or conditional use permit must be taken pursuant to KRS 100.347(2).

#### **F. Expiration**

1. The legislative body may initiate a request for a public hearing by the Planning Commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether the zoning map amendment should revert to its original designation, if substantial construction has not been initiated within a period of one year from the date of approval of the map amendment by the legislative body.
2. An extension may be permitted upon approval of the legislative body if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved map amendment obsolete.

### **13.05 Text Amendments**

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#### **A. Text Amendment**

Following the public hearing held by the Planning Commission on a proposed text amendment, the Commission shall make a recommendation as to the text of the amendment and whether the amendment shall be approved, approved with conditions, or disapproved and shall state the reasons for its recommendation. The Planning Commission shall make its recommendation within 60 days of the date of its receipt of the proposed text amendment.

#### **B. Legislative Body Action**

It shall take an affirmative vote of a majority of the City Council to adopt a proposed text amendment.

### **13.06 Non-Conforming Uses**

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The Board of Adjustment shall have the power to hear and decide changes from one nonconforming use to another nonconforming use pursuant to KRS 100.253 and as follows:

#### **A. Criteria**

Prior to granting a change from one nonconforming use to another, the Board of Adjustment shall find that the new nonconforming use is in the same or more restrictive classification of use as the prior nonconforming use. In the determination of the same or more restrictive classification of use, the applicant shall establish, and the Board of Adjustment shall find:

1. That the new nonconforming use shall generate less vehicular traffic (automobile and truck) than the prior nonconforming use;
2. That the new nonconforming use is of a nature which will emit less noise and air pollution than the prior nonconforming use;
3. That the new nonconforming use will be more in character with the existing neighborhood than the prior nonconforming use, in that it is more in conformance with the adopted comprehensive plan, and also, more in conformance with the uses permitted in the zone in which the use is located, than the prior nonconforming use.

#### **B. Changes in Nonconforming Use**

1. Any change of nonconforming use granted by the Board of Adjustment shall conform to the requirements of this Ordinance, including, but not limited to, parking requirements, sign regulations and yard requirements, and all other pertinent ordinances of the legislative body.
2. The Board of Adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at which time its use became nonconforming.
3. The Board of Adjustment, in granting a change of nonconforming uses, may attach such conditions as it may deem necessary and proper; and the action, limitations, and conditions imposed, if any, shall be in writing, directed to the applicant, with a copy to be furnished to the Zoning Administrator.
4. The change of nonconforming use, as may be granted by the Board of Adjustment, applies to the property for which it is granted and not to the individual who applied and, therefore, cannot be transferred by the applicant to a different property.
5. In the case where the change of nonconforming use has not occurred within one year after the date of granting thereof, the change of nonconforming use permit shall be null and void and reapplication to the Board of Adjustment shall have to be made.

#### **C. Applicability**

A change from one nonconforming use to another nonconforming use applies to the property for which it is granted and not to the individual who applied for it. A change from one nonconforming use runs with the land and is transferable to any future owner of land, but it cannot be transferred by the applicant to a different site.

### **13.07 Variances**

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The Board of Adjustment shall have the power to hear and decide variances pursuant to [KRS 100.241](#) as follows:

#### **A. Variance Criteria**

1. In granting a variance the Board of Adjustment must find that the variance will not:
  - a. Adversely affect the public health, safety, or welfare;
  - b. Alter the essential character of the general vicinity;
  - c. Cause a hazard or a nuisance to the public; and
  - d. Allow an unreasonable circumvention of the requirements of the zoning regulations.
2. In making these findings, the board shall consider whether:
  - a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
  - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
  - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

## **B. Variance Due to Violations**

The BOA shall deny any request for a variance arising from circumstances that are the result of willful violations of this Ordinance by the applicant subsequent to the adoption of this Ordinance from which relief is sought.

## **C. Conditions**

The Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

## **D. Contradictions**

The Board of Adjustment shall not grant a variance to permit a use of any land, building, or structure which is not permitted by this Ordinance in the zone in question, or to alter the density of dwelling unit requirements in the zone in question.

## **E. Applicability**

A variance applies to the property for which it is granted and not to the individual who applied for it. A variance runs with the land and is transferable to any future owner of land, but it cannot be transferred by the applicant to a different site.

## **13.08 Conditional Use Permits (CUP)**

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The Board of Adjustment shall have the power to hear and decide applications for conditional use permits pursuant to [KRS 100.237](#) as follows:

### **A. Conditional Use Criteria**

1. The Board of Adjustment may authorize a conditional use to be located within any zone in which such conditional use is permitted, if the evidence presented by the applicant is such as to establish, beyond any reasonable doubt:
  - a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general wellbeing of the neighborhood or the community; and
  - b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

### **B. Conditions**

1. The board may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. Violation of such conditions, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Ordinance.

### **C. Applicability**

A conditional use applies to the property for which it is granted and not to the individual who applied for it. A conditional use runs with the land and is transferable to any future owner of land, but it cannot be transferred by the applicant to a different site.

## **13.09 Certificate of Zoning Compliance**

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### **A. General Requirements**

A certificate of zoning compliance is required, post construction, for all commercial, office, industrial, mixed use, and multi-family developments. A certificate of zoning compliance will be issued upon completion of a permitted activity on a lot or parcel, in conformance with this ordinance.

#### **B. Issuance of Zoning Compliance Certificate**

Upon receipt of the application, the Zoning Administrator will review the materials provided to ensure all activities onsite have occurred in conformance with the original zoning permit and the requirements of this Ordinance. A site visit may be performed to confirm compliance with specific elements of the permit.

1. If, upon review, the Zoning Administrator confirms all activities been completed in conformance with this Ordinance, a certificate of zoning compliance will be issued to the applicant. The Zoning Administrator shall retain a duplicate copy for its records.
2. If, upon review, the Zoning Administrator determines compliance with this Ordinance has not been met, a certificate for the proposed activity shall not be approved.
3. An applicant may reapply for a certificate of zoning compliance at any time following disapproval. Submission of an updated application and associated materials as well as applicable fees will be required.
4. Failure to successfully obtain a certificate of zoning compliance shall result in a zoning violation.

#### **C. Certificate Applicability**

A certificate of zoning compliance is required to issue a certificate of occupancy.

### **13.10 Zoning Permits**

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#### **A. General Requirements**

Except where a Final Development Plan constitutes a zoning permit per Section 13.02 E., 2., Final Development Plan Approval, a zoning permit demonstrating intent to comply shall be required prior to any activity occurring on a lot or parcel, including but not limited to the following:

1. New structures
2. Additions/expansions of existing structures
3. Accessory structures
4. Clearing, grading, drainage and all other land disturbance
5. Signs, see Section 13.10, F., Permit Requirements and Procedures for Signs
6. Change of use (including change in legally non-conforming uses)
7. Site modifications including landscaping, parking, lighting, etc.
8. Fences, driveways, decks
9. Home occupations
10. Temporary uses
11. Any other human-caused change in a property, improved or unimproved real estate, requiring a government's approval.

#### **B. Issuance of Zoning Permit**

The Zoning Administrator shall review the submitted application materials for compliance with the requirements of this Ordinance. If the application sufficiently demonstrates intent to comply with the requirements of this Ordinance, the Zoning Administrator shall issue a zoning permit for the activity to proceed. If, upon review, the Zoning Administrator cannot establish intent to comply with this Ordinance, a zoning permit for the proposed activity shall not be approved.

### **C. Failure to Comply**

Failure to obtain a zoning permit or failure to comply with an approved zoning permit constitutes a zoning violation.

### **D. Permit Compliance**

The zoning permit issued must comply with the provision of this Ordinance unless a variance has been granted by the Board of Adjustments.

### **E. Permit Expiration**

1. If a building permit has been issued and remains open and active, the zoning permit also remains open and active.
2. If a building permit expires, then the zoning permit shall also expire and a new zoning permit must be obtained prior to a new building permit being obtained.
3. In cases where a zoning permit has been issued and no building permit is required, applicants must complete the permitted activity within 180 days from the date of issuance of the zoning permit. If the permitted activity is not completed, the zoning permit shall expire, and a new zoning permit must be obtained. A one time extension of 180 days may be granted by the Zoning Administrator upon request by the applicant.

### **F. Permit Requirements and Procedures for Signs**

If a permit is required for a sign, then the following requirements and procedures apply:

1. Application: No permit shall be granted until and after an application has been filed with the designated administrative official, showing the plans and specifications, including application fees, dimensions, materials, and details of construction of the proposed structure and meeting all provisions of this Article.
2. Application Form: The Zoning Administrator shall prepare and provide a form to be used as an application for a sign permit. The same form may constitute a permit, when duly approved. Multiple signs may be listed on a single permit only when they are all on the same lot or parcel, or are part of a single, comprehensive development.
3. Information on the application: The sign application form shall include the following information:
  - a. Name and contact information for the applicant, and if separate, the name, address and consent of the property owner;
  - b. Street address and Property Identification Number (PIDN) of the site;
  - c. Accurate site plan to scale describing the design, dimensions, proposed placement, structural and electrical characteristics and appearance of the sign(s), including the location of existing buildings, signs and other structures on the same site as the proposed sign(s);
  - d. If the plans and drawings require an engineer's or architect's seal, signature or certificate, such shall show current Kentucky registration or licensure;
  - e. Any signs or other structures to be removed or relocated;
  - f. Dimensions and heights of all existing and proposed sign(s);
  - g. Information regarding electrification, trenching, demolition, plumbing, temporary street closure, or encroachment into the public right of way;
  - h. Any known uncorrected violations of zoning laws on the site;
  - i. Name, address and any licensing/bonding information for any sign contractors;
  - j. Technical drawings, specifications, structural safety calculations for the sign structure;
  - k. If the sign is subject to any of the safety codes (building, electrical, etc.), then all information required to determine compliance with such codes or to satisfy the requirements of such codes;

- l. The length of each occupant's/tenant/s lineal wall frontage;
  - m. Workers' compensation and liability documents and occupational licenses for all contractors.
4. Initial Review: Unless a given sign is exempt from the permit requirement, all sign permit applications shall be reviewed by the Zoning Administrator, and approved or denied on the basis of whether the proposed sign satisfies all requirements of this Article, and all other applicable laws, rules and regulations. If it does, then the permit shall be issued. If it does not, then the denial notice shall specify the point(s) of noncompliance. Decisions on sign permit applications shall be made in writing by the Zoning Administrator, and are subject to the appeal procedures provided herein. When applicable, permits under building and electrical codes then in effect are also required; sign permits may be approved subject to compliance with building and electrical code requirements.
  5. Completeness: Initial review of an application will be for the purpose of determining if the application is complete. If the application is found incomplete, written notice of the finding of incompleteness will be given to the applicant within fifteen working days of submission, detailing the points of incompleteness. Notice is deemed effective when mailed or personally delivered. After notice of incompleteness, the applicant shall have thirty calendar days in which to resubmit the application, with all noted items of incompleteness cured. If the application is resubmitted within that time, no additional fee shall be required, and the application, if complete, shall then be processed in accordance with this Section. If no notice of incompleteness is timely provided, the application shall be deemed complete as of the last day on which the notice of incompleteness could have been given.
  6. Time for Decision: The Zoning Administrator shall render a decision on each complete sign permit application within five working days of when the application was complete.
  7. Noncompliance with a Permit: All signs shall conform to the requirements of the permit, and all other applicable laws. Any sign not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed as a misrepresentation of facts on the application and a violation of this Article. Any noncomplying sign which is not removed or corrected within the required time shall be a deemed public nuisances and a violation of the zoning ordinance, and may be abated in the same manner as any public nuisance or zoning ordinance violation.

### 13.11 Enforcement

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Enforcement of this Ordinance shall be in accordance with [KRS 65.8801](#), [65.8805](#), [65.8808](#), [65.8811](#), [65.8815](#), [65.8821](#), [65.8825](#), [65.8828](#), [65.8829](#), [65.8831](#), [65.8835](#), [65.8836](#), [65.8838](#), [65.8839](#), [65.8840](#).

### 13.12 Appeals

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#### **A. Appeals from an Official Action, Order, Requirement, Interpretation, Grant, Refusal, or Decision of the Zoning Administrator**

Per [KRS 100.257](#) and [KRS 100.261](#), appeals to the Board may be taken by any person or entity claiming that there is an error in, or that they are injuriously affected or aggrieved by, an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.

1. An appeal shall be made within 30 calendar days after the applicant or its agent receives notice of the action of the Zoning Administrator, by filing a notice of appeal with the Board of Adjustment, that specifies the grounds of the appeal and gives notice of the appeal to any and all parties of record.
2. The applicable fee required by the Board of Adjustment shall accompany the notice of appeal at the time it is filed with the Zoning Administrator.
3. The Zoning Administrator shall transmit all records pertaining to the decision that is being appealed.

4. The Board of Adjustment shall hear the appeal within 30 days and give public notice in accordance with KRS Chapter 424 as well as written notice to the applicant and the Zoning Administrator at least one calendar week prior to the hearing.
5. The affected party may appear at the hearing in person or by attorney and all shall be given an opportunity to be heard.
6. The Board shall decide on the appeal within 60 calendar days from the date the appeal was filed with the Zoning Administrator and the Board.
7. In determining that an appeal may be granted, the Board must find that there was an error in, or that the applicant was injuriously affected or aggrieved by, an order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.

#### **B. Appeals from the Final Actions of the Planning Commission, Board of Adjustment, or Legislative Body**

Per [KRS 100.347](#), final actions from the Planning Commission, Board of Adjustment, or Legislative Body may be appealed in the following manner:

1. Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission, Board of Adjustment or legislative body shall appeal from the action to the circuit court of the county in which the property, which is the subject of the action of The Planning Commission or Board of Adjustment, lies.
2. An appeal shall be made within 30 calendar days after the final action of the Planning Commission, Board of Adjustment or legislative body. All final actions which have not been appealed within 30 days shall not be subject to judicial review. The Board of Adjustment or Planning Commission shall be a party in any such appeal filed in the circuit court.
3. Once an appeal has been filed, the clerk of the circuit court shall issue a summons to all parties, including the Planning Commission, Board of Adjustment or legislative body in all cases, and shall cause it to be delivered for service as in any other law action.
4. The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.
5. For purposes of this Ordinance, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

#### **C. Appeals from the Final Actions of the PDS staff**

1. Any determination of PDS staff made regarding minor/major changes to development plans and Final Development Plan actions may be appealed by any aggrieved party to the KCPC.
2. The aggrieved party shall submit an application, along with half the fee required for a map amendment/Concept Development Plan application within 30 days of the final action by PDS staff.
3. The KCPC shall decide on the appeal within 60 calendar days. If an application is received at least 15 days prior to a regular KCPC meeting, then the appeal shall be decided upon at that meeting. If an application is received less than 15 days from a regularly scheduled KCPC meeting, then the appeal shall be decided at the next subsequent regularly scheduled meeting.

#### **D. Stay of Proceedings**

An appeal stays all proceedings related to the action appealed from, unless the Zoning Administrator from whom the appeal is taken, certifies that a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a court of record on application, or on notice to the Zoning Administrator from whom the appeal is taken.

#### **E. Appeals Related to the Sign Regulations**

1. Decisions on sign permit applications, as well as directives, orders, notices and all other sign-related decisions of the Zoning Administrator may be appealed to the Board of Adjustment.

- a. Initiation of Appeal: An appeal under this Article may be initiated by following the procedures set forth in [KRS 100.257](#) or KRS 100.261, within the time allowed by that section.
- b. Hearing on Appeal: Within 60 working days of timely receipt of a notice of appeal, the Board of Adjustment shall hear the appeal in an open, public, duly noticed hearing. The appellant and all other persons wishing to be heard shall be allowed to present evidence and argument. The Board will base its decision on the law and the evidence presented at the hearing. The Board will issue a written decision within 30 calendar days of the hearing, and the written decision shall state the decision and the facts and law supporting the decision.
- c. Waiver of Time: Any of the timeliness requirements of this Section may be waived by the appellant.
- d. Judicial Review: The decision of the Board of Adjustment is final. Further review may be had in Kenton County Circuit Court, pursuant to the Kentucky law of civil procedure.
- e. Status Pending Appeal: While any sign related matter is on appeal, the status quo of the subject sign(s) shall be maintained, except when, by virtue of physical condition, the sign poses an immediate threat to the public health, safety and welfare, in which case the threat may be abated in the same manner as any other immediate threat to the public health, safety and welfare.

## ARTICLE 14 DEFINITIONS

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### Contents:

#### [14.01 Rules for Words and Phrases](#)

#### [14.02 Definitions](#)

#### [14.03 Definitions for Flood Protection Development Standards](#)

#### [14.04 Definitions for Sexually Oriented Businesses](#)

### 14.01 Rules for Words and Phrases

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Certain words and terms used in this Zoning Ordinance shall be interpreted as follows unless the context of their use or specific wording in the text clearly indicates the intent to interpret them a different way.

- A. Words used in the present tense include past and future tenses.
- B. Words used in the singular include the plural, and plural words include the singular.
- C. The words “City Council” mean the City Council of Bromley, Kentucky.
- D. The words “Fiscal Court” mean the Fiscal Court of Kenton County, Kentucky.
- E. The words “City Administrator” mean the City Administrator of Bromley, Kentucky.
- F. The words “Boards of Adjustment” mean the City of Bromley Board of Adjustment.
- G. The words “Planning Commission” mean the Kenton County Planning Commission.
- H. The words “Zoning Administrator” mean the Zoning Administrator for the City of Bromley or their designee.
- I. The words “zoning map” shall mean the Official Zoning Map of Bromley, Kentucky.
- J. Any reference to a section or article shall mean a section or article of the City Zoning Ordinance, unless otherwise specified.
- K. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, governmental unit, and any combination thereof.
- L. The words “shall,” “will,” and “must” are mandatory; the word “may” is permissive, except when the context of the particular use is negative (e.g., “may not”).
- M. The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied.”

- N. The words “lot” or “property” include the words “lot,” “plot,” “parcel,” “property,” or “tract.”
- O. The word “street” includes the words “road” and “highway.”
- P. The words “day” or “days” mean calendar days.
- Q. Words used in the masculine gender include the feminine gender and vice versa.
- R. References to NAICS codes shall mean those codes assigned to businesses in the 2017 North American Industrial Classification Manual published by the United States Office of Management and Budget. NAICS Codes serve as an aid for interpretation and determination of specific uses included in a general class of uses.
- S. The phrase “on the premises of,” as applied to accessory uses or structures shall be interpreted to mean “on the same lot or on a contiguous lot in the same ownership.”

## 14.02 Definitions

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Except for Flood Protection Development Standards (Section 8.04) and Sexually Oriented Businesses ([Article 9](#)), the words, phrases and terms used within this ordinance shall be interpreted as stated in this Article. Except as specifically defined herein, all words and phrases used in this Zoning Ordinance shall have their customary meaning as defined in a standard, common dictionary. The definitions for Flood Protection Development Standards (Section 8.04) are in Section 14.03. The definitions for Sexually Oriented Businesses ([Article 9](#)) are in Section 14.04.

### A

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**Abutting** – Touching at a point or along a border; including when separated only by a public or private right-of-way.

**Accessible** – Approachable, enterable, and usable by a person with disabilities.

**Accessory Dwelling Unit** – A residential dwelling located on the same lot as a single-family dwelling unit, either within the same building or in a detached building.

**Accessory Structure or Use, Customary** – A structure or use that: (1) is subordinate in area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; or (3) is located on the same lot and in the same zoning district as the principal use.

**Act of God** – An event that directly and exclusively results from the occurrence of natural causes that could not have been prevented by the exercise of foresight or caution; an inevitable accident.

**Agricultural Storage** – This industry comprises establishments primarily engaged in operating bulk farm product warehousing and storage facilities (except refrigerated). Grain elevators primarily engaged in storage are included in this industry. (NAICS-49130).

**Agricultural Supplies Sales** – An establishment primarily engaged in the merchant wholesale distribution of farm supplies, such as animal feeds, fertilizers, agricultural chemicals, pesticides, plant seeds, and plant bulbs (NAICS 424910).

**Agriculture, Exempt** – As defined by [KRS 100.111](#).

**Agriculture, Non-Exempt** – An agriculture use not meeting the definition of “Agriculture, Exempt” contained within this Ordinance.

**Agritourism** – The act of visiting: (a) A farm or ranch; or (b) Any agricultural, horticultural, or agribusiness operation; for the purpose of enjoyment, education, or active involvement in the activities of the farm, ranch, or operation.

**Airport** – An establishment primarily engaged in (1) operating international, national, or civil airports, or public flying fields; or (2) supporting airport operations, such as rental of hangar space, and providing baggage handling and/or cargo handling services (NAICS-488119).

**Alley** – A public right-of-way which normally affords a secondary means of access to abutting property.



**All-Weather Surface** – A hard surface, dust-free material capable, during ordinary use, of withstanding without substantial deterioration, normal weather conditions. Gravel, rock, or screenings alone, without use of a petroleum or cement binder, does not meet the definition of an all-weather, dust-free material.

**Animal Care** – Any building or land used, designed or arranged for the care of animals without limited outdoor activity. Includes animal grooming, animal hospital, veterinary clinic, pet clinic, animal boarding, animal shelter, cattery, kennel and doggy day care.

**Applicant** – The individual or party applying for permits or other forms of approval required under the City of Bromley.

**Area, Minimum Site** – The minimum area required for a parcel to be platted in its prospective zoning district.

**Assembly, Commercial** – Structures and land designed for 50 or more people to congregate for a commercial event or gathering. Activities are those with a commercial purpose and could include banquet facilities, arenas, theaters, and other event venues.

**Assembly, Institutional and Civic** – Structures and land designed for 50 or more people to congregate for civic, social, religious, or non-commercial recreational functions. This definition includes but is not limited to theaters, coliseums, and worship centers.

**Athletic Fields** – An outdoor space used for competitive field sports often on a grassy field with varying equipment (i.e. soccer, football, softball).

## **B**

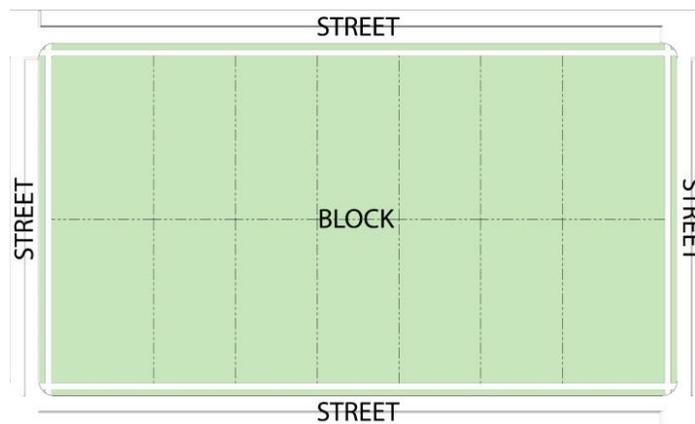
**Bar Or Drinking Place** – This industry comprises establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services (NAICS – 722410).

**Bed and Breakfast** – The commercial rental of a bedroom within a private, owner-occupied, single-family detached dwelling unit which provides temporary accommodations and usually includes breakfast for overnight guests. These accommodations usually cater to tourists and travelling public and may also include reception space.

**Berm** – A man-made earthen mound providing a visual or physical buffer for decorative, screening, buffering, or stormwater management purposes.

**Bioretention** – A structural stormwater control system that captures and temporarily stores stormwater using soils and vegetation in landscaped areas to remove pollutants from stormwater runoff in accordance with The City of Bromley's stormwater specifications.

**Block** – An area of land bounded on all sides by streets, waterways, railroads, or there like divisions. An alley shall not be used to form a boundary of a block.

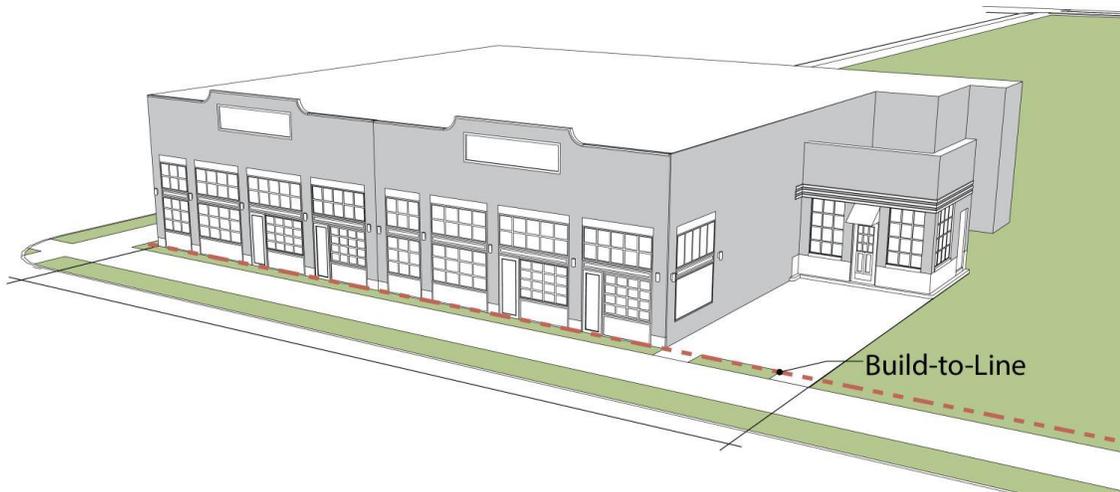


**Boat Harbor, Marina** – An establishment, which may be referred to as a marina, engaged in operating, docking and/or storage facilities for pleasure craft owners, with or without one or more related activities, such as retailing fuel and marine supplies; and repairing, maintaining, or renting pleasure boats (NAICS-713930).

**Brewery, Distillery, or Winery** – An establishment primarily engaged in one or more of the following: brewing beer, ale, lager, malt liquors, and nonalcoholic beer (NAICS-312120); growing grapes and manufacturing wines and brandies; manufacturing wines and brandies from grapes and other fruits grown elsewhere; blending wines and brandies (NAICS-312130); distilling potable liquors (except brandies); distilling and blending liquors; and blending and mixing liquors and other ingredients (NAICS-312140).

**Buffer** – An edge of a property designated for shielding or screening a view between two properties or the property and right-of-way.

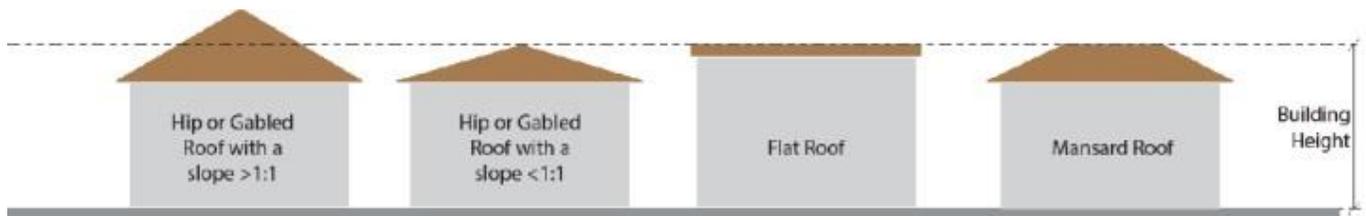
**Build-to-Line** – The alignment which establishes the distance from the right-of-way to a line where the primary building shall be built. Front porches and handicap ramps are exempt from build-to-lines but must occur behind the property line.



**Building** – A structure that is fully enclosed. Buildings which abut one another or share a common wall but do not have an opening that connects the two will be considered separate buildings.

**Building Footprint** – The horizontal area, seen in plan view, measured from the exterior of any enclosed structure on a property.

**Building Height** – The vertical distance measured from the average building elevation to the top of the building if it has a flat, mansard, or roof with a slope of less than 1:1. Roofs with a slope greater than 1:1 shall have the top of the building be measured as the average height between eaves and ridges.



**Building Material Sales** – An establishment primarily engaged in the merchant wholesale distribution of lumber; plywood; reconstituted wood fiber products; wood fencing; doors and windows and their frames (all materials); wood roofing and siding; and/or other wood or metal millwork (NAICS-423310); stone, cement, lime, construction sand, and gravel; brick; asphalt and concrete mixtures; and/or concrete, stone, and structural clay products (NAICS-423320); non-wood roofing and non-wood siding and insulation materials (NAICS-423330).

**Bulk Storage of Petroleum** - The storage of large quantities of petroleum materials that is not divided into separate parts or packaged in separate units.

**Burden (of Proof)** – the obligation to prove one’s view on a matter.

## C

**Caliper, Tree** – The diameter of the tree trunk measured at six inches above finished grade.

**Car Wash** – An establishment primarily engaged in cleaning, washing, and/or waxing automotive vehicles, such as passenger cars, trucks, and vans, and trailers (NAICS-811192).

**Carpport** – A roofed accessory structure which is open to the outside providing shelter for private motor vehicles.

**Carpenter Shop, Electrical, Plumbing and Heating Shops, Furniture Upholstering and Similar Establishments** – An establishment whose primary activity is performing specific activities involved in building construction or other activities that are similar for all types of construction, but that are not responsible for the entire project. The work performed may include new work, additions, alterations, maintenance, and repairs (NAICS-238).

**Cemeteries and Crematories** – Establishments primarily engaged in operating sites or structures reserved for the interment of human or animal remains and/or cremating the dead (NAICS-812220).

**Change of Use** – The substitution of one use of a property or building for another which can require a change in development standards.

**Check Cashing and Title Loan Businesses** – An establishment that, for compensation, engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This definition shall not include a bank, savings & loan association, or credit union or other facility meeting the definition of financial and insurance services, and does not include establishments selling retail consumer goods, such as grocery stores, where the cashing of checks or money orders is incidental to the main purpose of the business. This definition includes establishments listed under NAICS-522390 – Other Activities Related to Credit Intermediation and NAICS-522298 - All Other Nondepository Credit Intermediation.

**Civic Club** – See Bar or Drinking Place.

**Coin-Operated Laundries and Drycleaners** - This industry comprises establishments primarily engaged in (1) operating facilities with coin-operated or similar self-service laundry and drycleaning equipment for customer use on the premises and/or (2) supplying and servicing coin-operated or similar self-service laundry and drycleaning equipment for customer use in places of business operated by others, such as apartments and dormitories (NAICS-812310).

**Collection Boxes** – A small detached structure used for the deposit or collection of packages or donated household goods such as clothing and shoes, small appliances, toys, etc. This definition does not include collection boxes used by the USPS or other parcel services for collecting and delivering mail and packages.

**College or University** – An establishment primarily engaged in furnishing academic, or academic and technical, courses and granting associate degrees, certificates, or diplomas below the baccalaureate level, and/or degrees at baccalaureate or graduate levels. The requirement for admission is at least a high school diploma or equivalent general academic training. Instruction may be provided in diverse settings, such as the establishment's or client's training facilities, educational institutions, the workplace, or the home, and through diverse means, such as correspondence, television, the Internet, or other electronic and distance-learning methods. The training provided by these establishments may include the use of simulators and simulation methods (NAICS-611310 NAICS-611210).

**Commercial Message** – A message that is primarily concerned with the marketplace of goods and services, or the economic interests of the speaker or the audience, or that proposes a commercial transaction.

**Commercial Printing** – An establishment primarily engaged in commercial printing (except screen printing or book printing) without publishing (except grey goods printing). The printing processes used in this industry include, but are not limited to, lithographic, gravure, flexographic, letterpress, engraving, and various digital printing technologies. This industry includes establishments engaged in commercial printing on purchased stock materials, such as stationery, invitations, labels, and similar items, on a job-order basis. Establishments primarily engaged in traditional printing activities combined with document photocopying services (i.e., quick printers) or primarily engaged in printing graphical materials using digital printing equipment are included in this industry (NAICS 323111); and printing or printing and binding books and pamphlets without publishing (NAICS 323117).

**Community Center, Civic Center** – An establishment primarily engaged in promoting civic, recreation, or social interests. Establishments in this industry may operate bars and restaurants for their members (NAICS-813410)

**Compact Vehicle** – Shall include “Minicompact”, “Subcompact”, and “Compact” as defined by the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy.

**Comprehensive Plan** – The current, adopted comprehensive plan for Kenton County, Kentucky.

**Conditional Use** – Per KRS 100.111.

**Construction** – Any action or process of erection, fabrication, installation, alteration, demolition, or removal of any structure, building, etc. Including paving, landscaping, and earth moving.

**Construction Trailer or Sales Office** – A trailer or similar structure used as a temporary office space in conjunction with a construction project or temporary/seasonal sales.

**Contour or Contour Line** – A line on a map of joining points which represent the elevation above sea level.

**Convalescent Homes, Nursing Homes, and Assisted Living Facilities** – Establishments that provide residential care combined with either nursing, supervisory, or other types of care as required by the residents (NAICS-623).

**Conversions** – A structure initially designed for single-family residential use which is now used for a non-residential purpose.

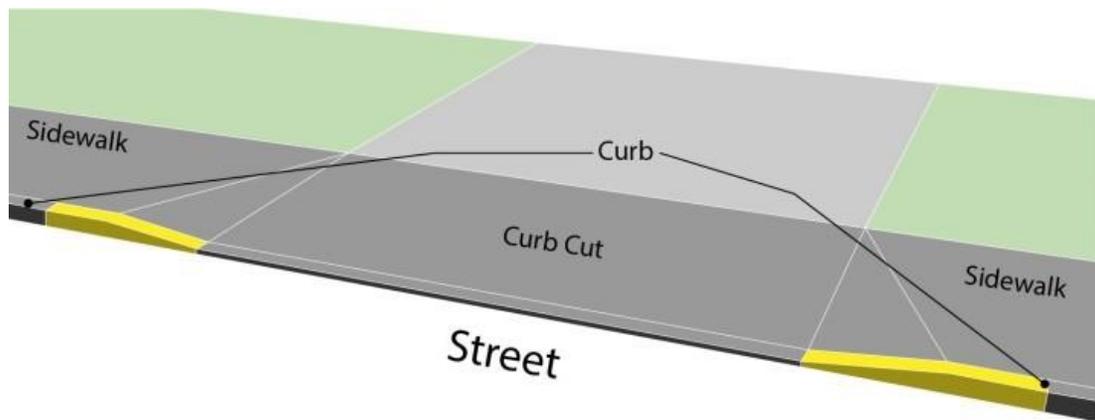
**Cottage Court** – A group of three or more detached single-family or two-family dwellings located on a single lot and sharing a common court or yard.



**Covenant** – An agreement that binds and restricts the use and management of land by the existing and future land owners. This private agreement is typically included in the property deed establishing rules and regulations on how a property can be developed. Also see Deed Restriction.

**Cultural Decorations** – Decorative elements of a temporary nature intended for the acknowledgment of a cultural holiday or season, exclusive of decorations, which do not contain business, product sales, or service advertising content. Cultural decorations shall not be considered “signs.”

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



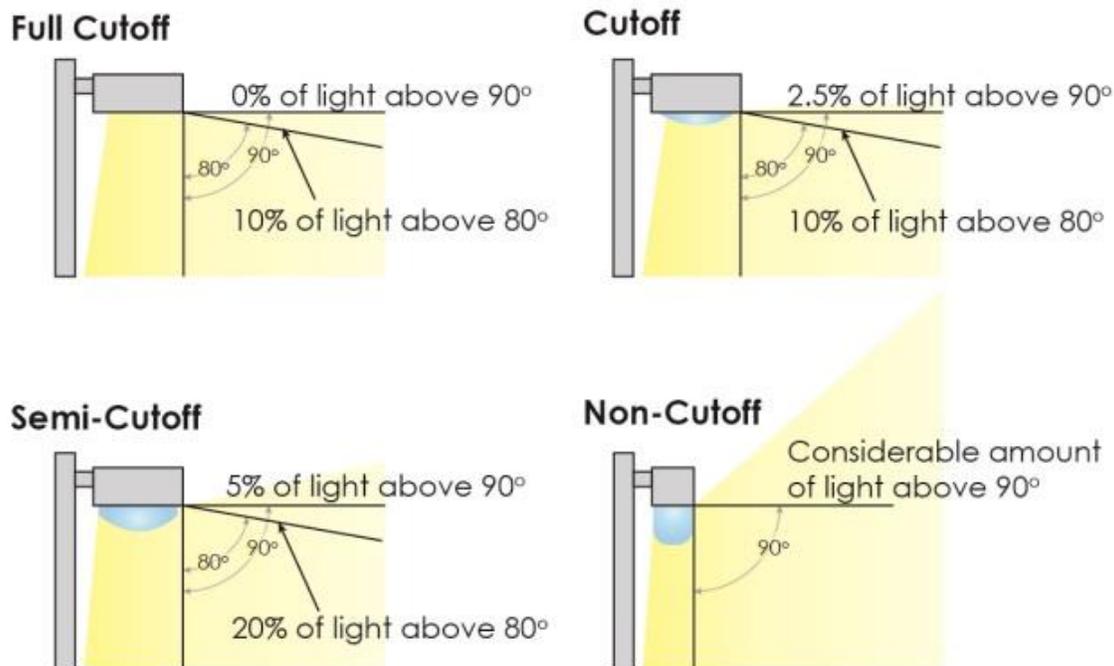
**Cutoff** – A means of defining the light distribution of a light fixture based on candela per 1,000 lamp lumens. Light fixtures are rated as full cutoff, semi-cutoff, or non-cutoff.

**Full cutoff** – A light fixture is shielded or directed in a way which does not project any light above the horizontal line (less than 90 degrees).

**Cutoff** – A light fixture is shielded or directed in a way which limits the light rays emitted beyond the horizontal line (90 degrees). Of the light emitted only 2.5 percent of it shall emit beyond horizontal line (90 degrees) and only 10 percent shall be emitted beyond 80 degrees from the horizontal line.

**Semi-cutoff** – A light fixture is shielded or directed in a way which limits the light rays emitted beyond the horizontal line (90 degrees). Of the light emitted only five percent of it shall emit beyond horizontal line (90 degrees) and only 20 percent shall be emitted beyond 80 degrees from the horizontal line.

**Non-cutoff** – This light fixture does not limit the light emitting from the fixture allowing considerable amounts of light beyond the 90-degree cut off.



**Cut and Fill** – The extraction of soil or other ground materials in one location to change the terrain of another nearby location. Also see Excavation.

## D

**Day Care Or Adult Or Child Care Center, Type I** – A commercial care center regularly providing adult or child care services for more than 4 adults or children in a non-residential setting.

**Day Care Or Adult Or Child Care Center, Type II** – An establishment where care is regularly provided in a primary residence of the provider for 7 but not more than 12 adults or children including those related to the provider.

**Deed Restriction** – A legal restriction on the use of land listed on the deed to a property. These are privately managed restrictions often occurring when the property or properties are subdivided. Also see Covenant.

**Demolition** – Any act or process that destroys in part or in whole a building or structure.

**Density** – The number of dwelling units per net area designated for residential use. This includes lots for residential development and planned open space, but does not include land associated with streets and other rights-of-way.

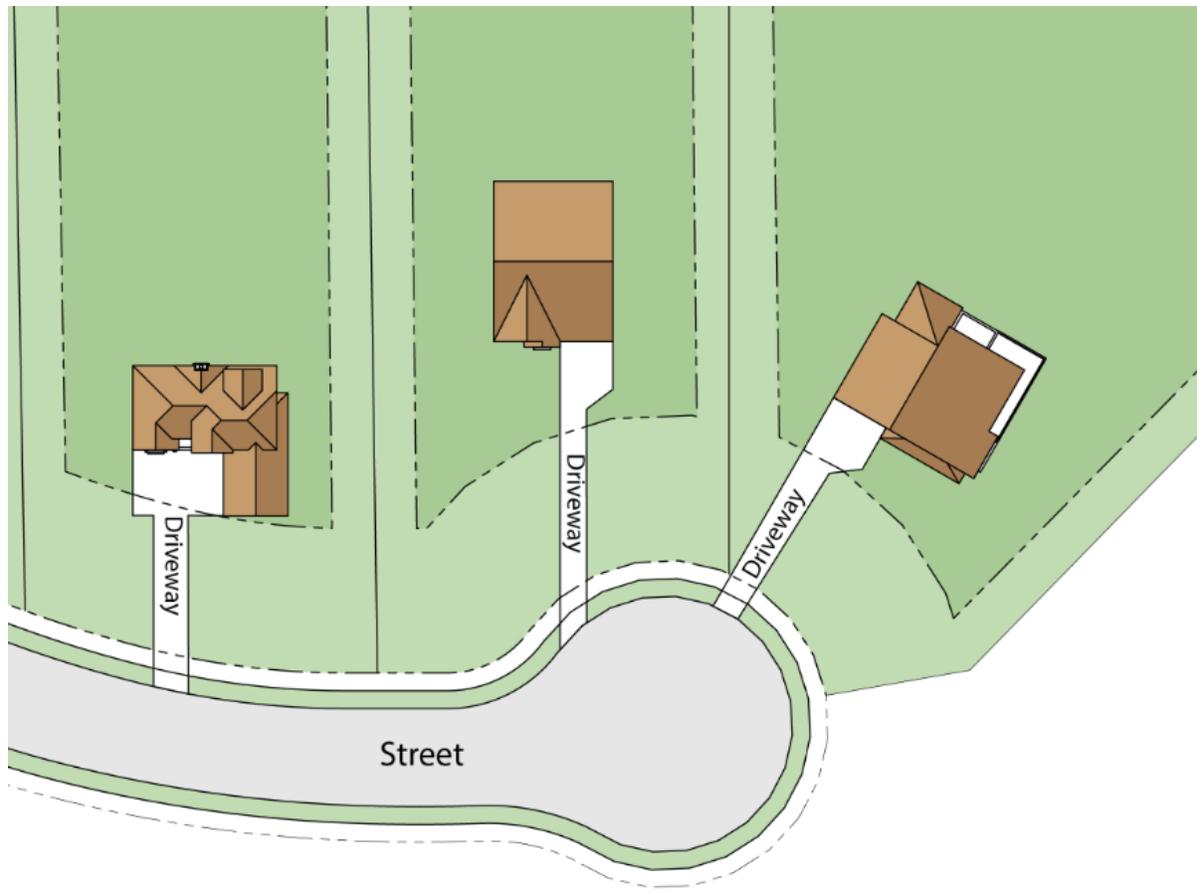
**Detention** – A temporary collection and storage of stormwater to be gradually discharged into a body of water or stormwater drainage system; or infiltrated into the soil.

**District** - see Zone.

**Drive-Up or Drive-Through** – The component of some motor vehicle-oriented businesses which provides retail or services to patrons while they remain in their vehicles rather than the patrons entering the business.



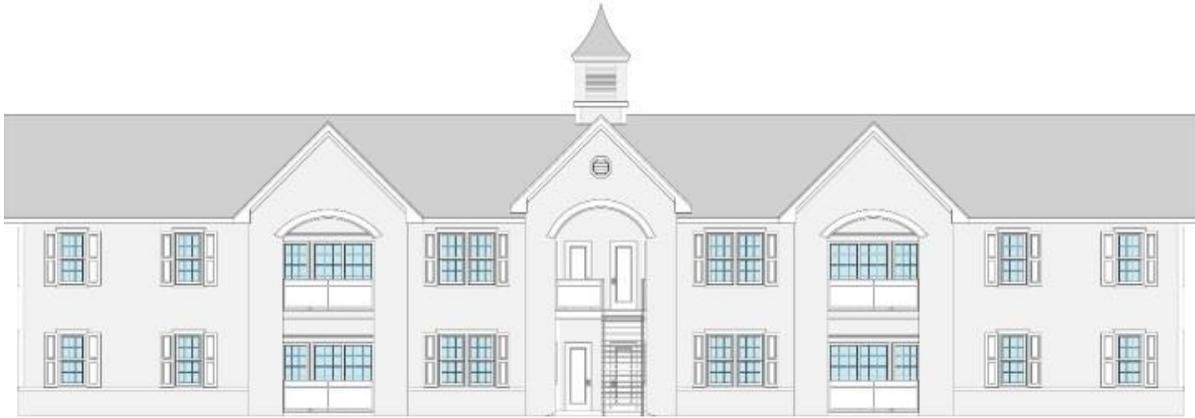
**Driveway** – A private roadway providing access for vehicles to access the property, parking, garage, dwelling, or other structures.



**Dry Cleaner** – An establishment primarily engaged in one or more of the following: (1) providing dry cleaning services (except coin-operated); (2) providing laundering services (except linen and uniform supply or coin-operated); (3) providing drop-off and pick-up sites for laundries and/or drycleaners; and (4) providing specialty cleaning services for specific types of garments and other textile items (except carpets and upholstery), such as fur, leather, or suede garments; wedding gowns; hats; draperies; and pillows. These establishments may provide all, a combination of, or none of the cleaning services on the premises (NAICS-812320).

**Dwelling Unit** – One or more rooms connected in a residential building or residential portion of a building, that are arranged, designed, used and intended for use by one or more persons living together as a unit and maintaining a common household. This can be an owner-occupied unit or a rental or lease.

**Dwelling, Multi-Family** – A building or group of buildings containing five or more dwelling units such as apartments and condominiums. This definition does not include attached dwellings, rooming or boarding houses, or bed and breakfast establishments.



**Dwelling, Single-Family, Attached** – A dwelling unit which houses a single tenant or family unit. These dwellings are however attached to an adjacent dwelling unit separated by a party wall or similar construction.



**Dwelling, Single-Family, Detached** – A dwelling standing by itself and containing only one dwelling unit, separate from other dwellings by open space, but shall not include mobile homes.



**Dwelling, Three/Four-Family** – A dwelling in which the building or structure is subdivided into three or four separate units to be rented or owned by separate tenants.

**Dwelling, Two-Family** – A dwelling in which the building is subdivided into two separate units to be rented or owned by separate tenants.



E

**Easement** – The granting, by the property owner, of use of land by a public, corporation, or person for a specific purpose. This purpose could include vehicular access, utility construction, drainage, etc.

**Emergency Medical Facility/Urgent Care/Surgery Center** – An establishment with physicians and other medical staff primarily engaged in: (1) providing surgical services (e.g., orthoscopic and cataract surgery) on an outpatient basis or (2) providing emergency care services (e.g., setting broken bones, treating lacerations, or tending to patients suffering injuries as a result of accidents, trauma, or medical conditions necessitating immediate medical care) on an outpatient basis. Outpatient surgical establishments have specialized facilities, such as operating and recovery rooms, and specialized equipment, such as anesthetic or X-ray equipment (NAICS-621493).

**Equipment Sales** – An establishment primarily engaged in the merchant wholesale distribution of photographic equipment and supplies; office, computer, and computer peripheral equipment; and medical, dental, hospital, ophthalmic, and other commercial and professional equipment and supplies (NAICS-4234); construction, mining, farm, garden, industrial, service establishment, and transportation machinery, equipment, and supplies (NAICS-4238).

**Equipment Rental** – An establishment primarily engaged in renting or leasing commercial-type and industrial-type machinery and equipment. Establishments included in this industry group are generally involved in providing capital or investment-type equipment that clients use in their business operations. These establishments typically cater to a business clientele and do not generally operate a retail-like or storefront facility (NAICS-4324).

**Equipment Repair** – An establishment primarily engaged in the repair and maintenance of commercial and industrial machinery and equipment. Establishments in this industry either sharpen/install commercial and industrial machinery blades and saws or provide welding (e.g., automotive, general) repair services; or repair agricultural and other heavy and industrial machinery and equipment (NAICS-811310).

**Erosion** – The removal or displacement of soil by the movement of water or wind.



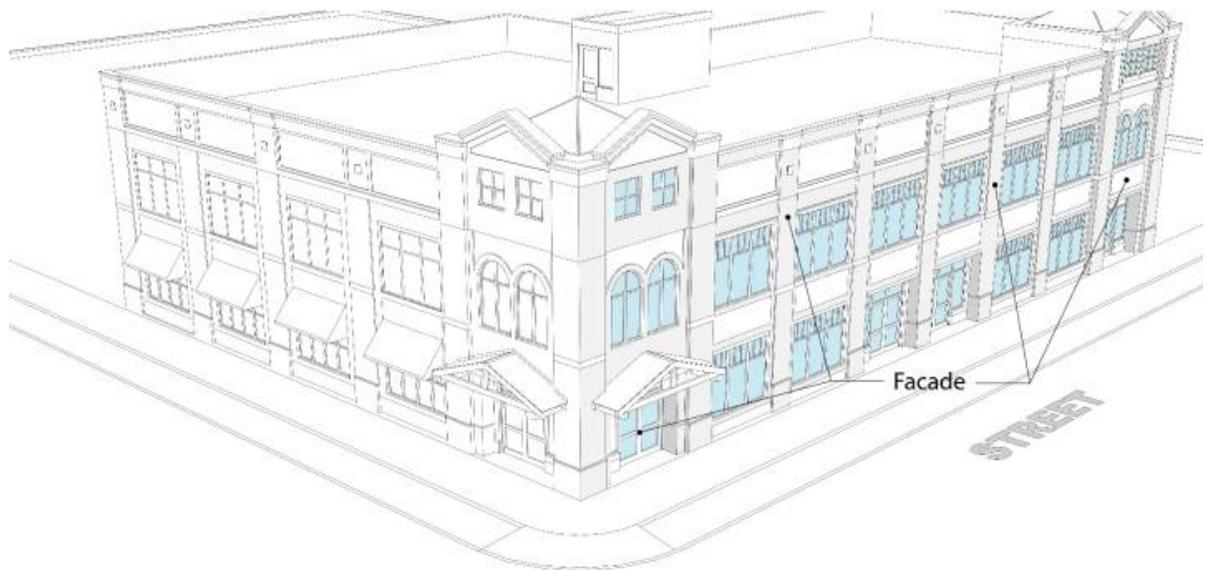
**Excavation** – Breaking ground, digging, mining, removal, or displacement of the natural surface of the earth regardless of its natural material. This does not include personal gardening, ground care, or agricultural activities.

**Explosive Material** - Any material, chemical, compound mixture, or device, the primary and common purpose of which is to function by explosion with substantially simultaneous release of gas and heat, the resulting pressure being capable of producing destructive effects.

## F

**Fabrication, Light** – The manufacturing, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building.

**Façade** – An exterior wall of a building or structure that faces a public or private street.



**Family** – One or more persons occupying a premises and living together as a single housekeeping unit.

**Family Child Care Home** - A private home that is the primary residence of an individual who provides full or part-time care day or night for six (6) or fewer children who are not the children, siblings, stepchildren, grandchildren, nieces, nephews, or children in legal custody of the provider.

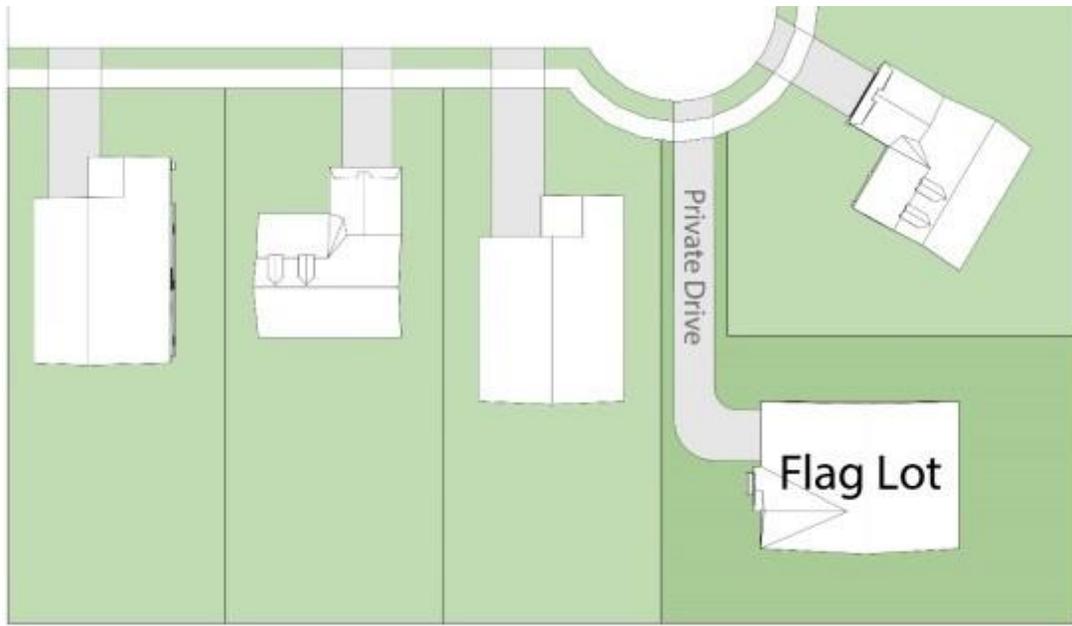
**Farmer's Market** – Temporary or occasional outdoor retail sales of farm produce from vehicles or temporary stands, located within a parking lot, or a public right-of-way (where authorized by encroachment permit).

**Fence** – An enclosure or barrier used as a visual and physical boundary to provide privacy or screen an area.

**Financial Services** – An establishment primarily engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions (NAICS-52). This definition does not include establishments listed under NAICS-522390 – Other Activities Related to Credit Intermediation and NAICS-522298 - All Other Nondepository Credit Intermediation.

**Finish Grade** – The final elevation and contours, established by a proposed design, of a parcel after it has been cut and filled.

**Flag Lot** – A lot shaped and designed so that the main building site area is set back from the street on which it fronts and includes a narrow strip of land between abutting lots through which access is typically provided.



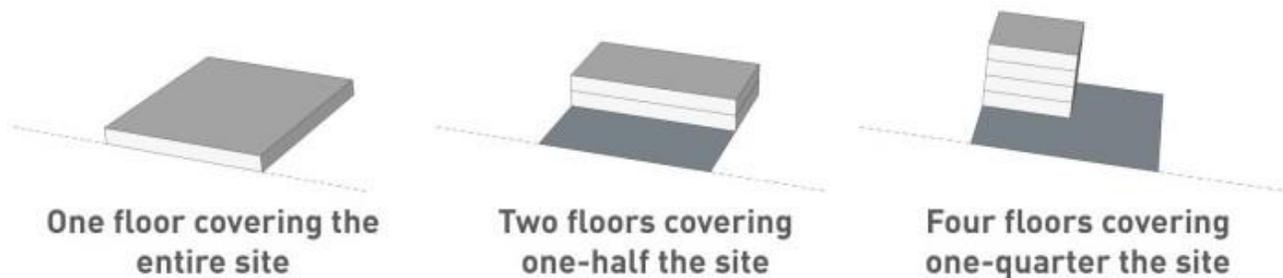
**Flammable Material** - Any solid, liquid, vapor, or gas that will ignite easily and burn rapidly.

**Flood or Flooding** - See Section 14.03 for definition related to the floodplain regulations.

**Floor Area Ratio** – The total floor area of all structures on a lot divided by the area of the lot. This ratio is used to manage the development potential of a lot. The basement and areas below grade are not included in this calculation.

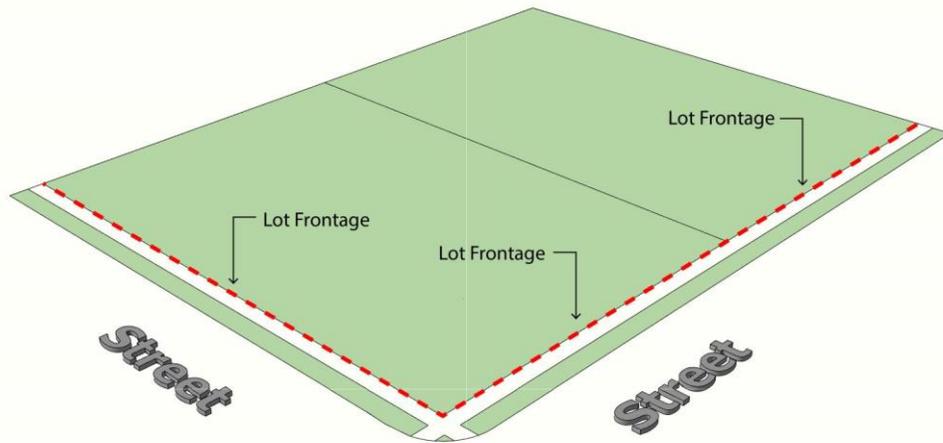
## FLOOR AREA RATIO (FAR)

### FAR = 1 Examples



**Foot-candle** - a unit of illumination equal to that given by a source of one candela at a distance of one foot (equivalent to one lumen per square foot or 10.764 lux).

**Frontage, Lot** – All the property abutting one side of the right-of-way of a street, measured along the right-of-way line of the street between the intersecting lot lines. In no case shall the line along an alley be considered as frontage. For purposes of this definition, frontage for a building wall shall be measured for the wall that is most nearly parallel to that street. In no case shall the same building wall be considered to have more than one frontage.



**Funeral Home, Mortuary** – An establishment primarily engaged in preparing the dead for burial or interment and conducting funerals (i.e., providing facilities for wakes, arranging transportation for the dead, selling caskets and related merchandise). Funeral homes combined with crematories are included in this industry (NAICS-812210).

## G

**Garage Sales** – The sale of miscellaneous used items commonly associated with residential use. This sale can occur on any portion of a residential lot whether inside or out. Other terminology includes sidewalk sale, yard sale, basement sale, rummage sale, and estate sale.

**Gas Station** – An establishment which retails automotive fuels (e.g., gasoline, diesel fuel, gasohol, alternative fuels) and automotive oils or retail these products in combination with convenience store items. These establishments have specialized equipment for storing and dispensing automotive fuels (NAICS-447).

**Geotechnical Engineer, Qualified** - A Geotechnical Engineer who individually, or whose firm, has been accepted onto the City of Cincinnati's list of Qualified/Recognized Geotechnical Engineers.

**Golf Course, Country Club** – An establishment primarily engaged in operating golf courses, along with dining facilities and other recreational facilities that are known as country clubs. These establishments often provide food and beverage services, equipment rental services, and golf instruction services (NAICS-713910).

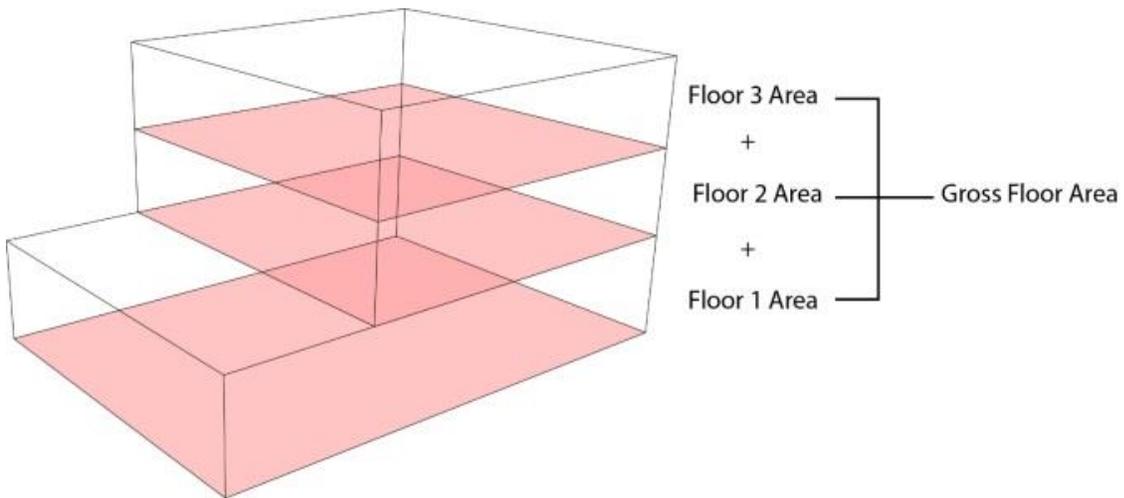
**Grading** – The engineered movement (excavation, filling or combination) of soil or ground materials to change the topography of a site.

**Grayfield (Development)** – A specific type of infill development that occurs on previously developed parcels that are underused, obsolete, or in a state of disrepair or decline.

**Green Infrastructure** – At the site scale, a collection of stormwater management systems that seek to reduce stormwater volume, treat stormwater runoff, increase groundwater recharge, and delay peak discharge rates. These systems may include one or more of the following: bioretention areas, stormwater planters, vegetated swales, permeable pavements, green roofs, and rainwater harvesting.



**Gross Floor Area** – Total area of all floors of a building, measured from the outside of the exterior walls of the building. The number of square feet in a finished attic shall be counted to the extent that the height of the attic story is equal to or greater than seven feet, and the number of square feet in a finished basement shall be included, but the number of square feet in a basement other than a finished basement shall not be included. Accessory portions of a building such as non-enclosed porches, garages, carports, and uncovered steps or fire escapes are not included.



**Ground Cover** – Low plants that grow to form a continuous cover over the ground, such as vinca, grass or like material.

**H**

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**Heliport** - Any landing place for helicopters.

**Home Occupation** – An occupation for gain or support which is customarily conducted in the home, which is incidental to the use of the building or structure as a dwelling unit.

**Hospital** – An establishment providing medical, diagnostic, and treatment services that include physician, nursing, and other health services to inpatients and the specialized accommodation services required by inpatients. Hospitals may also provide outpatient services as a secondary activity. Establishments in the Hospitals subsector provide inpatient health services, many of which can only be provided using the specialized facilities and equipment that form a significant and integral part of the production process (NAICS-622)

**Hotel, Motel** – An establishment primarily engaged in providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels. The establishments in this industry may offer food and beverage services, recreational services, conference rooms, convention services, laundry services, parking, and other services (NAICS-721110).

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## I

**Ice Cream Truck** – Motor vehicle in which ice cream, popsicles, ice sherbets, or other frozen desserts or any other prepackaged snack food items of any kind are carried for the purpose of retail sale on public streets.

**Illuminance** – The measurable amount of light falling onto an illuminated area.

**Illumination, Concealed** – An artificial light source that is shielded from public view and from surrounding properties.

**Illumination, Direct** – An artificial light source that is designed and installed to illuminate all or a portion of a sign or structure.

**Illumination, Exposed** – An artificial light source that is not shielded from public view or from surrounding properties.

**Illumination, External** – Illumination cast on a sign or structure from an outside source.

**Illumination, Indirect** – Incidental illumination cast on a sign from an external source.

**Illumination, Internal** – A concealed light source that is recessed or contained within any element of a sign. This term includes signs commonly referred to as back-lit and knock-out signs.

**Impervious Coverage/Surface** – Hard surfaces or man-made areas which do not easily absorb or retain water.

**Individual Services (ATM, Automated Retail Kiosk)** – An outside automatic device that dispenses goods or services to the customer upon receipt of monetary compensation or performs limited banking functions. This use includes ATMs, self-service kiosks and reverse vending machines, but does not include indoor vending machines or ATMs.

**Indoor Commercial Recreation** – A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee.

**Industrial** – Activities that involve or are related to assembly, fabrication, finishing, manufacturing, packaging, or processing goods or raw materials.

**Infill** – Development of any lot that is surrounded on at least two sides by existing development and at least one side by a public street.

**Inland Water Freight Transportation** – This U.S. industry comprises establishments primarily engaged in providing inland water transportation of cargo on lakes, rivers, or intracoastal waterways (except on the Great Lakes System) (NAICS – 483211).

**Institutional** – Public or semi-public use which often engages in public service.

**Intermittent** – Occurring at irregular intervals; not continuous or steady.

## J

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**Junk, Scrap or Salvage Yards** – Business operations primarily engaged in storing, dismantling, recovering, and recycling of remnant materials, including metals, unlicensed and inoperable vehicles and equipment (NAICS - 562920, 423140)

## K

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**Kennel** – See Animal Care

**KCPC** - Kenton County Planning Commission

**Kope Formation** – This is a geological formation that is a bluish gray easily weathered shale with some limestone interbeds and thick colluvium, especially at base. Kope bedrock always requires special attention during and after construction as it is prone to erosion, slow and continuous downslope creep, and landslides.

## L

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**Landscape Area** – An unpaved area that contains grass, shrubs, flowers, ground cover, trees, or native plant materials of any kind and which may include decorative fixtures or accouterments such as rocks, pools, and planters. Landscaped areas may also include non-living natural ground cover such as mulch, rocks, and stones. This does not include artificial plants, trees or vegetation.

**Landscaping** – Any living organic plant material including trees, shrubs, flowers, ground cover, vegetation, vines, or grass.

**Large Modular Materials** – Pre-assembled building components shipped to a construction site to expedite the construction of a structure or building.

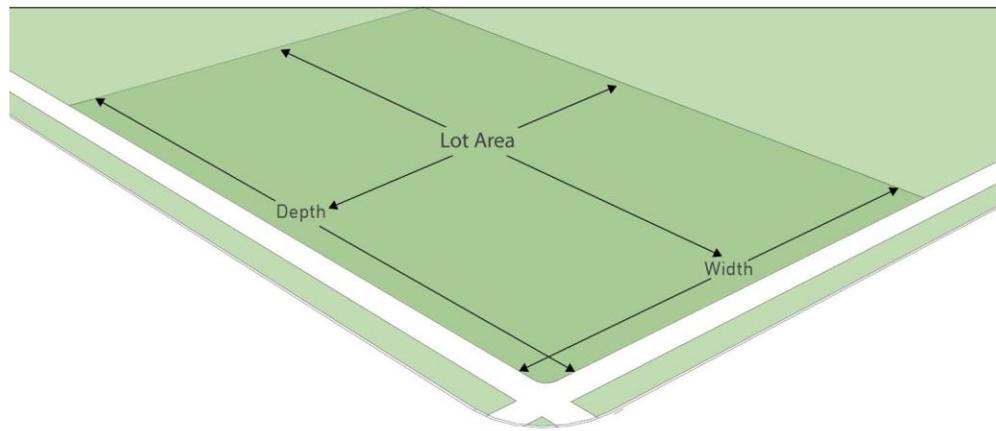
**Library** – An establishment primarily engaged in providing library or archive services. These establishments are engaged in maintaining collections of documents (e.g., books, journals, newspapers, and music) and facilitating the use of such documents (recorded information regardless of its physical form and characteristics) as required to meet the informational, research, educational, or recreational needs of their user. These establishments may also acquire, research, store, preserve, and generally make accessible to the public historical documents, photographs, maps, audio material, audiovisual material, and other archival material of historical interest. All or portions of these collections may be accessible electronically (NAICS-519120).

**Liquor Store** – An establishment primarily engaged in retailing packaged alcoholic beverages, such as ale, beer, wine, and liquor (NAICS-445310).

**Live Staking** – The practice of reintroducing plant life along a stream bed that has had its vegetation removed. This methodology cuts stems from trees during the dormant season and transplants them onto streambanks where they eventually grow into new trees that establish a root system that will hold soil in place.

**Live/Work Dwelling** – A single-family unit which is used as a dwelling and a non-residential use permitted in that district. This non-residential use should be primarily owned and operated by the residents who live there.

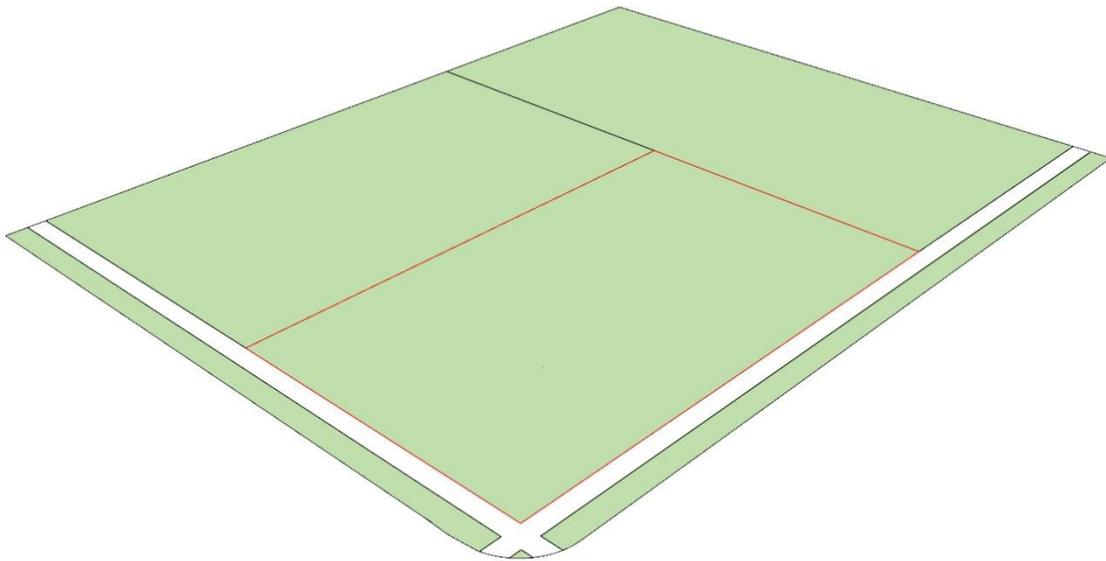
**Lot Area** – The total horizontal area contained within the lot lines.



Lot Area= Width x Height

**Lot Coverage** – The measured intensity of a land use based on the proportion of the site which is covered by impervious surfaces.

**Lot, Corner** – A lot that is located at the intersection of two or more thoroughfares, or on a curved street on which the interior angle is less than 135 degrees.



**Lot Line** – A property line which bounds the lot.

**Lot of Record** – A lot, the boundaries of which are filed as legal records.

## M

**Manufacturing, Heavy** – Establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is considered manufacturing (NAICS-31-33).

**Manufactured Home** – As defined by [KRS 100.348 \(2\)\(c\)](#).

**Manufactured Home, Qualified** – As defined by [KRS 100.348 \(2\)\(d\)](#).

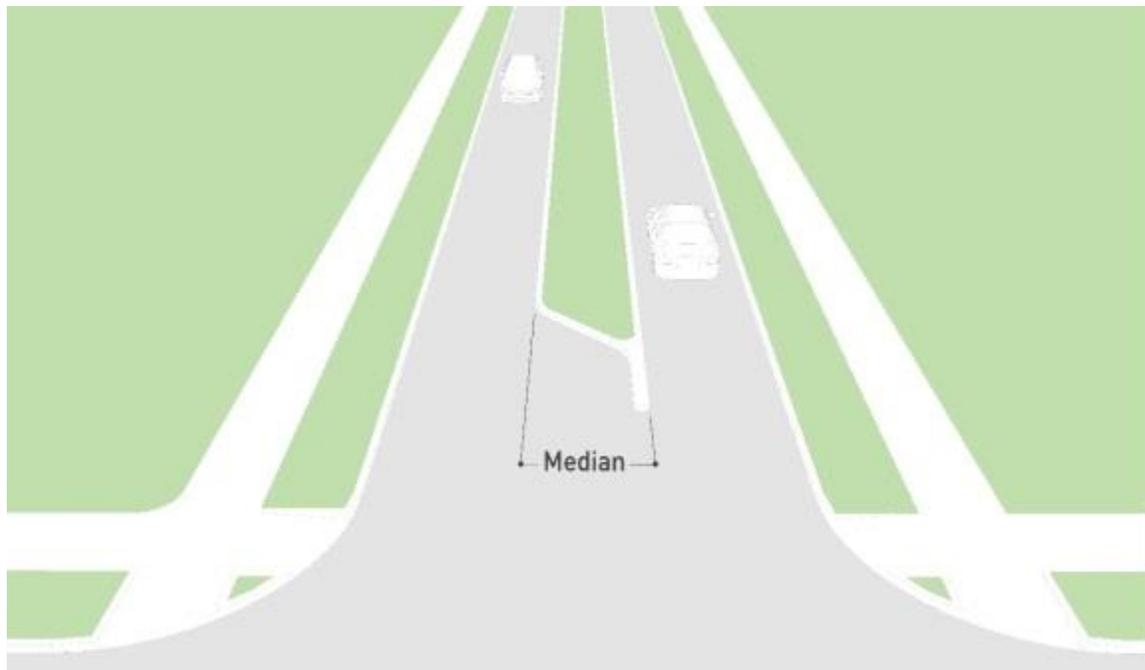
**Marquee** – A permanent roofed structure that projects beyond a building, sometimes into public property, to provide protection from the weather.



**Masonry** – The use of cut stone as a façade treatment and construction material.

**Master Plan** – A comprehensive long-range plan intended to guide the development and growth of a community or region. Such plans typically, include a land-use plan, transportation improvements, analysis, and recommendations.

**Median** – An area located in the general center of a street or highway used to separate the directional flow of traffic. It may contain vegetation, turn lanes, curb and gutters, pedestrian walkways, and similar features.



**Medical Office** – Industries considered as medical offices (Ambulatory Health Care Services) subsector provide health care services directly or indirectly to ambulatory patients and do not usually provide inpatient services. Health practitioners in this subsector provide outpatient services, with the facilities and equipment not usually being the most significant part of the production process (NAICS-621).

**Meeting, Banquet, or Conference Facility** – This industry comprises establishments primarily engaged in organizing, promoting, and/or managing events, such as business and trade shows, conventions, conferences, and meetings (whether or not they manage and provide the staff to operate the facilities in which these events take place) (NAICS-561920).

**Mining, Quarrying and Crude Petroleum and Natural Gas Production** - This use includes the mining, quarrying, and oil and gas extraction sector comprises establishments that extract naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating, and other preparation customarily performed at the mine site, or as a part of mining activity (NAICS-21).

**Mini-Warehouse, Personal Storage** – This industry comprises establishments primarily engaged in renting or leasing space for self-storage. These establishments provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods (NAICS-531130).

**Mixed Use** - A land use where three or more significant uses are permitted (such as retail/entertainment, office, residential, hotel, light industrial and/or civic/cultural/recreation) that, in well planned projects, are mutually supporting. These uses may be combined on a lot, within a structure, or within an overall development.

**Mobile Home** – As defined by KRS 219.320 (4)

**Mobile Food Sales** – A temporary establishment engaged in the retail sale of prepared food for consumption, on site or offsite, from a movable vehicle, portable structure, or pushcart.



**Modular Home** – An industrialized building system that is designed as a residence which is not a manufactured home or mobile home.

**Motor Vehicle Sales and Rental** – This industry group comprises establishments primarily engaged in retailing new and used automobiles and light trucks, such as sport utility vehicles, and passenger and cargo vans (NAICS-4411);

**Motor Vehicle Service, Major** – This industry group comprises establishments involved in providing repair and maintenance services for automotive vehicles, such as passenger cars, trucks, and vans, and all trailers. Establishments in this industry group employ mechanics with specialized technical skills to diagnose and repair the mechanical and electrical systems for automotive vehicles, repair automotive interiors, and paint or repair automotive exteriors. (NAICS-8111)

**Motor Vehicle Service, Minor** – This industry comprises establishments primarily engaged in providing automotive repair and maintenance services (except mechanical and electrical repair and maintenance; transmission repair; and body, paint, interior, and glass repair) for automotive vehicles, such as passenger cars, trucks, and vans, and all trailers. (NAICS-81119)

**Mural** - A hand-painted or hand-tiled work of visual art which displays primarily non-verbal graphic(s) or non-verbal image(s), and may display incidental word(s) subject to regulations, that is either affixed to or painted directly on the exterior wall of a structure. A mural is not considered a billboard or a sign.

**Museum** – This industry comprises establishments primarily engaged in the preservation and exhibition of objects of historical, cultural, and/or educational value (NAICS-712110).

## N

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**N/A** – Where used in these regulations, the particular requirement is “not applicable.”

**Navigational Services to Shipping** - This industry comprises establishments primarily engaged in providing navigational services to shipping. Marine salvage establishments are included in this industry (NAICS – 488330).

**Nit** – A measure of luminance. One nit is equal to one candela per square meter (1cd/m<sup>2</sup>). Ten thousand nits are equal to one stilb. A candela, on which the definition is based, is a unit of measurement of the intensity of light. Part of the SI system of measurement, one candela (cd) is the monochromatic radiation of 540THz with a radiant intensity of 1/683 watt per steradian in the same direction. Another way of putting it is that an ordinary wax candle generates approximately one candela.

**Non-commercial Message** - A message that pertains primarily to debate in the marketplace of ideas. Such messages typically cover subjects such as politics, religion, philosophy, social policy, as well as commentary on sports, arts and entertainments. There is no on-site/off-site distinction as to non-commercial messages.

**Nonconformity** – An activity or a building, structure or a portion thereof which lawfully existed before the adoption or amendment of this Ordinance, but which does not conform to all the current regulations contained in this Ordinance which pertain to the zone in which it is located.

**Nonconforming Lot** - A platted lot or parcel of land that does not conform to the provisions of this Ordinance for the zone district(s) in which it is located, but was lawful for sale or development at the time it was created.

**Nonconforming Sign** - A sign that does not conform to the provisions of this Ordinance, but was lawful at the time it was erected.

**Nonconforming Site Feature** - A feature of a developed lot, parcel, or site, such as landscaped area, parking, or lighting, that does not conform to the provisions of this Ordinance, but was lawful at the time the lot, parcel, or site was last developed or redeveloped.

**Nonconforming Structure** - A building or structure that does not conform to the provisions of the building and/or zoning regulations, but was lawfully constructed according to the building and zoning provisions existing at the time of such construction.

**Nonconforming Use** - A use of land that does not conform to the requirements of this Ordinance, but was lawfully established at the time the use commenced.

**Nursery/Garden Supply** – An establishment primarily engaged in growing crops of any kind under cover and/or growing nursery stock and flowers. “Under cover” is generally defined as greenhouses, cold frames, cloth houses, and lath houses. The crops grown are removed at various stages of maturity and have annual and perennial life cycles. The nursery stock includes short rotation woody crops that have growth cycles of 10 years or less (NAICS-1114).

**Nuisance** - Any thing, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.

## O

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**Occupation** – The partial or entire possession or lease of a property by a business or person(s).

**Office** – A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

**Off-Street Parking Lot, Non-Accessory** - A tract of land which is used for the storage of motor vehicles, which is not accessory to any other use on the same or any other lot, and which contains parking spaces rented to the general public or reserved for individuals by the hour, day, week, or month.

**On-farm Sales, Direct Selling Establishments** – An establishment primarily engaged in retailing merchandise (except food for immediate consumption and fuel) via direct sale to the customer by means, such as in-house sales (i.e., party plan merchandising), truck or wagon sales, and portable stalls (i.e., street vendors) (NAICS-454390).

**Open Space** - Any publicly dedicated or privately-owned area of land or water that is permanently preserved and maintained. Such an area may be predominately in a natural condition or improved or modified for uses such as recreation, education, aesthetics, cultural or natural resource management or public health and safety.

**Outdoor Commercial Recreation** – An open area offering entertainment or sports, athletics or games of skill to the general public. This definition includes facilities such as golf courses, swimming pools, baseball/softball fields; live entertainment or performances; boat and canoe rentals; fishing lake operations; go cart raceways; scenic railroads; and drive-in theaters.

**Outdoor Display and Sales, On-going** – The outdoor display and sale conducted by the proprietor of products normally sold inside a retail establishment occurring continuously or at regular intervals.

**Outdoor Display and Sales, Temporary** – The outdoor display and sale conducted by the proprietor of products normally sold inside a retail establishment occurring intermittently.

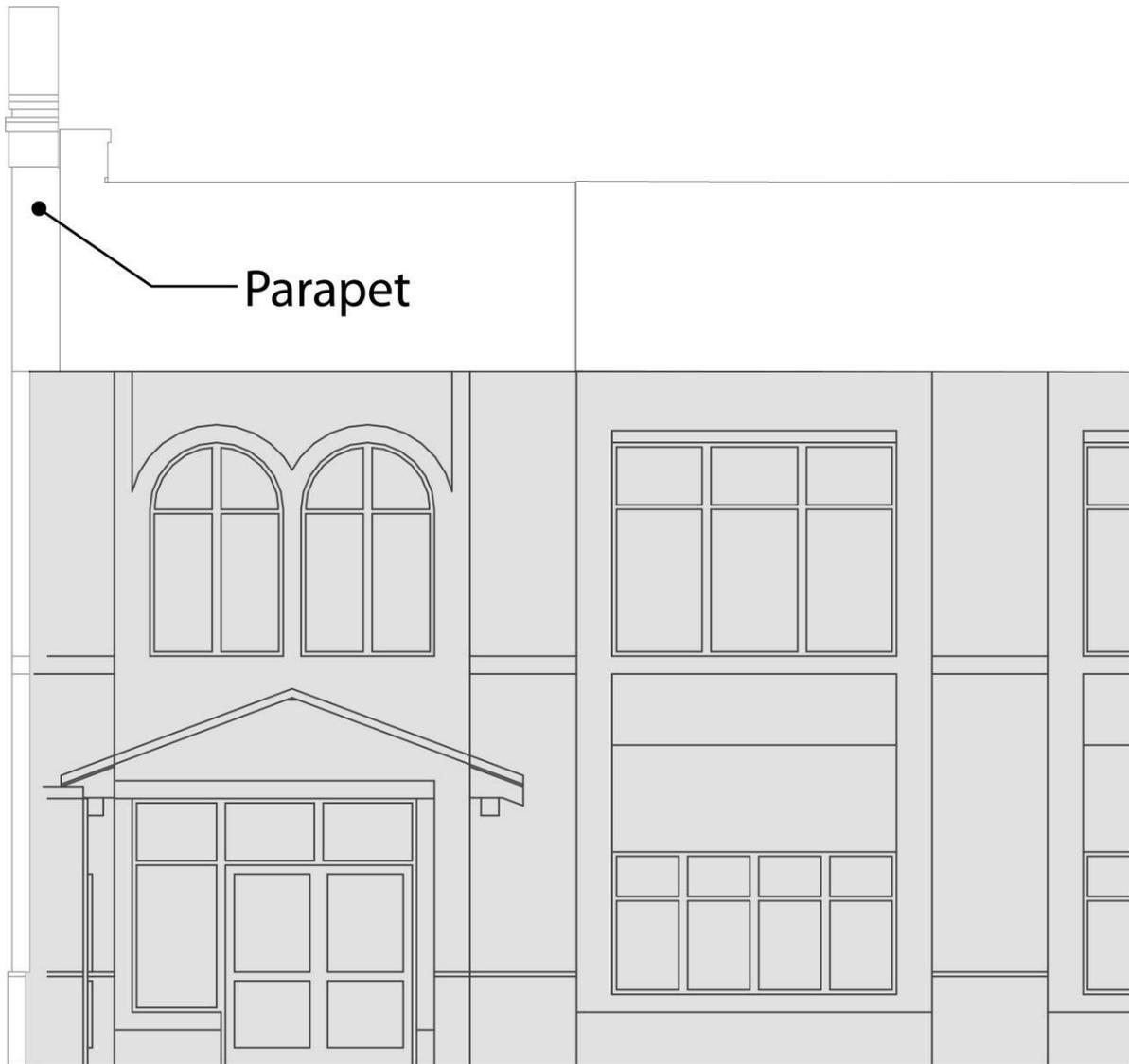
**Outdoor Storage** – Use of an area for the long-term deposit (more than 24 hours) of any usable goods, material, merchandise, or licensed vehicles.

**Overlay Zone (or District)** - A special district or zone which addresses special land use circumstances or environmental safeguards and is superimposed over the underlying existing zoning districts.

## P

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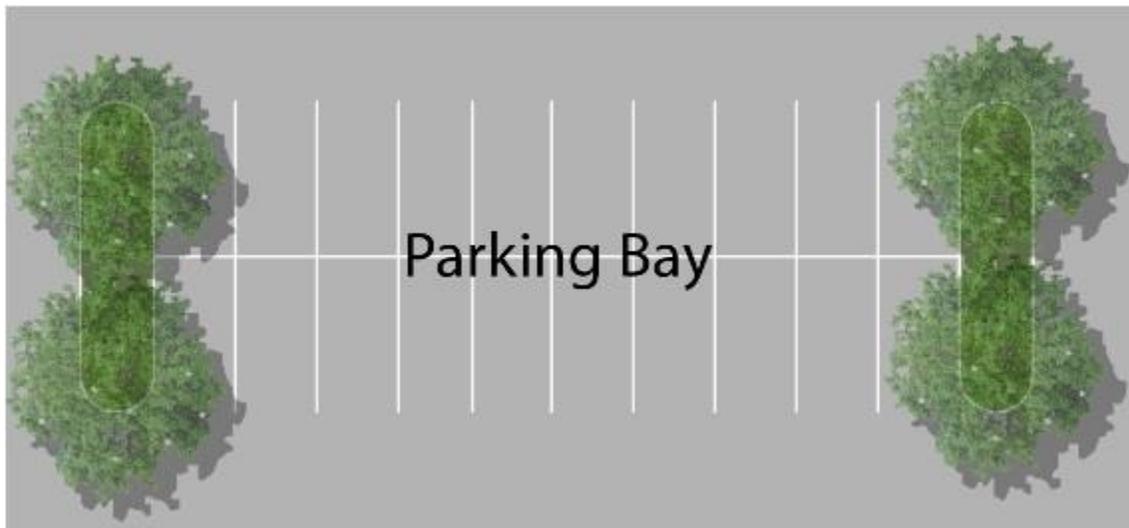
**Parapet** - An extension of the main exterior walls of a building above the roof level.



**Park** – Any public or private land available for recreational, educational, cultural, or aesthetic use.

**Parking Area** - Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, garages, private driveways, and legally designated areas of public streets.

**Parking Bay** – Two rows of parking that are back to back.



**Parking, Shared** - Joint use of a parking area, or portion thereof, for more than one establishment.

**Parking Row** - a single drive aisle lined on one or both sides with parking spaces.



**PDS** - Planning and Development Services of Kenton County.

**Permitted Use** - A use that is specifically authorized by right, as identified in the Table of Permitted and Conditional Uses.

**Person with a Disability** – Per KRS 100.982.

**Personal Services** – This industry group comprises of establishments primarily engaged in providing personal care services such as hair care and aesthetic services, hair replacement and scalp treatment services, massage services, diet counseling services.

**Planned Unit Development (PUD)** - A zoning district consisting of a unified land development of one or more parcels which utilizes property specific development regulations to produce more creative, quality, and flexible design than would be developed under a traditional zoning district.

**Plat** – A document that delineates property lines and depicts other important features of a development on a property. This document is submitted to a governmental entity for the purposes of subdividing land.

**Practicable** – Doable, feasible

**Practical** - Useful

**Principal Building** - The primary structure located on a lot, and designed for a use or occupancy that is a permitted primary use in the zone applicable to the lot. Synonymous with Primary Building.

**Principal Use** - The primary use of any lot or parcel as determined by the Zoning Administrator based on the land or building area occupied by the use, the percentage of economic activity represented by the use, the importance of the use to the function of the property, or the impacts created by the use. Synonymous with Primary Use.

## Q

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[Reserved]

## R

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**Railroad Facilities** – An establishment primarily engaged in operating railroads (except street railroads, commuter rail, urban rapid transit, and scenic and sightseeing trains). Line-haul railroads and short-line railroads are included in this industry (NAICS-48211).

**Recreational Vehicle** - A vehicle, such as a motor home, travel trailer, truck/camper combination or camper trailer that is designed for recreational or emergency purposes and that may be moved on public highways without any special permit for long, wide or heavy loads.

**Redevelopment** – Development of a lot that was previously used for the same or a different purpose. These lots may contain some vestiges of prior use in the form of buildings, pavement, etc. that may need to be removed, moved, or substantially reconstructed or altered prior to reuse.

**Rehabilitation Home** - A building or group of buildings providing residence for persons recovering from the effects of drug or alcohol abuse, psychiatric disorders, or as a condition of their parole or probation. Such homes may provide counseling in educational, vocational, or other areas by a paid or volunteer staff and generally have 24-hour-a-day supervision. A rehabilitation home is not transitional housing. This definition does not apply to residential care facilities regulated by KRS 100.982 through KRS 100.984. This term does not include uses more specifically defined, such as hospitals and medical clinics.

**Research and Development** – An establishment engaged in conducting original investigation undertaken on a systematic basis to gain new knowledge (research) and/or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes (experimental development). Techniques may include modeling and simulation. The industries within this industry group are defined on the basis of the domain of research; that is, on the scientific expertise of the establishment (NAICS-5417).

**Residential Care Facility** – A residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disabilities, per KRS 100.982.

**Restaurant** – An establishment primarily engaged in providing food services. Some establishments in this industry may provide these food services in combination with selling alcoholic beverages (NAICS-722513).

**Drive-In** – A restaurant where consumption of food on the premises is encouraged (in car), and where food is provided by “car-hop” or self-service.

**Drive-Through** – A restaurant with a business function that is designed or intended to be used for sales or services to patrons who remain in their vehicle.

**Carryout** – A restaurant which does not have sit down eating arrangements and consumption of food on the premises is not provided.

**Sit-Down** – Those restaurants which provide seating arrangements.

**Retail Store** – An establishment primarily engaged in the selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

**Retention** – The permanent on-site storage and maintenance of stormwater.

**Rezoning** - Refers to a map amendment detailed in [Article 13](#).

**Ridgelines** – A line connecting high points of elevation along a ridge and separates drainage basins or small-scale drainage systems.

**Right-of-Way** – This refers to the area which roadways, sidewalks, trails, utilities are often located within. This land is often publicly owned and maintained by a city, county, or state.

**Riparian Corridor** - Land areas adjacent to a stream, wetlands, or other body of water that contain vegetation, habitats, and ecosystems associated with bodies of water or dependent on the flow of water in the adjacent stream, wetlands, or other water body. A riparian area will vary in width depending on the particular stream, wetlands, or other body of water.

**Riprap** – A layer of protective mounds of rubble or stone randomly placed to as a preventative measure against erosion.

**Roadway** - A right-of-way reserved for motor vehicles. The term shall include public and private streets and alleys; and private motor courts, loop lanes, drive lanes, but shall not include driveways as defined in this Ordinance.

**Root Wad** – An erosion prevention method along waterways which utilized upended tree root systems. These roots slow water passing by reducing erosion while also providing aquatic habitats.

## S

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**School, Primary or Secondary** – An institution providing full-time instruction and including accessory facilities traditionally associated with a program of study which meets the requirements of the laws of the state.

**Screening** - Visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**Sedimentation Basin** – An area designed to reduce the velocity of water, so it can no longer transport suspended materials. This allows gravity to force any suspended materials to be deposited in the basin.

**Self-Storage** – see Mini-Warehouse.

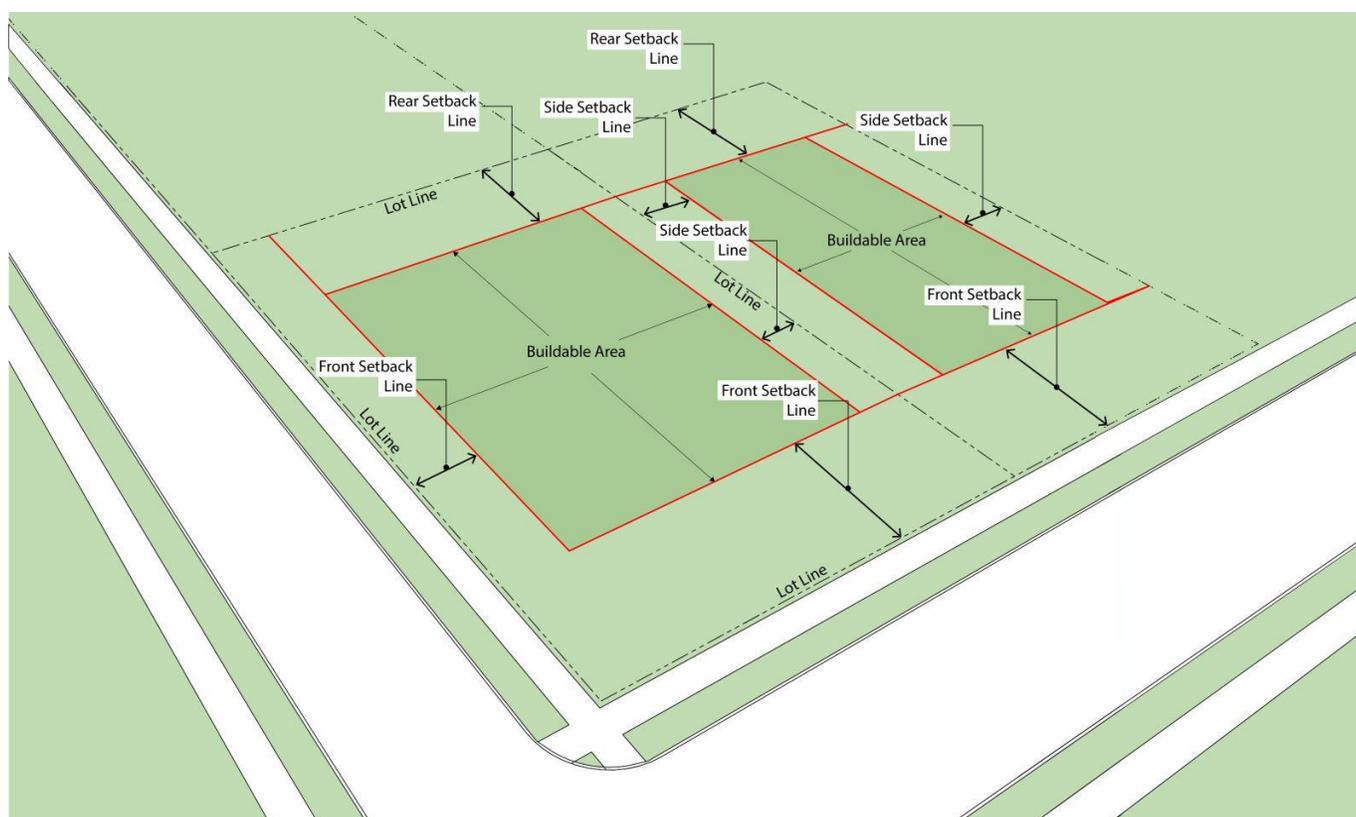
**Setback** - The distance by which any building or structure is separated from a street right-of-way or lot line.

**Setback Line** - A line that is positioned within a lot and away from a specified lot line by a distance equal to the specified minimum required setback within the district. Principal and accessory structures shall not be erected or placed on the exterior side of any setback line.

**Setback Line, Front** - A setback line positioned away from any street right-of-way by a distance equal to the minimum required front setback, parallel to the street right-of-way. In the case of flag lots, the front setback shall be measured not from the street right-of-way, but from the lot line or lines that are the closest to and most nearly parallel to the street right-of-way and are not a part of the flag stem (See Section 5.06).

**Setback Line, Rear** - A setback line positioned away from the lot line more nearly opposite the principal building's front facade, by a distance equal to the minimum required rear setback. In the case that the rear setback line intersects a front setback line, which may be the case for some corner lots, for example, the rear setback line shall terminate at the intersection. In the case that more than one lot line is most nearly opposite the principal building's front facade, the regulations within Section 5.06, E., shall be used to determine from where the rear setback is measured.

**Setback Line, Side** - A setback line positioned away from all other lot lines that are not subject to a front setback line or rear setback line a distance equal to the minimum required side setback, and terminating at its intersection with any other setback line(s).



**Sexually Oriented Business** – See Section 14.04

**Shooting Range or Archery** – An establishment primarily engaged in providing qualifications, training or practice services related to firearms or archery (NAICS-713990).

**Short Term Rental, Owner Occupied** - A dwelling unit or room that is rented, leased, or assigned for a tenancy of less than thirty consecutive days in duration and where no meals are served or provided by the host to any guest. The owner/operator of the short-term rental resides on the premises. This term shall not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns, or boarding and lodging rooms

**Short-Term Rental, Non-Owner Occupied** - A dwelling unit or room that is rented, leased, or assigned for a tenancy of less than thirty consecutive days in duration and where no meals are served or provided by the host to any guest. The owner/operator of the short-term rental does not reside on the premises. This term shall not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns, or boarding and lodging rooms

**Shrub** – A self-supporting woody perennial ranging in height from six inches to 20 feet. Shrubs are characterized by multi-stemmed growth habits and may be deciduous or evergreen.

**Siding** – The outer covering or cladding of a house, made of wood, fiber cement, or a composite material, meant to shed water and protect the house from the effects of weather.

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

**Sign, Animated** – A sign which uses movement or change of lighting to simulate action or motion.

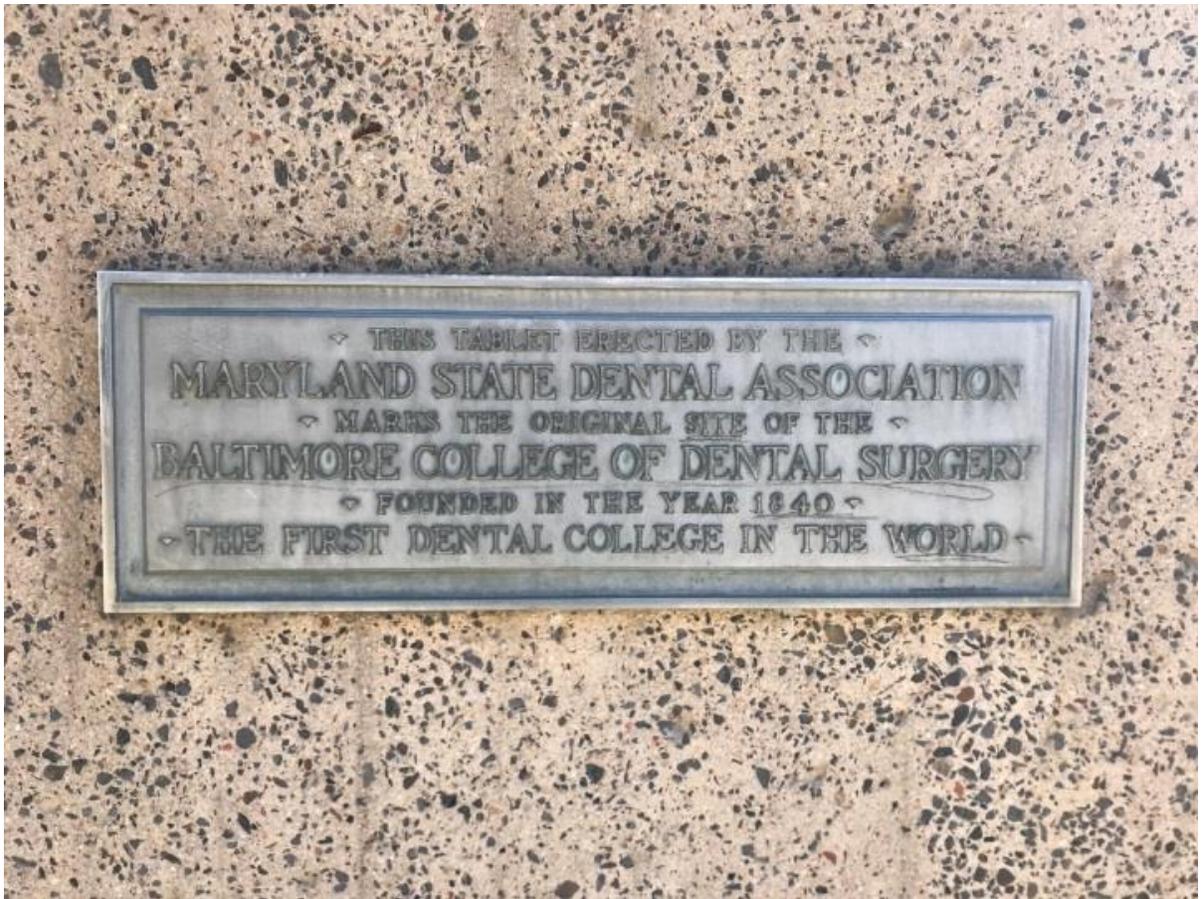
**Sign, Attached** – A sign that is physically attached to a building, curb, lamp post, telephone pole, telegraph pole.

**Sign, Billboard** – A sign, having an area greater than 25 square feet which meets any one or more of the following criteria:

- A permanent structure sign which is used for the display of off-site commercial messages;
- A permanent structure sign which constitutes a principal, separate or secondary use, as opposed to an accessory use, of the parcel on which it is located; or
- An outdoor sign used as advertising for hire, i.e., on which display space is made available to parties, other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel as the sign), in exchange for a rent, fee or other consideration.



**Sign, Building Marker** – A plaque or sign board attached to, carved into, or painted on a building face identifying the building, commemorating an event, or providing information to pedestrians on the property.



**Sign, Canopy/Awning** – A sign painted on, woven in, or attached to a canopy or awning. Canopies and awnings are roof-like covers that project from the wall of a building providing cover over a door, window, or patio or, in the case of canopies, are freestanding for the purposes of shielding from the elements such as over a service station island or sidewalk. Canopies and awnings may be made of fabric, plastic, or metal. The terms canopy and awning signs do not include marquee signs.



**Sign, Changeable Copy** – A type of sign on which the copy changes either automatically through the use of electronic or electro-mechanical technology or manually through the hand placement of letters, numerals, or symbols.



**Sign, Commercial Message** – Words, symbols, logos, pictures or any combination thereof that identify which directs attention to a business, commodity, service or entertainment sold or offered for sale or a fee.

**Sign, Detached** – Any sign erected on a freestanding frame, foundation, mast or pole and not attached in any way to any building. Every face of a freestanding sign shall be considered as a separate sign for purposes of computing the sign area.

**Sign, Directory** – Any sign providing way-finding information by identifying occupants of specific buildings or units within a building and, where necessary, providing directions for finding such building or unit



**Sign, Drive-Thru** – A permanent sign, whether attached or freestanding, that provides information on products or services or otherwise facilitates a business transaction at a drive-thru service location.



**Sign, Face** – Any surface of a sign or device upon which information or advertising is placed, displayed or illustrated. The term “sign face” does not include any portion of the support structure for the sign; provided that no message, symbol, graphic, logo, or any of the elements of a “sign” is placed on or designated as part of the support structure.

**Sign, Flag** – Signs emblazoned on any type of flag or blade intended to be displayed in a free-flowing manner. This category does not include exempted governmental and institutional flags.



**Sign, Ground** – A sign created or painted directly on the ground, including rocks, without a man-made support structure.



**Sign, Iconic/Historic** – A sign that has been designated by the City Council as a historic feature or landmark of a building or the community, or one that has become so important to the community that it is valued long after its role as a commercial marker has ceased.



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

**Sign, Marquee** – A permanent canopy projecting over an entrance that is often illuminated and ornate and which incorporates a permanent large changeable message center.



**Sign, Monument** – Any permanent freestanding sign that is detached from a building or structure and sits on the ground on a solid-appearing base with no exposed structural supports.



**Sign, Pole** - A freestanding sign visibly supported by one or more poles that are placed on or anchored permanently in the ground or other surface independent from any building or other structure.



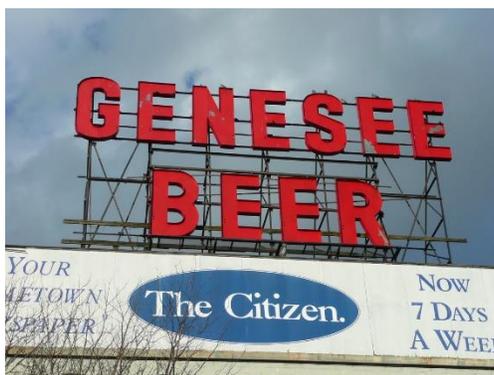
**Sign, Portable** – A freestanding and self-supporting moveable sign normally placed near a public street.

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

**Sign, Projecting** – A sign that is wholly or partly dependent upon a building for support and that projects at an angle away from the building so that the leading edge extends more than six inches beyond the building wall.



**Sign, Roof** - A building-mounted sign erected upon or completely over the roof of a building or extending above a parapet or cornice.

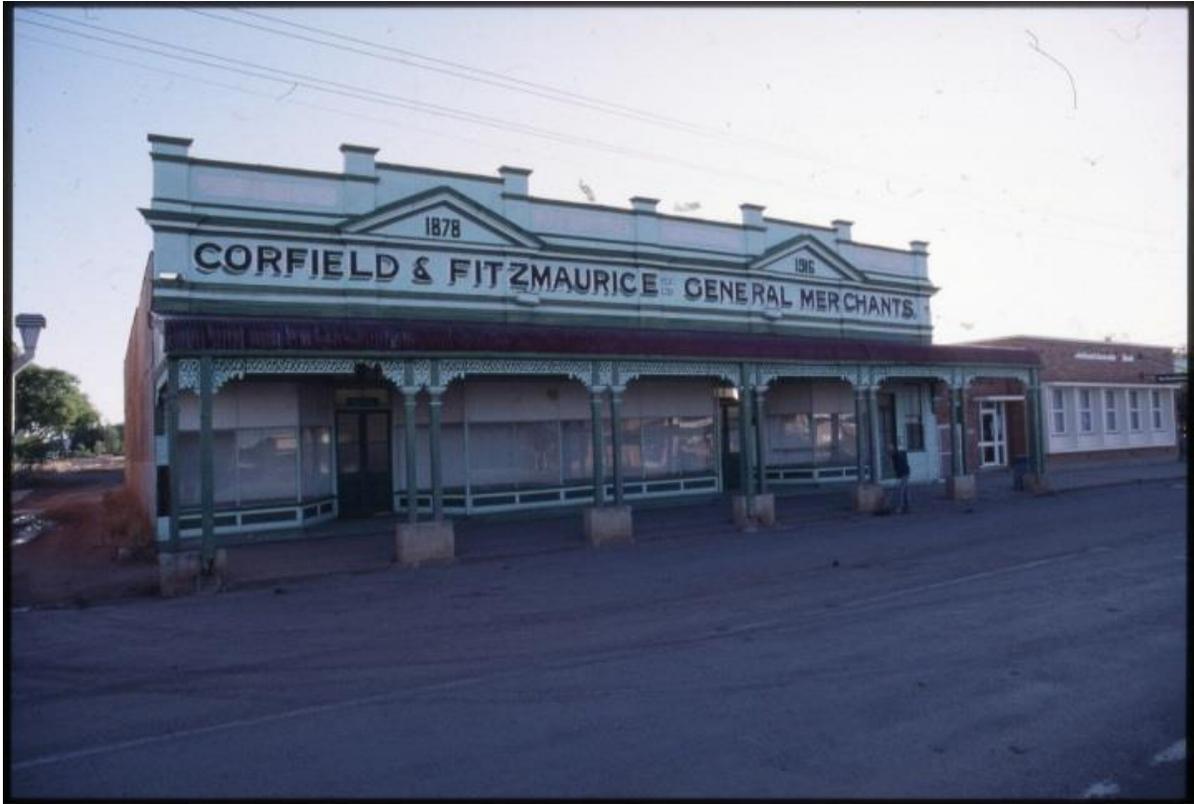


**Sign, Sidewalk** - A free-standing and self-supporting moveable sign designed to be displayed on a sidewalk or area outside of and adjacent to a place of business and oriented towards pedestrians and slow-moving traffic.



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

**Sign, Wall** – A building-mounted sign attached to, displayed, or painted on an exterior wall in a manner parallel with the wall surface, which does not project more than 16 inches from the wall surface.



**Sign, Window** – A sign painted on, attached to, or suspended directly behind or in front of a window or the glass portion of a door which is clearly legible to persons outside the building.



**Sign, Vehicle** – Any device meeting the definition of “motor vehicle” under KRS.186.010.

**Site** – One or more lots or parcels of land that, for purposes of a development application, are used as a single unit.

**Site Improvements** – Constructed utilities, roads, driveways, parking areas, landscaping, sidewalks, or structures on a site.

**Site Plan** – A term used to describe illustrations and drawings that must be submitted for zoning approval. See the application for specific submittal requirements.

**Stacking Space** – The space devoted to vehicle waiting areas associated with a drive through or drive up facility.



**Stadium** – A structure with tiers of seats rising around a playing surface, intended to be used primarily for the viewing of athletic events. Sports arena may also be used for entertainment and other public gathering purposes, such as conventions, circuses, or concerts.

**Street** – A public or private thoroughfare (e.g. roads, highways, drives, lanes, avenues, etc.) which provides access to adjacent properties.

**Street Tree** - A tree or group of trees planted along a street or within a median to enhance visual quality of a street and to provide canopy coverage over pavement.

**Streetscape** - The elements that constitute the physical makeup of a street and that, as a group, define its character including but not limited to the traveled way, bicycle and pedestrian facilities, building frontage, furnishings, landscaping, signs, and lighting.

**Structure** - Anything constructed or erected, the use of which requires fixed location on the ground or attachment to something having fixed location on the ground.

**Studios (for Work or Teaching)** – An establishment primarily engaged in offering instruction in the arts, including dance, art, drama, and music (NAICS-611610). This can include work space for artists or artisans, including individuals practicing one of the fine arts or performing arts, or an applied art or craft. This use may include incidental display and retail sales of items produced on the premises, instructional materials, and instructional space for small groups of students.

**Subdivision** – The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a subdivision.

**Substantial Construction** - The completion of the in-ground permanent foundations, including slab on grade, for one or more buildings of the development plan.

## T

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**Tattoo or Body Art Services** – An establishment primarily engaged in providing personal care services related to body art services. This can include one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

**Temporary** - An activity, use, or improvement characterized by short-term or seasonal nature with the intent to discontinue such use upon the expiration of such permitted time, and that does not involve the construction or alteration of any permanent structure.

**Theater** – An establishment primarily engaged in motion picture or live theatrical presentations: musicals; operas; plays; and comedy, improvisational, mime, and puppet shows and establishments, commonly known as dinner theaters, engaged in producing live theatrical productions and in providing food and beverages for consumption on the premises. Theater groups or companies may or may not operate their own theater or other facility for staging their shows.

**Topography** – The physical land formations, such as mountains, valleys, ridgelines, etc., which are represented through elevation and slope.

**Tree** - A self-supporting woody perennial reaching a mature height of at least 8 feet. Trees are further classified for the purposes of these standards as shade, flowering or non-flowering, evergreen, and street trees.

**Tree, Evergreen** - A tree species with foliage that persists and remains green year-round.

**Tree, Ornamental Flowering or Nonflowering** - A tree species that reaches a mature height of 8-25 feet, selected for its attractive flowers, foliage, or branching pattern.

**Tree, Shade** - A tree species, usually deciduous, that normally grows with one main trunk and has a canopy that screens the sun in the summer.

**Tree Revetments** – This form of streambank erosion control makes use of an entire tree placed parallel to the stream's flow slowing the water reducing erosion and allowing sand and silt to settle.

**Truck Terminals** – A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.

## U

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**Unlisted Use** - A use that is not specifically included in the table of Permitted and Conditional Uses. Please refer to Section 4.02 for determination of use category.

**Upper Floor Housing** – Housing located within a multi-use building where the lower level(s) of the building are occupied by non-residential uses.

**Use** - The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

**Utilities and Related Facilities, Public or Quasi-Public** – Industries in the utilities subsector provide electric power, natural gas, steam supply, water supply, and sewage removal through a permanent infrastructure of lines, mains, and pipes. Establishments are grouped together based on the utility service provided and the particular system or facilities required to perform the service (NAICS-221).

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## V

**Variance** – Per KRS 100.111.

**Vehicle** - Any device capable of moving itself or being moved from place to place upon wheels or tracks, as well as devices capable of being moved on or through water or air, such as boats or airplanes, but such term shall not include any device designed to be moved by muscular power.

**Viewshed** – The area within view from a point of observation.

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## W

**Warehouse and Logistics** – An establishment primarily engaged in arranging transportation of freight between shippers and carriers. These establishments are usually known as freight forwarders, marine shipping agents, or customs brokers and offer a combination of services spanning transportation modes (NAICS-488510); operating merchandise warehousing and storage facilities. These establishments generally handle goods in containers, such as boxes, barrels, and/or drums, using equipment, such as forklifts, pallets, and racks. They are not specialized in handling bulk products of any particular type, size, or quantity of goods or products (NAICS-493110).

**Wetlands** - Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Winery** - Any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively. Complimentary samples, a restaurant, and retail sales, are permitted as allowed under KRS 243.155.

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## X

[Reserved]

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## Y

**Yard** – An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in this Ordinance.

**Front Yard area consists of:**

- A. All area(s) street-ward of the front yard setback line(s); and
- B. All area(s) in front of the front face of the principal structure; and
- C. All area(s) in front of lines projected laterally from the lateral-most front corners of the principal structure.

**Side Yard area consists of:**

- D. All area(s) lateral to the principal structure, bounded by
  1. Lines projected laterally from the lateral-most front corners of the principal structure and from the lateral-most rear corners of the principal structure, and

2. Lot line(s) or front yard setback line(s), whichever is closer to the structure.

**Rear Yard area consists of:**

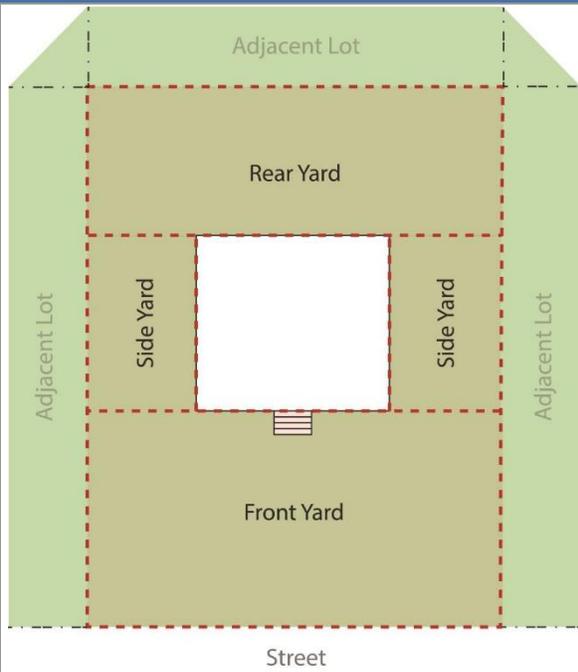
- E. All area(s) behind the principal structure, except any area street-ward of a front yard setback line, and
- F. All area(s) behind lines projected laterally from the lateral-most rear corners of the principal structure.

**See Section 5.07 for how yards are delineated.**

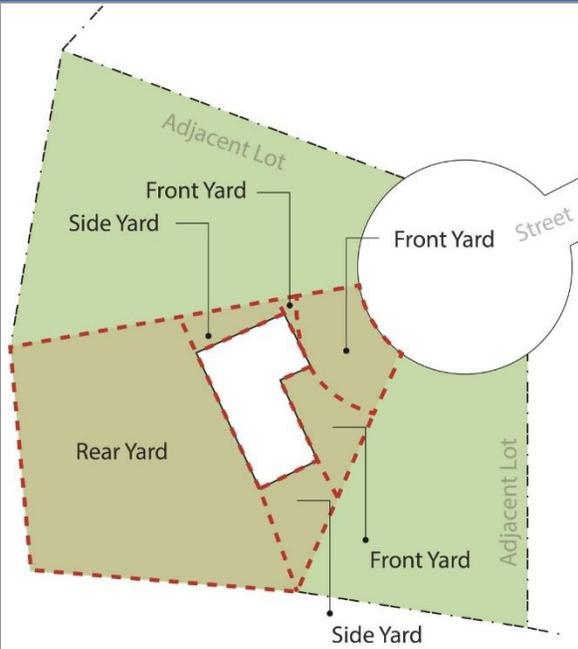
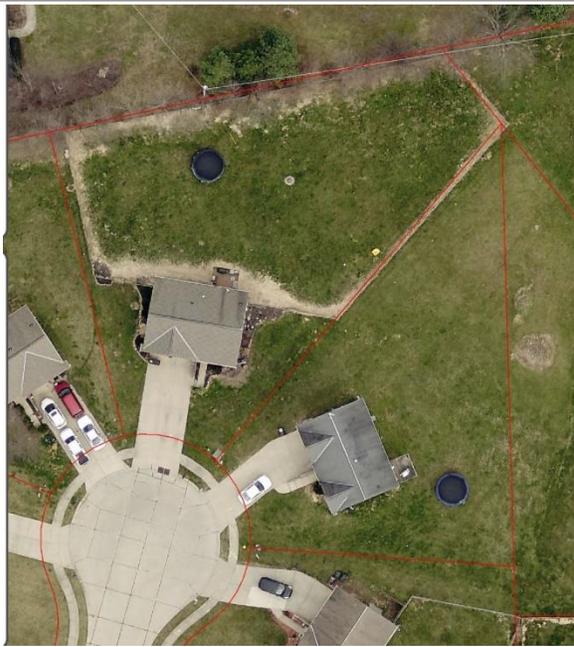
**In the case of a(n):**

## Interior Lot

### Typical Interior Lot

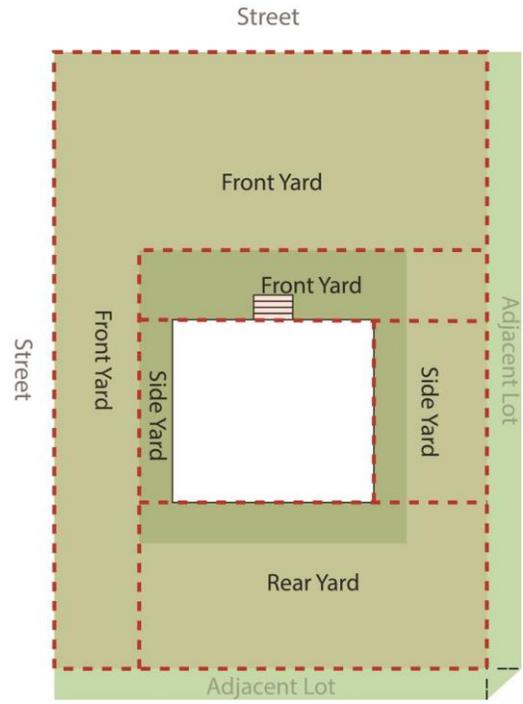
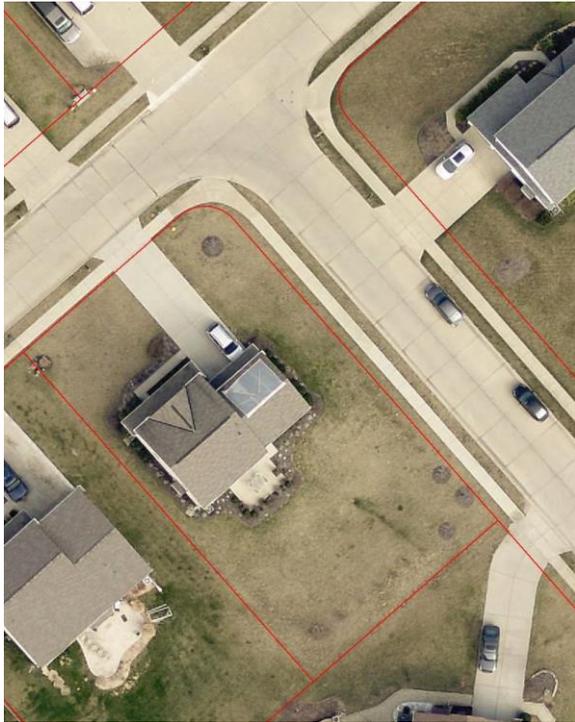


### Interior Lot - Cul de Sac

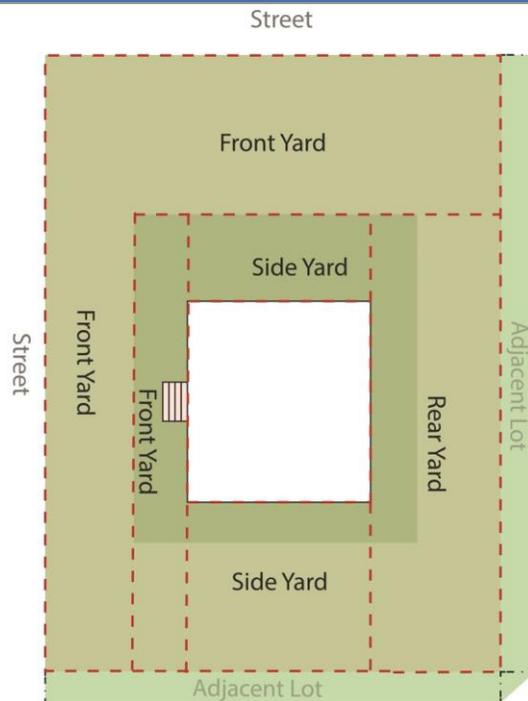


**Corner Lot**

**Corner Lot - 1**



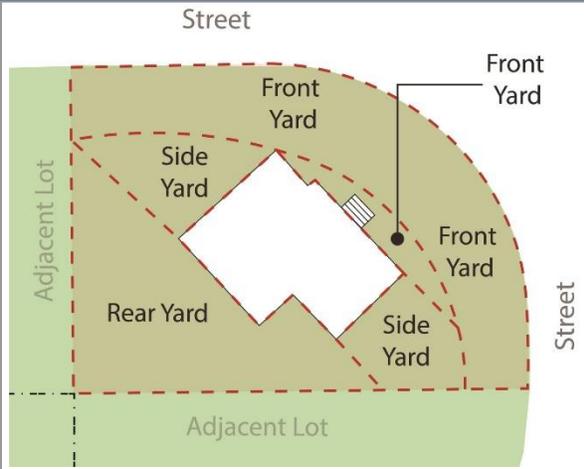
**Corner Lot - 2**



**Corner Lot - Angled Structure**

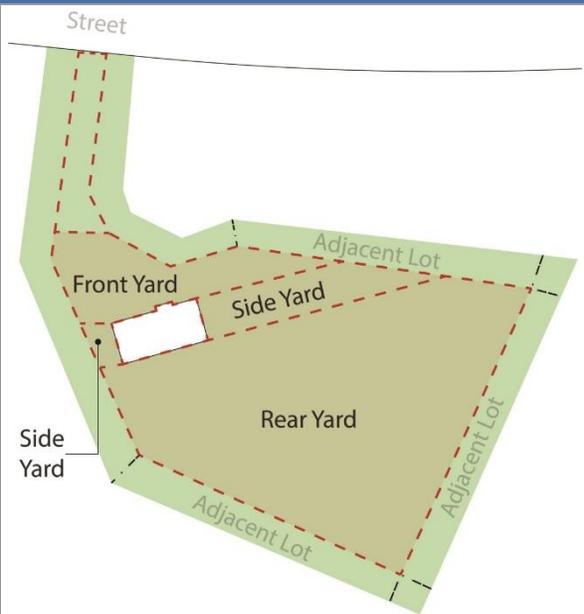
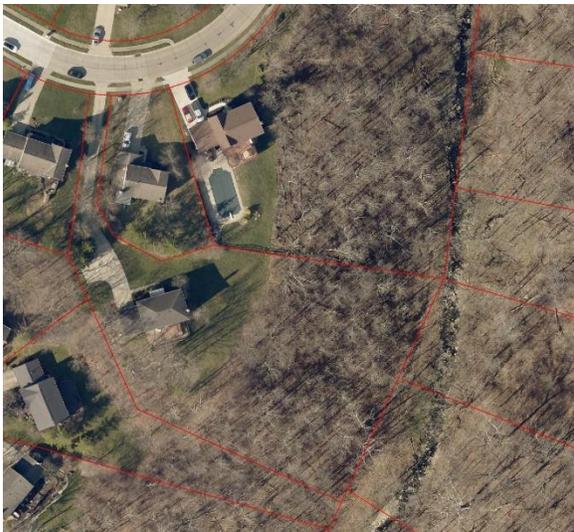
### Corner Lot

#### Corner Lot - 1



### Flag Lot

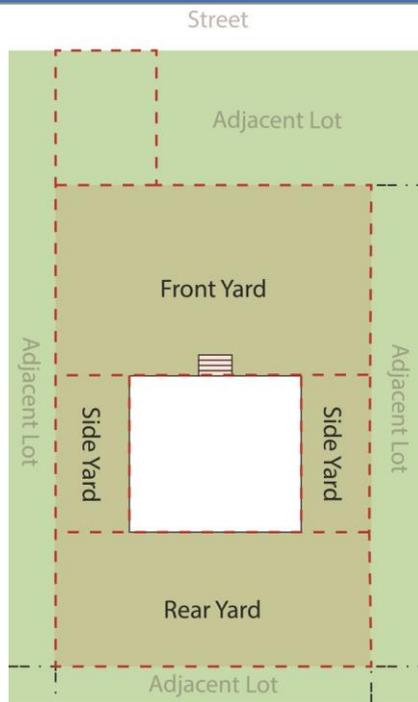
#### Flag Lot - Angled Structure



#### Flag Lot - Typical

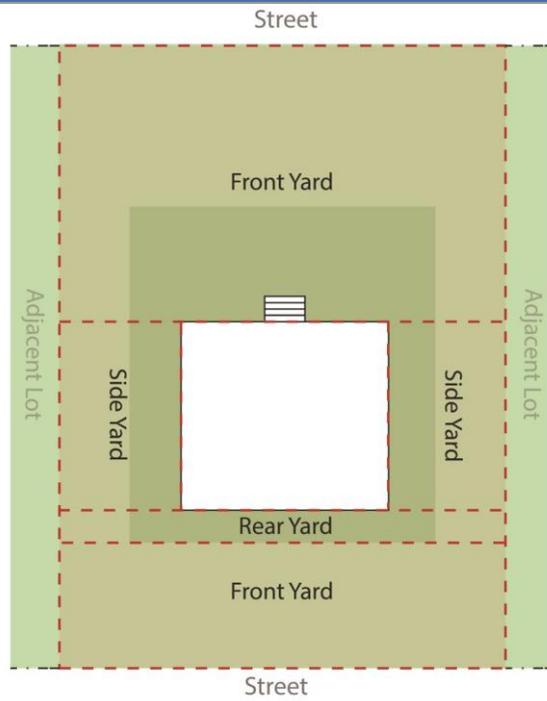
### Flag Lot

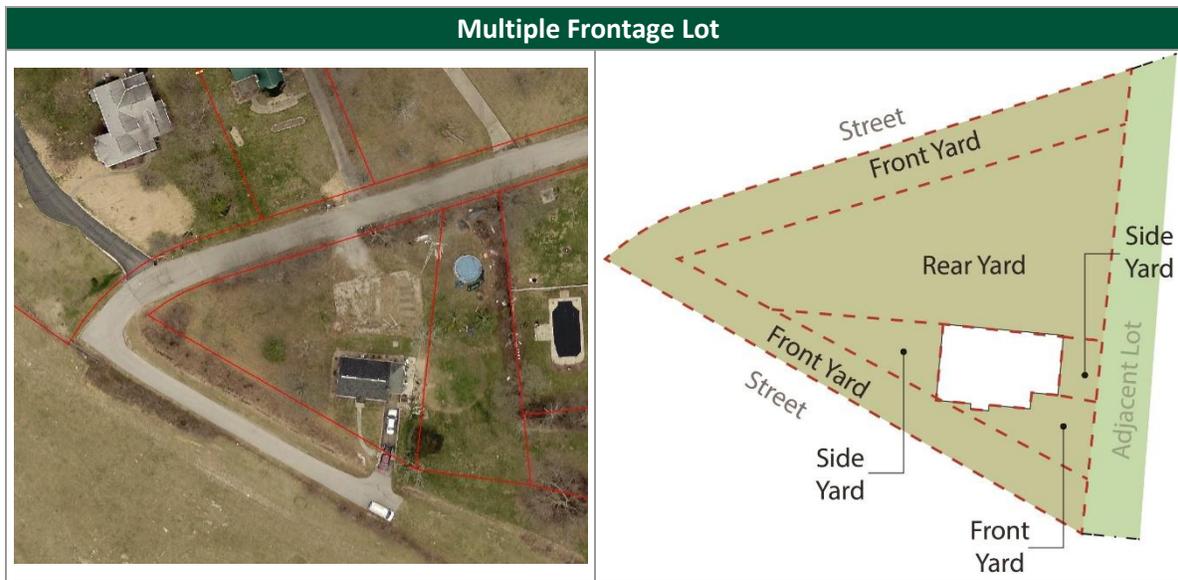
#### Flag Lot - Angled Structure



### Double Frontage Lot

#### Double Frontage Lot





**Z**

**Zone** - An established area within the jurisdiction for which the provisions of this ordinance are applicable.

**14.03 Definitions for Flood Protection Development Standards**

For the purpose of Flood Protection Development Standards (Section 8.04), the following definitions shall be used for the phrases and terms within that Section. If a phrase or term is not specifically defined below, then the definitions found in 14.02 shall be used or shall have their customary meaning as defined in a standard, common dictionary.

**A**

**A Zone** - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are not determined.

**Accessory structure (Appurtenant structure)** - A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

**Accessory use** - A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

**Addition (to an existing structure)** - Any walled and roofed expansion to the perimeter or height of a structure.

**AE zones** - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

**AH zone** - An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base flood elevations are determined.

**AO zone** - An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are determined.

**Appeal** - A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or from the floodplain administrator's ruling on a request for a variance.

**AR/A1 – A30, AR/AE, AR/AH, AR/AO, and AR/A zones** - Special Flood Hazard Areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete these areas will still experience residual flooding from other flooding sources.

**A99 zone** - That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a Federal flood protection system under construction. No base flood elevations are determined.

**Area of shallow flooding** - A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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## B

**Base flood** - A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100 year flood"). Base flood is the term used throughout this ordinance.

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

**Basement** - Any area of a structure having its floor sub-grade (below ground level) on all sides.

**Building** - See Structure.

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## C

**Community** - A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**Community Rating System (CRS)** - A program developed by the Federal Insurance Administration to provide incentives to those communities in the Regular Program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

**Community Flood Hazard Area (CFHA)** - An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. This includes areas downstream from dams.

**Critical facility** - Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. Critical facilities include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

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## D

**D zone** - An area in which the flood hazard is undetermined.

**Development** - Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

## E

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**Elevated structure** – For insurance purposes, a non-basement structure built to have the lowest floor elevated above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

**Elevation Certificate** - A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this ordinance.

**Emergency Program** - The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

**Enclosure** - That portion of a structure below the lowest floor used solely for parking of vehicles, limited storage, or access to the structure.

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

**Existing construction** - Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

**Existing Manufactured Home Park or Subdivision** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by a community.

**Expansion to an existing Manufactured Home Park or Subdivision** - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

## F

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**Five-Hundred Year Flood** - The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate risk of flooding.

**Flood or Flooding** - A general and temporary condition of partial or complete inundation of normally dry land areas from:

- The overflow of inland or tidal waters.
- The unusual and rapid accumulation or runoff of surface waters from any source.
- Mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an

unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

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

**Flood Hazard Boundary Map (FHBM)** - A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA).

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

**Flood Insurance Study** - The report provided by the Federal Emergency Management Agency (FEMA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

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

**Floodplain Administrator** - The individual appointed by the community to administer and enforce the floodplain management ordinances.

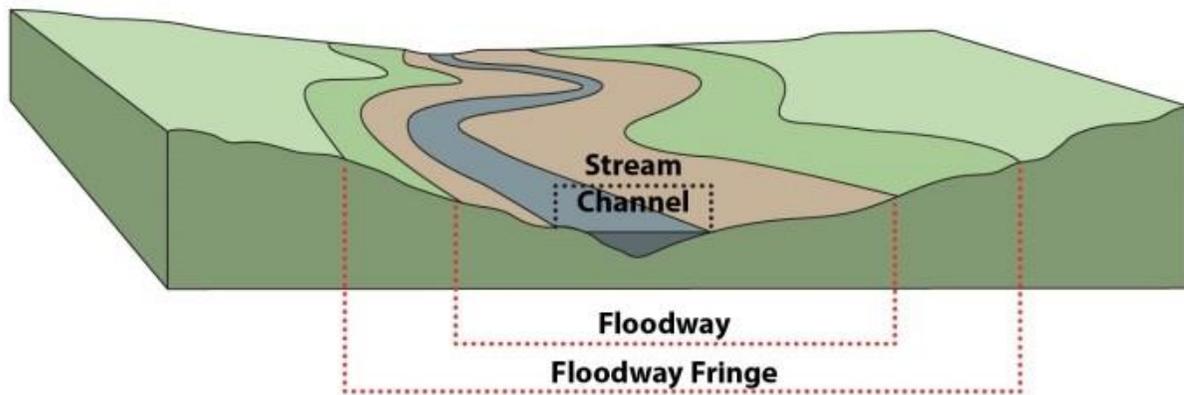
**Floodplain Management** - The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

**Floodplain Management Regulations** - This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

**Floodproofing Certificate** - A certification by a registered professional engineer or architect, the FEMA form in effect at the time of certification stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

**Floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the "regulatory floodway".



**Floodway fringe** - That area of the floodplain on either side of the regulatory floodway.

**Freeboard** - A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. Freeboard must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, etc.

**Fraud and Victimization** - As related to Section 8.04, O., of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the [Fiscal Court/City Council] will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for fifty to one hundred years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

**Functionally dependent use facility** - A facility, structure, or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

## G

**Governing body** - The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

## H

**Hazard potential** - The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g. safety, structural integrity, flood routing capacity).

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

**Historic Structure** - Any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - By an approved state program as determined by the Secretary of the Interior, or
  - Directly by the Secretary of the Interior in states without approved programs.

**Hydrodynamic Load** – A load that results from water flowing against and around a rigid structural element or system.

**Hydrostatic Load** – A load that results from pressure of a fluid at rest.

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## I

**Increased Cost of Compliance (ICC)** – Increased cost of compliance coverage means under the standard flood insurance policy the cost to repair a substantially flood damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are floodproofing (nonresidential), relocation, elevation, demolition, or any combination thereof.

ICC coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

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## J

[Reserved]

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## K

[Reserved]

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## L

**Letter of Map Change (LOMC)** – An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's include the following categories:

- Letter of Map Amendment (LOMA) – A revision based on technical data showing that a property was inadvertently included in a designated SFHA. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.
- Letter of Map Revision (LOMR) - A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

- Letter of Map Revision – Based on Fill (LOMR-F) – A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

**Levee** - A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System** - A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Limited storage** - An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

**Lowest adjacent grade** – The lowest elevation of the sidewalk, patio, attached garage, deck support, basement entryway or grade immediately next to the structure and after the completion of construction.

**Lowest Floor** - The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a basement area is not considered a structure's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

## M

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**Manufactured Home** - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term "manufactured home" does not include a "recreational vehicle" (see Recreational Vehicle).

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

**Map** - The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

**Map Panel Number** - The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

**Market value** - The property value (as agreed between a willing buyer and seller), excluding the value of the land as established by what the local real estate market will bear. Market value of the structure can be established by independent certified appraisal; replacement cost depreciated by age of structure (Actual Cash Value) or adjusted assessed values.

**Mean Sea Level (MSL)** - The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the MSL is used as a reference for establishing various elevations within the floodplain as shown on the community's FIRM. For purposes of this ordinance, the term is synonymous with either National Geodetic Vertical Datum (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988.

**Mitigation** - Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

**Mudslide (i.e. mudflow)** - Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A mudslide (i.e. mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

**Mudslide (i.e. mudflow) area management** - The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.

**Mudslide (i.e. mudflow) prone area** - An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

## N

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**National Flood Insurance Program (NFIP)** - The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

**National Geodetic Vertical Datum (NGVD)** - As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRM's. Refer to FIRM legend panel for correct datum.)

**New Construction** - Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**Non-Residential** – Structures that are not designed for human habitation, including but is not limited to: small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than 6 months duration.

**North American Vertical Datum (NAVD)** – As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRM's and Digitally Referenced FIRM's (DFIRM's). (Refer to FIRM or DFIRM panel legend for correct datum.)

## O

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**Obstruction** - Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**One-Hundred Year Flood (100-Year Flood)** - The flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to inundation by the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA. See Base Flood.

## P

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**Participating Community** - A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

**Pre-FIRM Construction** - New construction or substantial improvements for which start of construction occurred on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

**Post-FIRM Construction** - New construction or substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later.

**Probation** - A FEMA imposed change in community's status resulting from violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

**Program Deficiency** - A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards.

**Public Safety and Nuisance** - Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

## Q

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[Reserved]

## R

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**Recreational Vehicle** - A vehicle that is:

- Built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable to a light duty truck; and
- Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regular Program** - The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and flood elevations determined in the FIS.

**Regulatory floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See Base Flood.

**Remedy a violation** - The process by which a community brings a structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

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

**Repetitive Loss** - Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**Repetitive Loss Property** - Any insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

**Riverine** - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

## S

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**Section 1316** - That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**Severe Repetitive Loss Structure** - Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

- Four or more separate claim payments of more than \$5,000 each (including building and contents payments); or
- Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

**Shallow Flooding** - Flooding with an average depth limited to 3.0 feet or less where no defined channel exists.

Different types of shallow flooding commonly occur throughout the United States. Types of flows that result in shallow flooding include the following:

- Unconfined flows over broad, relatively low relief areas, such as alluvial plains;
- Intermittent flows in arid regions that have not developed a system of well-defined channels;
- Overbank flows which are independent from the main channel;
- Overland flow in urban areas; and
- Flows collecting in depressions to form ponding areas.

**Sheet flow area** - See Area of Shallow Flooding.

**Special flood hazard area (SFHA)** - That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, or AR.

**Start of Construction (includes substantial improvement and other proposed new development)** - The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

**Structure** - A walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**Subdivision** - Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two (2) or more lots or parcels.

**Subrogation** – A legal action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

**Substantial Damage** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a 1-year period in which the cumulative percentage of improvements equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or;
- Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

**Substantially improved existing manufactured home parks or subdivisions** - Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

**Suspension** - Removal of a participating community from the NFIP for failure to enact or enforce floodplain management regulations required for participation in the NFIP.

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## T

[Reserved]

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## U

**Utilities** – Include, but not limited to, electrical, heating, ventilation, plumbing, and air conditioning equipment that service the structure and the site.

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## V

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

**Violation** - Failure of a structure or other development to fully comply with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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## W

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

**Water surface elevation** - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Watershed** - All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

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## X

**X (shaded) and B zones** - Areas of the 0.2% annual chance (500-year) flood that are outside of the SFHA, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than 1 square mile, and areas protected by levees from the base flood

**X (unshaded) and C zones** - Areas determined to be outside the 500-year floodplain.

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## Y

[Reserved]

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## Z

**Zone** - A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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### 14.04 Definitions for Sexually Oriented Businesses

For the purpose of Sexually Oriented Businesses (Article 9), the following definitions shall be used for the phrases and terms within that Article. If a phrase or term is not specifically defined below, then the definitions found in 14.02 shall be used or shall have their customary meaning as defined in a standard, common dictionary.

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## A

[Reserved]

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## B

[Reserved]

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## C

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

**Customer** – Any person who:

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

## D

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

## E

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**Encounter Center, Sexually-oriented** – A business or enterprise that, as one of its principal purposes, offers: physical contact between two or more persons when one or more of the persons is in a state of nudity or semi-nudity.

**Entertainer, Sexually-oriented** – Any person paid as an employee, contractor, subcontractor, or agent of the operator of a cabaret who frequently appears in a state of semi-nudity at any establishment regulated by this chapter.

**Entertainment, Sexually-oriented** – Any of the following activities, when performed by a sexually oriented entertainer at a sexually oriented business that is required to be licensed: dancing, singing, talking, modeling (including lingerie or photographic), gymnastics, acting, other forms of performing, or individual conversations with customers for which some type of remuneration is received.

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

**Escort, Service Oriented** – An escort that a) operates from an open office; b) does not advertise that sexual conduct will be provided to the patron or work for an escort bureau that so advertises; and c) does not offer to provide sexual conduct.

**Escort Bureau, Service Oriented** – An escort bureau that a) maintains an open office at an established place of business; b) otherwise operates in full accordance with the countywide licensing ordinance, Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service-oriented escort bureaus, as such ordinance may be amended from time to time.

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

**Escort Bureau, Sexually-oriented** – An escort bureau that operates in any of the following manners: a) engages in fraudulent, misleading, or deceptive advertising that is designed to make the prospective client believe that acts of prostitution (as defined under Kentucky law) will be provided; b) collects money (whether paid in advance or paid after the promised proscribed act) for the promise of acts of prostitution by its escorts; c) uses as escorts persons known to have violated the law regarding prostitution, and refuses to cease the use of such a person; d) operates an escort bureau as a “call girl” prostitution operation; e) advertises that sexual conduct will be provided to a patron or customer, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron or customer; f) solicits, offers to provide, or does provide acts of sexual conduct to an escort patron or customer; or g) employs or contracts with a sexually oriented escort, or refers or provides to a patron a sexually oriented escort.

**Establishment** – Any business regulated by this Ordinance.

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

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## F

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

**Frequently** – Two or more times per month.

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## G

[Reserved]

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## H

[Reserved]

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## I

[Reserved]

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## J

[Reserved]

## K

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[Reserved]

## L

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[Reserved]

## M

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**Massage** – Touching, stroking, kneading, stretching, friction, percussion, and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).

**Massage Parlor** – Any business offering massages that is operated by a person who is not a state licensed “massage therapist” or that provides massages by persons who are not state licensed massage therapists.

**Massage Therapy** – The profession in which a certified massage therapist applies massage techniques with the intent of positively affecting the health and well-being of the client.

**Massage Therapist** – A person licensed as a massage therapist in accordance with the provisions of Kentucky Rev. Statutes §309.350 et seq.

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

**Media, Sexually-oriented** – Magazines, books, videotapes, movies, slides, CDs, DVDs or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas.”

**Media Store with some Sexually-oriented Media** – A retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area.

**Media Store, Sexually-oriented** – An establishment that rents and/or sells sexually oriented media, and that meets any of the following three tests: a) More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; b) More than forty percent (40%) of the stock in trade consists of sexually oriented media; or c) It advertises or holds itself out in any forum as a “XXX,” “adult” or “sex” business, or otherwise as a sexually oriented business, other than sexually oriented media outlet, sexually oriented motion picture theater, or sexually oriented cabaret.

**Modeling Studio, Sexually-oriented** – An establishment or business that provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples, or small groups in a space smaller than 600 feet.

**Motel, Sexually-oriented** – A hotel, motel, or similar commercial establishment that meets any of the following criteria: a) Offers accommodations to the public for any form of consideration and provides patrons with sexually oriented entertainment or transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;” or b) Marketed as or offered as “adult,” “XXX,” “couples,” or “sexually oriented.”

**Motion Picture Arcade, Sexually-oriented** – A building or portion of a building wherein coin-operated, slug-operated, or for any other form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images of “specified sexual activities” or “specified anatomical areas.”

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

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

## N

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

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

## O

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**Operator** – Any person operating, conducting, or maintaining a business regulated under [Article 9 Sexually-Oriented Businesses](#).

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

## P

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

**Premises** – The physical location at which a business operates; as used in [Article 9 Sexually-Oriented Businesses](#), the term shall include all parts of that physical location, both interior and exterior, which are under the control of the subject business, through ownership, lease or other arrangement.

**Primary Entertainment** – Entertainment that characterizes the establishment, as determined (if necessary) from a pattern of advertising case well as actual performances.

**Protected Land Use** – Residential zoning district, school, religious institution, park, library, public recreation area, or day care center.

**Public Area** – A portion of a sexually oriented business, excluding sexually oriented motels, that is accessible to the customer, excluding restrooms, while the business is open for business.

## Q

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[Reserved]

## R

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[Reserved]

## S

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**Sadomasochistic Practices** – Flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

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

**Sex Shop** – An establishment offering goods for sale or rent and that meets any of the following tests: a) It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; sexually oriented novelties; and the combination of such items constitute more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area; b) More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or c) More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

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

**Sexually-oriented Business License** – Any license applied for under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service-oriented escort bureaus, adopted in 2004.

**Sexually Oriented Toys or Novelties** – Instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts or designed or marketed primarily for use to stimulate human genital organs.

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

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

**T**

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[Reserved]

**U**

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[Reserved]

**V**

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[Reserved]

**W**

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[Reserved]

**X**

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[Reserved]

**Y**

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[Reserved]

**Z**

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[Reserved]

## **ARTICLE 15 APPENDICES**

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**Appendix 15.01 Preamble to the Regulations of Sexually Oriented Businesses**

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## Appendix 15.01 Preamble to the Regulations of Sexually Oriented Businesses

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- A. The City of Bromley, after consultation among the mayors, councils, commissioners and staffs of the municipalities and the county within the County, found that a substantial need exists to revise significantly the ordinances regarding sexually oriented businesses within Kenton County.
- B. The City of Bromley, in association with the Planning and Development Services of Kenton County and the Fiscal Court of adjacent Campbell County its cities in the Northern Kentucky Community, retained Duncan Associates to conduct a study of existing sexually oriented uses and related businesses in Kenton and Campbell Counties, which is part of a single, larger community.
- C. Duncan Associates assigned two nationally-known planners, Eric Damian Kelly, FAICP and Connie B. Cooper, FAICP, to conduct that study
- D. Kelly and Cooper have completed that study, including the following elements:
  - 1. Field study, involving visits to all identified existing sexually oriented businesses in Kenton and Campbell Counties;
  - 2. Meetings with stakeholder groups involved in these businesses;
  - 3. Consultation with the Kenton County, Campbell County Attorney, and the city attorneys for certain cities, and the community at large on this issue;
  - 4. Consultation with the professional staff of the PDS on this issue;
  - 5. Review of studies and litigation concerning sexually oriented businesses in other communities;
  - 6. Investigation of regulatory approaches to massage therapy;
  - 7. Review of existing ordinances in Kenton and Campbell Counties;
  - 8. Review of similar ordinances in a number of communities outside the Commonwealth of Kentucky;
  - 9. Review of Kentucky statutes related to regulating sexually oriented businesses.
- E. Duncan Associates has summarized this work and presented recommendations to PDS and Kenton and Campbell Counties and their cities in an August 2003 report entitled "Site Visit Analysis: Sexually Oriented and Related Businesses in Kenton and Campbell Counties" (hereinafter called simply the "Kelly and Cooper Study").
- F. That study has also been made available to the legislative bodies of Kenton and Campbell Counties for their consideration and use.
- G. That study has been accepted and used by the Fiscal Court of Kenton County in adopting the countywide licensing ordinance, Kenton County Ordinance No. 451.9, as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus in 2004.
- H. The United States Supreme Court in *City of Renton v. Playtime Theater, Inc.*, 475 U.S. 41 (1986), held that local governments may rely upon the experiences of other cities as well as on its own studies in enacting local legislation to regulate sexually oriented businesses;
- I. The United States Supreme Court in *Renton* and other cases has held that a local government may regulate such uses through content-neutral, time, place, and manner restrictions, so long as said regulations are designed to serve the government interest and do not unreasonably omit avenues of communication, and are aimed not at the content of protected speech within said establishments but rather at the secondary effects of said establishments on the surrounding communities.
- J. The study by Kelly and Cooper found extensive physical interaction between patrons and dancers at many of the establishments in both Kenton and Campbell Counties.
- K. Covington, the only municipality in Kenton County that has had sexually oriented businesses within its border, from January 1, 2002, to February 11, 2004, the police made a total of 469 calls to sexually oriented businesses in the city. The crimes committed at these establishments during this time period included robbery, assault, fraud, malicious mischief, public intoxication, and possession of illegal drugs. In addition, on June 13, 2003,

Covington police arrested three individuals for prostitution-related charges at Liberty's Show Lounge, a sexually oriented cabaret in the city.

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

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

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

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

A later review, conducted in 1990 by the Newport License Inspector, documented the continued prostitution arrests occurring at several adult dancing establishments. Def. Ex. G. Moreover, the City determined that over \$ 70,000 was expended in 1990 to target, patrol and prosecute the illicit behavior occurring in and around the bars. Def. Ex. H.

Several of Newport's citizens, merchants and church groups also opposed the presence of the semi-nude dancing clubs. These groups generally believed that the adult entertainment clubs were "clouds over [the] neighborhood that keep [it] from growing in the [right] direction." See Def. Ex. I (letter to Mayor from Taylors Landing Business District). Complaints commonly expressed were that the seamy establishments deterred other merchants from locating in Newport's business district, deterred shoppers, served a poor example for the City's youth, and generally tarnished the City's image. Id.

Bright Lights, Inc., v. City of Newport, 830 F. Supp. 378, 380-81 (E. D. Ky. 1993).

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

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

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

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

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

Peter Richmond, “Town Without Pity,” *Gentlemen’s Quarterly*, July 1993, at 102, 104.

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

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

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

- M. The Supreme Court had earlier noted in upholding another regulation in Newport, “it is plain that, as in *Bellanca*, the interest in maintaining order outweighs the interest in free expression by dancing nude.” *Newport v. Iacobucci*, 479 U.S. 92, 97, 93 L. Ed. 2d 334, 340, 107 S. Ct. 383, 386 (1986). Although the significance of the opinion itself is now questionable (see *J&B Social Club # 1 v. City of Mobile*, 966 F. Supp. 1131, 1135 (S.D. Ala. 1996)), the quoted part of the opinion stands unchallenged.
- N. The cities of Covington and Newport continue their efforts to improve their image. Since 1985, Covington has redeveloped its riverfront, creating several new office towers, high-end condominiums, hotels, and a convention center. In Newport, in conjunction with private development and Southbank Partners, Inc., the City has built a major entertainment center along the river. This initiative has promoted improved pedestrian and transit connections in Northern Kentucky’s river cities to and from the stadiums and other attractions along the Cincinnati riverfront.
- O. Despite these efforts, the areas of downtown Covington and Newport away from the riverfront continue to suffer in many ways. The study by Kelly and Cooper found in the area near to existing sexually oriented uses a number of building vacancies and building maintenance falling far short of that found in the revitalized areas near the river.
- P. The City of Bromley respects the Constitutional rights of its citizens, including the right to present certain types of entertainment that may not appeal to the entire population. Through this ordinance, it is the desire of the City of Bromley to balance the Constitutional rights of businesses that present sexually oriented entertainment with the City of Bromley interests in ensuring that this community not suffer from the same sorts of adverse effects that Covington and Newport have long suffered.
- Q. From long experience in Covington and Newport, as well as from the following studies and others not listed, the City of Bromley also finds that such businesses may have primary and secondary effects involving crimes related to the activities in the establishments, of which prostitution and crimes of violence are those of greatest concern. See for example:
  - 1. “Final Report to the City of Garden Grove: The Relationship between Crime and Adult Business Operations on Garden Grove Boulevard,” Richard W. McCleary, Ph.D., James W. Meeker, J.D., Ph.D., October 23, 1991.
  - 2. “Survey of Appraisers: Fort Worth and Dallas – Effects of Land Uses on Surrounding Property Values,” Duncan Associates, Eric Damian Kelly, FAICP, and Connie B. Cooper, FAICP, September 2004.
  - 3. “Adult Entertainment Businesses in Indianapolis, An Analysis,” 1984.
  - 4. “Adult Business Study,” by City of Phoenix Planning Department, May 25, 1979.

5. "Effects on Surrounding Area of Adult Entertainment Businesses in Saint Paul," June 1978, City of Saint Paul Division of Planning, Department of Planning and Management; and Community Crime Prevention Project, Minnesota Crime Control Planning Board.
  6. "Staff Report, Whittier City Planning Commission; Subject: Adult Business Regulations," July 11, 1994.
  7. "Adult Entertainment Study," Department of City Planning, City of New York, Second Printing, November 1994.
  8. "Adult Use Study," Newport News Department of Planning and Development, March 1996.
  9. "A Report on the Secondary Impact of Adult Use Businesses in the City of Denver," prepared by multiple city departments for Denver City Council, January 1998.
  10. "Survey of Appraisers in Monroe County, New York," Summer 2000. For detailed results of the survey, see Kelly and Cooper, Everything You Always Wanted to Know about Regulating Sex Businesses, Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000; pages 51-57.
  11. The Tucson "study" consisting of two memos: one from the Citizens Advisory Planning Committee, addressed to the Mayor and City Council, and dated May 14, 1990; and the other from an Assistant Chief of Police to the City Prosecutor, regarding "Adult Entertainment Ordinance," dated May 1, 1990.
- R. The City of Bromley recognizes that some of the cited studies included bars without sexually oriented entertainment among the businesses studied; the City of Bromley finds, nevertheless, that addressing the establishments that have live, sexually oriented entertainment is a more critical local issue than that of bars without such entertainment, for three reasons:
1. Bars in Kentucky are already regulated by the Commonwealth, and those state regulations directly address many of the concerns that arise with the service of alcohol;
  2. The local history of prostitution and sex-related crimes has largely been related to businesses with live, sexually oriented entertainment, and not with other establishments that serve alcohol; and
  3. The interaction between dancers who are paid to work with very limited clothing and the customers who pay to see them work in the establishments with live entertainment creates a sexually charged environment and the opportunity to negotiate for the provision of additional services that do not involve dancing or other protected expression and that are simply unacceptable under the standards of the County and its citizens.
- S. As noted earlier in these findings, there is a long local history of prostitution and sex-related crimes at or incident to the operation of establishments with live, sexually oriented entertainment. Further, the studies shown herein provide further evidence of the potential crime-related secondary effects from such businesses. Although the methodologies and quality of these studies vary somewhat, local experience has demonstrated to the City of Bromley that the relationship between crime and such establishments is a fact in Northern Kentucky and not just a theory published in a study.
- T. The City of Bromley has reviewed evidence and testimony presented at public meetings before the County, and information based on the past experiences of the Kenton and Campbell Counties and the cities of Covington and Newport, the experiences of the County Attorneys' offices prosecuting numerous and varied offenses that have occurred in and around the sexually oriented entertainment establishments, and based upon the documented experiences of other governmental units within Kentucky and elsewhere in dealing with the impact of sexually oriented entertainment, that such businesses can, if not properly regulated, be deleterious to said community.
- U. The City of Bromley finds that the countywide licensing ordinance related to sexually oriented businesses and service oriented escort bureaus adopted by the Fiscal Court of Kenton County is an effective tool for addressing the many operational issues that can arise with such businesses.
- V. The City of Bromley finds that amendments to the Zoning Ordinance regarding the location and design of such businesses are important variables in the nature and extent of adverse secondary effects of sexually oriented

businesses on the community, and further finds that location and design are among the types of issues that are typically addressed through zoning.

W. Based on the recommendations of Kelly and Cooper, which are based on their experience in other communities and their review of the studies cited above and other local efforts to address such secondary effects, the City of Bromley finds that the following principles are essential to effective zoning controls of sexually oriented businesses:

1. Sexually oriented businesses should, to the maximum extent practicable, be separated from one another by a distance that is greater than a convenient walking distance, because experience elsewhere has shown that the location of such businesses near one another may increase the adverse secondary effects, particularly those related to crime, by a greater than arithmetic factor;
2. Although there are currently several such businesses located near one another in Covington's downtown area, the Covington City Commission has determined that the City will not attempt to require these existing businesses be relocated;
3. Sexually oriented businesses have the greatest adverse effect on residential neighborhoods and should thus be separated to the maximum extent practicable from residential neighborhoods;
4. Sexually oriented businesses are likely to attract criminal elements that prey on "soft targets," including children, and it is thus important to separate sexually oriented businesses from schools, parks, recreation centers, and religious institutions, all of which are places where children are likely to congregate, often without parental protection;
5. Also because of the tendency of sexually oriented businesses to attract criminal elements that prey on soft targets, it is important to seek locations for such businesses that are not located along pedestrian routes, where young people, old people and others who are vulnerable, are likely to walk in going about their day-to-day business. Thus, locations to which the primary access is by automobile minimize the risk of persons going about their daily business encountering persons who are visiting or even loitering around the sexually oriented business;
6. Experiences in other communities show that private booths, back rooms, "VIP" rooms and other small and private spaces in sexually oriented businesses create the opportunity for casual sexual activity and create logistical difficulties and risks of physical endangerment for police officers responsible for dealing with such activities. For that reason, it is essential that movies, performances and other activities at sexually oriented businesses should be permitted only in large rooms that are open and visible to management, other patrons and code and police officers who may visit the establishment during operating hours.

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

## **Appendix 15.02 Preamble to the Sign Regulations**

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The purpose of Article 11, Signs, is to establish a comprehensive scheme for the regulation of signs within the jurisdiction of the City. These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts. As a basis for adopting these regulations, the City finds:

A. Signs are an essential form of communication in the built environment, providing way-finding guides to residents, visitors, public safety officials, customers and potential customers of local businesses, delivery people and others.

- B. Signs also provide communication on public issues, as the U.S. Supreme Court found in *City of LaDue v. Gilleo*: Signs that react to a local happening or express a view on a controversial issue both reflect and animate change in the life of a community. Often placed on lawns or in windows, residential signs play an important part in political campaigns, during which they are displayed to signal the resident's support for particular candidates, parties, or causes. They may not afford the same opportunities for conveying complex ideas as do other media, but residential signs have long been an important and distinct medium of expression.
- C. Retailers and other businesses depend on signs to help people find their businesses, and, in a large and expensive media market like that of Cincinnati (a market which includes City), many small businesses depend on signs as one of the most affordable forms of advertising.
- D. Although signs thus serve many important purposes in society in general and in Kenton County in particular, there are other considerations that the City Council weighs heavily.
- E. Signs may distract drivers and lead to deaths and injuries to pedestrians and cyclists as well as to drivers and passengers and to property damage. Moving, flashing and rapidly changing signs are particularly distracting to drivers. A proliferation of signs on a particular site can have the same effect as moving signs, as drivers try to sort through the visual cacophony to find the information that they want or need.
- F. The City Council, with the advice of the Kenton County Planning Commission and its professional staff, and with input from residents through the Direction 2030. planning process, has placed an increasing emphasis on preserving the sense of place and the design of the built environment; limiting the size, height and number of signs is an important tool in preserving a sense of place, a tool that accompanies the City's standards for landscaping.
- G. Direction 2030 recommends that policies, regulations and incentives be developed and implemented that preserve and improve the existing community fabric.
- H. Balancing these competing considerations is particularly difficult in residential areas, where people value both their pleasing and visually appealing environments and their ability to communicate their opinions regarding candidates and public issues through yard signs.
- I. In updating its ordinance in 2016 after the Supreme Court's landmark decision in *Reed v. Town of Gilbert*, the City Council, working with Planning and Development Services (PDS) staff and an outside consultant, has made a major effort to limit content as a factor in its sign regulations. After due consideration, however, it has concluded that one way to leave room for extensive free expression through signs in residential areas while limiting total sign clutter is to maintain significant limits on commercial signs in residential areas. Recognizing the importance of "for sale" and "for lease" signs in maintaining the occupancy of healthy neighborhoods (see the U.S. Supreme Court decision in *Linmark Associates, Inc. v. Willingboro*), those signs must remain. There is a similar utility in providing for yard sale signs, which allow people to dispose of unwanted items without sending them to a landfill.
- J. Although as the Court found in *Reed v. Gilbert*, time limits on signs can be arbitrary, as the Court recognized in 2009 in *Pleasant Grove v. City of Summum*, a significant distinction between speakers expressing an opinion and signs is that "Speakers, however long-winded, will eventually come to the end of their remarks." Members of the City Council have long noted that signs for political campaigns as well as those advertising pancake breakfasts and spaghetti dinners for civic organizations are often abandoned after the events, contributing to clutter long after they have served their purpose. Although such signs were once typically paper or cardboard that would eventually decay, many today are plastic and will remain until removed. Thus, despite the expressed concern of the Supreme Court with time limits, the City Council finds that it has a substantial governmental interest in clarifying the status of signs for past events that thus no longer serve a purpose so that there is a legal basis for the City to remove them or force their removal.
- K. The City has long allowed unlimited numbers of small signs bearing non-commercial messages to allow merchants and others to designate handicapped parking places, provide directions to ATMs and restrooms, warn

of guard dogs and other hazards and provide a variety of other place-based information. With the prohibition of commercial messages on such signs, it has been the observation of City Council members and their professional staff members that property owners are judicious and appropriate in posting such signs. The City thus finds that it has a substantial interest in allowing merchants and property owners freely to post necessary informational signs but without allowing an endless proliferation of commercial messages.

- L. Although in the findings above the City Council has recognized the multiple values of signs in the built environment, the City officials after consultation with the Planning Commission and representatives of cities and towns in the County concluded several years ago that there is no place for signs of overwhelming size and no relation to context in an urban and urbanizing environment like the City. Although previous versions of these regulations followed the pattern of state and federal laws by defining such billboard as “off-site” signs, this Ordinance addresses the same issue by establishing a form of circuit breaker size limit, prohibiting very large signs on small lots, on vacant lots, or on lots with only small buildings.
- M. These are complex public policy issues, and the City Council, with the help of its professional planners, attorneys and outside consultant, has attempted to balance the competing considerations in a way that it believes best protects the public health, safety and welfare of the citizens of City, including its many valued businesses and the tens of thousands of visitors who arrive or pass through the City Council each month.

## **Appendix 15.03 Specifications For Paving of Off-Street Parking and Loading Areas**

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All new off-street parking facilities shall be paved with asphalt or Portland cement concrete and shall be designed and constructed in accordance with the standards and procedures herein established.

### **A. Asphalt Concrete Pavement**

#### **1. General Design Requirements**

- a. Asphalt concrete pavements shall consist of specified thickness of asphalt concrete surface course and a base course, or courses, all constructed on prepared subgrade. Required pavement thickness shall be determined from Table 15.05-1 of the appropriate subgrade soil and traffic use.
- b. Paved areas shall be so designed and constructed that water will quickly drain from the surface and be conducted away from the area through approved systems. Transverse and/or longitudinal slopes of not less than 5/8 inch in 10 feet shall be provided. For large paved areas, approved catch basins and storm drainage systems shall be provided.
- c. When the pavement includes a granular base, and the pavement is not constructed over granular subgrade, perimeter subsurface drainage shall be provided to prevent lateral flow of water into the base course and to provide for removal of seepage water that may enter the base.
- d. Successive layers of the pavement shall be offset from the edge of the underlying layer a distance equal to the course thickness of the lower layer, except when abutting existing construction. When the asphalt layers of the pavement abut a building foundation, barrier curb, or similar vertical surface, the abutting surface shall be heavily painted with asphalt prior to construction of the asphalt course. The surface course shall be finished 1/4 inch above adjacent flush construction to permit proper compaction.

#### **2. Construction Materials and Procedures**

- a. Base courses shall consist of the following materials. Construction procedures shall conform to the requirements applicable to the base course selected.
  - 1. Asphalt Concrete Base Course - Materials and construction shall conform to the current requirements of the Kentucky Department of Transportation, Bureau of Highways', Specifications for Asphalt Concrete Base Course, Sections 401, 403, except as noted herein.

- b. Crushed Stone Base Course - Crushed stone base course shall conform to all the current requirements of the Kentucky Department of Transportation, Bureau of Highways, for Dense Graded Aggregate Base Course, Section 303.
- c. Asphalt Concrete Surface Course - Materials and construction shall conform to the current requirements of the Kentucky Department of Transportation, Bureau of Highways, for Asphalt Concrete Surface, Type B, State Highway Designation Section 401, 402.
- d. Asphalt Prime and Tack Coat
  - 1. Asphalt Prime shall conform to the Kentucky Department of Transportation, Bureau of Highways' requirements for Cutback Asphalt Emulsion Primer, Type L, as per Section 407. Prime shall be applied to the surface of granular base course at a rate of 0.25 to 0.50 gallons per square yard, as directed by the legislative body's engineer or inspector.
  - 2. Tack Coat (SS-1h) shall meet the requirements of the Kentucky Department of Transportation, Bureau of Highways, as per Section 407. It shall be diluted with equal parts of water, when directed by the inspector. Tack coat shall be applied, upon direction of the legislative body's engineer, to the surface of asphalt courses that have become dusty or dry, at a rate of 0.10 gallons per square yard of the diluted SS-1h before the subsequent course is constructed.

**B. Concrete Paving for Parking and Access Drive Areas**

- 1. General Requirements - Thickness of concrete parking and access drives shall be:
  - a. A minimum of four (4) inches for driveways and parking areas serving single and two-family dwellings.
  - b. A minimum of five (5) inches for passenger cars and panel or pickup trucks serving industrial, commercial, and multi-family areas.
  - c. A minimum of six (6) inches for light trucks serving industrial, commercial, and multi-family residential areas.
  - d. A minimum of seven (7) inches for heavier commercial or industrial needs.
- 2. General Requirements - Concrete Paving
  - a. Minimum Cement Content - 564 lb./cu.yd. of concrete (6 U.S. bags).
  - b. Maximum Size of Aggregate - 1-1/4 inches.
  - c. Maximum Water Content - 0.49 lb./1 lb. of cement (5.5 gal./ bag).
  - d. Maximum Slump - five (5) inches when using hand-finishing techniques, three (3) inches when using a mechanical finishing machine.
  - e. Strength of Concrete - The concrete shall attain a minimum expected strength of concrete at 28 days of 3,500 pounds per square inch compressive strength and/or 550 pounds per square inch flexural strength "modulus of rupture".
  - f. Air Entrainment

MAXIMUM SIZE	ENTRAINED
Aggregate (inches)	Air (percent)
1 - 1/4	5 + 1
3/4, 1	6 + 1
3/8, 1/2	7-1/2 + 1

3. Construction Procedures

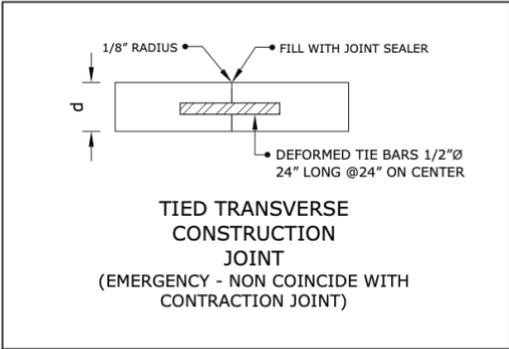
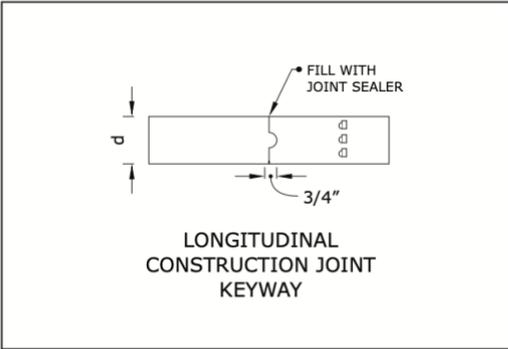
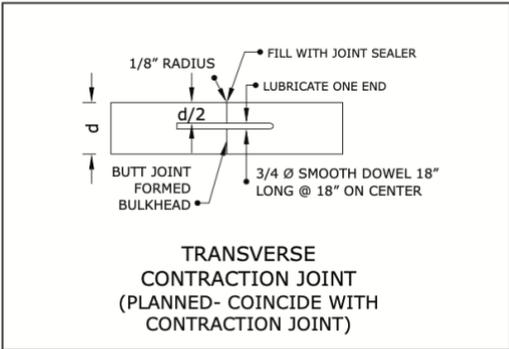
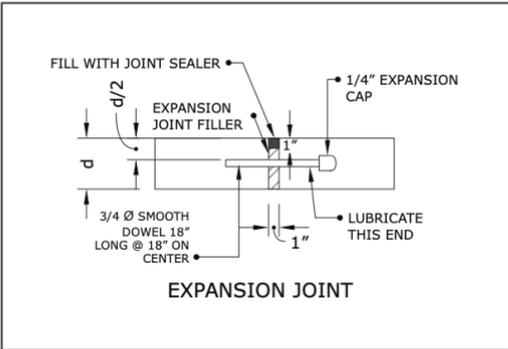
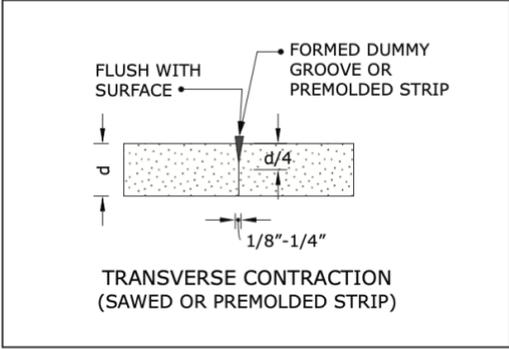
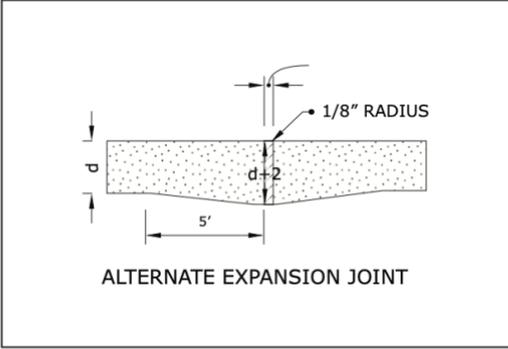
- a. All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or tamped, shall be removed and replaced with suitable material, placed and compacted. The subgrade shall be thoroughly compacted with suitable equipment so as to have uniform density at moisture contents of not less than standard optimum (AASHO-T98).
- b. Longitudinal joint spacing shall not exceed 15 feet and be designed in accordance with the joint details in Figure 15.05-2.
- c. Transverse joint spacings shall be at regular intervals of twenty (20) feet.
- d. All transverse construction joints shall be designed in accordance with the joint details in Figure 15.05-2.
- e. Form offsets at radius points shall be at least two (2) feet.
- f. Pavement joints must be continuous through the curbs.
- g. Where curbs are required, they shall be cast integrally.
- h. The pavement shall be struck-off, consolidated, and finished, to the grades shown on the plans. All catch basins and manhole castings shall be boxed out and separated from the pavement with expansion joint material. All except premolded or sawed joints shall be edged with a tool having a maximum radius of 1/8 inch. Sawed and formed joints shall be cleaned and sealed before opening to traffic. Final surface texture shall be that obtained with a burlap drag. Curing shall be that obtained with a uniform coverage of white membrane curing compound or by seven-day coverage of white polyethylene or waterproof paper. The completed pavement shall be closed to traffic for at least fourteen (14) days or by the time it has attained a compressive strength of 3,500 pounds per square inch and/or 550 pounds per square inch flexural strength. This traffic restriction shall apply to the contractor's construction equipment and vehicles, as well as general traffic.

**TABLE 15.03-1  
THICKNESS REQUIREMENTS OF SURFACE AND BASE COURSES FOR  
AUTOMOBILE AND TRUCK PARKING FACILITY PAVEMENTS**

VEHICLE TYPE	FULL DEPTH ASPHALT CONCRETE		ASPHALT CONCRETE WITH GRANULAR SUBBASE			ASPHALT CONCRETE WITH GRANULAR BASE	
	SURFACE KDOT (1) (SEC. 401, 402) TYPE B (INCH)	BASE KDOT (1) (SEC. 401, 403) (INCH)	SURFACE KDOT (1) (SEC. 401, 402) TYPE B (INCH)	BASE KDOT (1) (SEC. 401, 403) (INCH)	GRANULAR SUBBASE KDOT (1) (SEC. 303) INCH)	SURFACE KDOT (1) (SEC. 401, 402) TYPE B (INCH)	GRANULAR BASE KDOT (1) (SEC. 303) (INCH)
<b>Auto Parking Facilities</b>	1-1/2	4	1-1/4	2	6	2	9
<b>Truck Parking Facilities</b>	1-1/2	6 - 1/2	1-1/2	2-1/2	10	N.A.	N.A.

(1) Refers to the Kentucky Department of Transportation (KDOT) Bureau of Highways, Standards and Specifications for Road and Bridge Construction (1976 Edition, or as amended).

**FIGURE 15.03-1  
JOINT DETAILS**



**Appendix 15.04 Approved Planned Unit Developments**

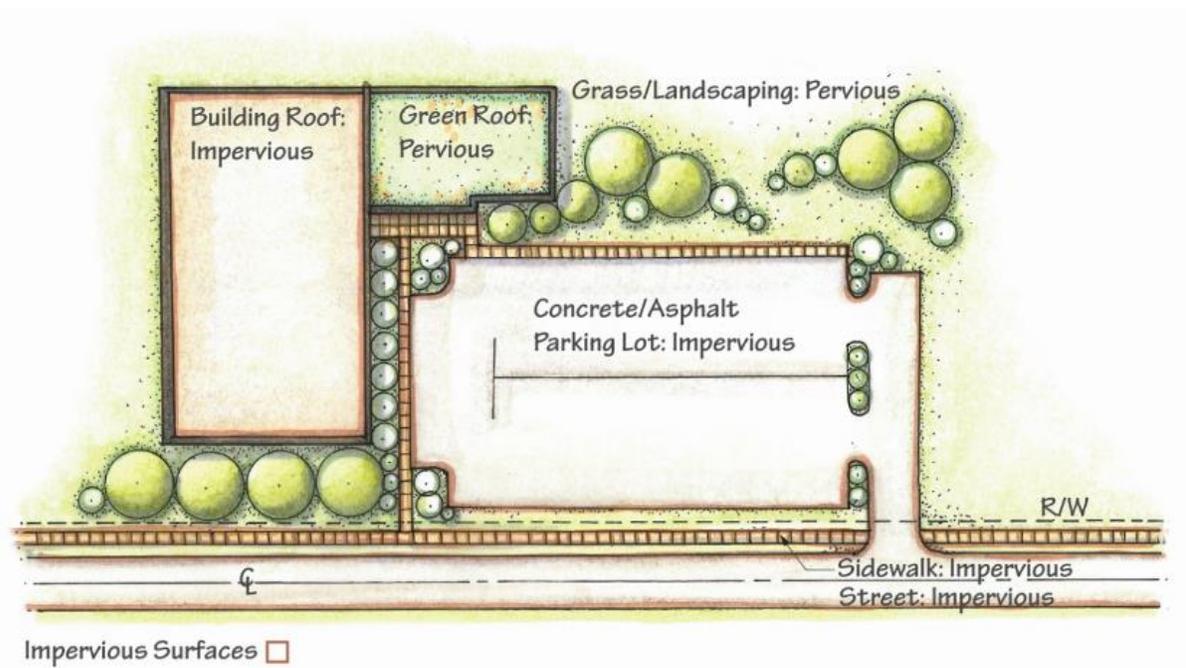
Approved PUD Standards			
PUD Name	Approved Development Plan	Approved Development Narrative	Approved City Ord/ City or Staff Action

## Appendix 15.07 Landscape and Planting Manual

### 15.07 A. Landscape and Planting Standards

#### A. Introduction

The purpose of the landscape and planting manual is to assist citizens, business owners, and developers with conforming with the Landscape, Screening, and Buffer requirements of the zoning ordinance. The plant lists that are provided are suggested plant materials and are plants that have been successful in this region for urban landscaping. Additional plant materials, not included in the lists provided, may be approved on a case-by-case basis. The graphic details and planting specifications are the guidelines to complete a landscape project in an appropriate manner. The plan submission guidelines should be helpful to the engineer, landscape designer, or landscape architect to ensure the submitted site plan provides the information necessary for a timely review by the Zoning Official. Landscaping in urban areas is essential to mitigate the impact of impervious surfaces. Impervious surfaces produce heat in summer months causing the temperature to rise. Impervious surfaces also increase water runoff and prevent water absorption into the soil which can contribute to sewer overloading during storm events. Landscaping in parking areas helps reduce the quantity of water runoff entering the sewer system. Street trees and tree plantings in parking areas and provides shade and regulates temperatures that have proven public health benefits for pedestrians and motorists.



#### B. Landscape Plan Submission

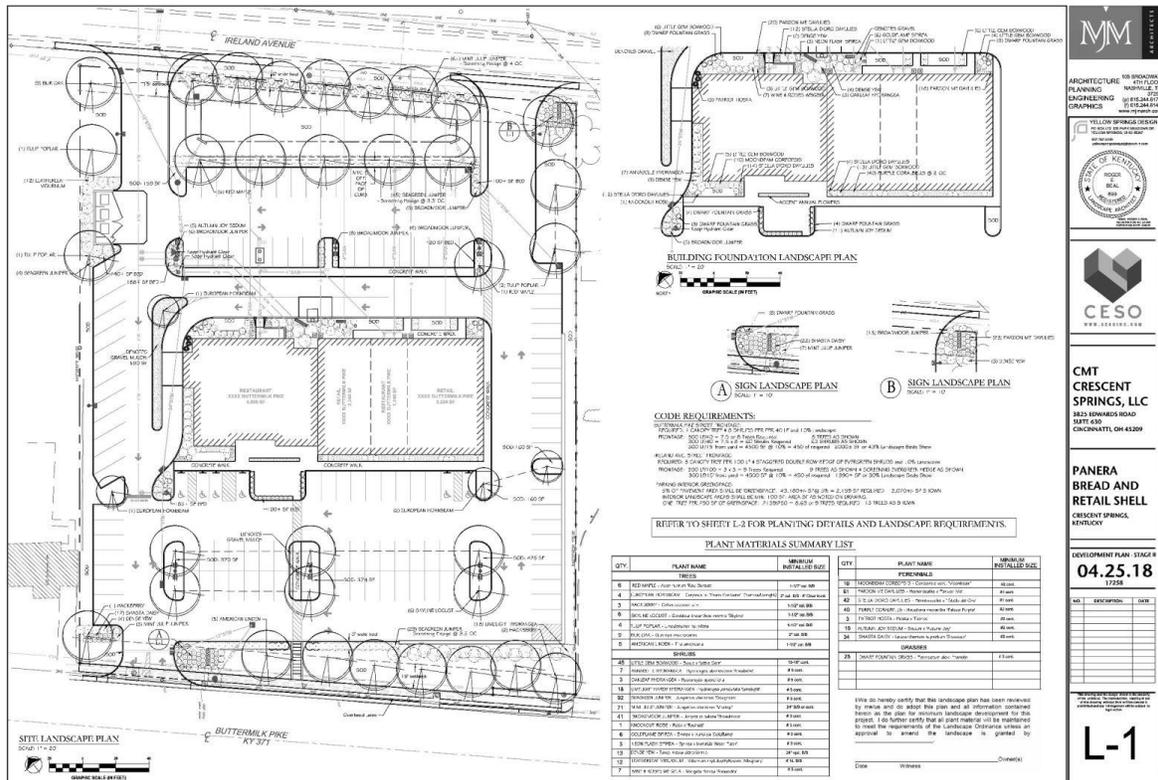
The following charts, graphic details, specifications, and guidelines are provided to assist persons in conforming to the Landscape Ordinance. The graphic details proposed for planting but are the guidelines that are helpful in completing a landscape project in a proper manner. These notes are primarily for the nursery staff that are installing the plant material.

# 1. Landscape Plan

The landscape plan should be drawn to a scale no smaller than 1" = 100' and should include:

- a. Property lines with metes and bounds
- b. All adjacent property owners, land uses/zones, rights-of-way and easements should be identified on the plan
- c. Location of all existing and proposed buildings and structures
- d. Location of all driveways, loading areas, and adjacent off-site roads and streets, vehicular use areas labeled as to size and number of parking spaces with pavement details.
- e. Required landscape compliance statistics
- f. Location of dumpster and trash facilities, including dumpster screening details.
- g. North arrow and scale
- h. Location of above and below-ground utility lines and sewer locations
- i. Indication of areas for sodding and seeding.
- j. Location of all proposed plant material keyed to a plant schedule.
- k. The plant schedule should contain information as follows: Plant botanical and common names; the quantity of each species to be planted and landscape compliance statistics; plant size (height, spread, caliper, or container size); and any specific planting notes.
- l. Location of existing trees and vegetation that are to be retained as part of the required landscaping with a protection plan.
- m. Tree and shrub planting details

An example of a landscape plan shows the information which should be found on a landscape plan and how it is displayed. Enlarged sections of the plan further clarify abbreviations and plan details.



## 2. Plant Schedule Table

This table is the identification key which lets the inspector know which plants are to be planted, the total number of each species, and which graphic symbol and code are used to identify the plant on the landscape plan. Additional information that should be noted in this table is the plant container, the height or size of the planting material, and the caliper of all tree species.

PLANT MATERIALS SUMMARY LIST			
QTY.	PLANT NAME	MINIMUM INSTALLED SIZE	
<b>TREES</b>			
6	RED MAPLE - <i>Acer rubrum</i> 'Red Sunset'	1-1/2" cal. BB	
4	EUROPEAN HORNBEAM - <i>Carpinus h. 'Frans Fontaine'</i> (Narrow/Upright)	2" cal. BB - E Clear Bark	
3	HACKBERRY - <i>Celtis occidentalis</i>	1-1/2" cal. BB	
6	SKYLINE LOCUST - <i>Glodisia truncatoh nemio 'Skyline'</i>	1-1/2" cal. BB	
4	TULIP POPLAR - <i>Liriodendron tulipifera</i>	1-1/2" cal. BB	
9	BUR OAK - <i>Quercus macrocarpa</i>	2" cal. BB	
5	AMERICAN LINDEN - <i>Tilia americana</i>	1-1/2" cal. BB	
<b>SHRUBS</b>			
45	LITTLE GEM BOXWOOD - <i>Buxus x Little Gem</i>	15-18" cont.	
7	ANNABELLE HYDRANGEA - <i>Hydrangea abnormis 'Annabelle'</i>	# 6 cont.	
3	OAKLEAF HYDRANGEA - <i>Hydrangea obtusifolia</i>	# 5 cont.	
18	LIMELIGHT HARDY HYDRANGEA - <i>Hydrangea paniculata 'Limelight'</i>	# 5 cont.	
2	SEAGREEN JUNIPER - <i>Juniperus chinensis 'Seagreen'</i>	# 3 cont.	
1	MINT JUIP JUNIPER - <i>Juniperus chinensis 'Mintjip'</i>	24" BB or cont.	
41	BROADMOOR JUNIPER - <i>Juniperus sabina 'Broadmoor'</i>	# 3 cont.	
1	KNOCKOUT ROSE - <i>Rosa x 'Knockout'</i>	# 3 cont.	
6	GOLDFLAME SPIREA - <i>Spiraea x humilis 'Goldflame'</i>	# 3 cont.	
3	NEON FLASH SPIREA - <i>Spiraea x humilis 'Neon Flash'</i>	# 3 cont.	
13	DENSE YEW - <i>Taxus media densiformis</i>	24" and BB	
12	LEATHERLEAF VIBURNUM - <i>Viburnum laticifolium 'Alcornoque'</i>	4" XL BB	
7	WINE # ROSES WISGOLA - <i>Wegelia florida 'Wisgola'</i>	# 3 cont.	
<b>PERENNIALS</b>			
10	MOONBEAM COREOPSIS - <i>Coneopsis vert. 'Moonbeam'</i>	#2 cont.	
61	FARDON ME DAYLILIES - <i>Hemerocallis x 'Fardon Me'</i>	#1 cont.	
42	STELLA D'ORO DAYLILIES - <i>Hemerocallis x 'Stella de Oro'</i>	#1 cont.	
40	PURPLE CORALBELLS - <i>Heuchera moranthe 'Palace Purple'</i>	#2 cont.	
3	PATRIOT HOSTA - <i>Hosta x 'Patriot'</i>	#2 cont.	
16	AUTUMN JOY SEDUM - <i>Sedum x 'Autumn Joy'</i>	#2 cont.	
34	SHASTA DAISY - <i>Leucanthemum superbum 'Snowcap'</i>	#2 cont.	
<b>GRASSES</b>			
25	DWARF FOUNTAIN GRASS - <i>Pennisetum alopec. 'Hameln'</i>	# 3 cont.	

I/We do hereby certify that this landscape plan has been reviewed by me/us and do adopt this plan and all information contained herein as the plan for minimum landscape development for this project. I do further certify that all plant material will be maintained to meet the requirements of the Landscape Ordinance unless an approval to amend the landscape is granted by \_\_\_\_\_.

\_\_\_\_\_  
Date                      Witness                      Owner(s)

## 3. Landscape Compliance Statistics

A table should be included which identifies how the landscape buffer requirements of the zoning ordinance have been met by the proposed plantings.

CODE REQUIREMENTS:	
<b>BUTTERMILK PIKE STREET FRONTAGE:</b>	
REQUIRED: 1 CANOPY TREE & 8 SHRUBS PER PER 40 LF and 10% Landscape	
FRONTAGE: 300 LF/40 = 7.5 or 8 Trees Required	8 TREES AS SHOWN
300 LF/40 = 7.5 x 8 = 60 Shrubs Required	63 SHRUBS AS SHOWN
300 LF/15' front yard = 4500 SF @ 10% = 450 sf required	2000± SF or 43% Landscape Beds Show
<b>IRELAND AVE. STREET FRONTAGE:</b>	
REQUIRED: 3 CANOPY TREE PER 100 LF & STAGGERED DOUBLE-ROW HEDGE OF EVERGREEN SHRUBS and 10% Landscape	
FRONTAGE: 300 LF/100 = 3 x 3 = 9 Trees Required	9 TREES AS SHOWN & SCREENING EVERGREEN HEDGE AS SHOWN
300 LF/15' front yard = 4500 SF @ 10% = 450 sf required	1390± SF or 30% Landscape Beds Show
<b>PARKING INTERIOR GREENSPACE:</b>	
5% OF PAVEMENT AREA SHALL BE 'GREENSPACE'. 43,180± SF @ 5% = 2,159 SF REQUIRED 3,070± SF SHOWN	
INTERIOR LANDSCAPE AREAS SHALL BE MIN. 100 SF AREA SF AS NOTED ON DRAWING.	
ONE TREE PER 250 SF OF GREENSPACE: 2159/250 = 8.63 or 9 TREES REQUIRED 13 TREES AS SHOWN	



The following form is used for field inspections. It will be helpful to permit applicants to review this information to expedite the length of the approval process.



INITIAL FIELD INSPECTION

Project Name \_\_\_\_\_ Permit Number \_\_\_\_\_  
 Project Address \_\_\_\_\_  
 Inspector Name \_\_\_\_\_ Date \_\_\_\_\_

	Pass	Fail	
<b>OPEN SPACE/ PERVIOUS AREA</b>			
All areas indicated as being landscaped areas have been constructed in accordance with the approved plans (i.e., no pavement, structures, etc., constructed in landscape areas)			
Landscape buffer widths are as indicated on the approved plans.			
The width of the landscape dividing strips in parking lots are consistent with the widths indicated on the approved plans.			
<b>TREES</b>			
Trees planted in locations indicated on landscape plan and in conformance with the recommended species list. Number of trees, species and tree size planted are consistent with the approved plan.			
Trees are in a healthy and growing condition.			
"All trees are planted according to ANSI A300 standards – including proper depth (at or slightly above existing grade with trunk flares exposed)			
Trees to be saved to meet buffer requirements have been protected and have not been damaged during construction.			
Trees destroyed or damaged during construction have been replaced to meet quantities specified in the approved plans.			
<b>SHRUBS</b>			
Perimeter landscape requirements have been met and determine if there are any encroachments into landscape easements.			
Interior landscape requirements have been met.			
Plant materials, species, sizes and locations conform to approved plan.			
All plant materials are in a healthy and growing condition.			
<b>GROUNDCOVER</b>			
Ground covers are planted in such a manner as to present a finished appearance and the expectation of reasonably complete coverage within twelve months of planting.			
All non-paved areas are landscaped with grass, ground cover or other landscape treatment. No exposed, stabilized earth remains.			
<b>DUMPSTERS</b>			
Screening fences are installed per the approved plan and adequately serve the purpose intended.			
Plant materials, species, sizes and locations conform to approved plan.			
All plant materials are in a healthy and growing condition.			
<b>LIGHTING</b>			
All lighting is consistent with approved plan			
<b>SIGNS</b>			
All signs installed meet the requirements of the zoning ordinance and as specified in the approved plan			
<b>PARKING</b>			
Number and size of parking spaces are consistent with plan. Circulation is consistent with plan.			

#### D. Minimum Caliper and Height Requirements

All plants shall be equal to or exceed the following minimum acceptable size requirements. Plant height shall be measured before pruning with branches in a normal position. No plant shall be pruned back to such an extent that it no longer meets the size requirements. All measurements shall be taken at the time of planting.

Plant Group	Minimum Size at Planting
Large Shade Trees	10 feet in height, 2.0- inch caliper
Medium Trees	6 feet in height, 2.0-inch caliper
Evergreen Trees	5 feet in height, 2.0-inch caliper
Large Deciduous Shrubs	24 inches balled and burlapped
Medium Deciduous Shrubs	3 gallon
Small Deciduous Shrubs	3 gallon
Low Deciduous Shrubs	3 gallon
Large Evergreen / Broadleaf Shrubs	24 inches balled and burlapped
Medium Evergreen/Broadleaf Shrubs	3 gallon
Small Evergreen/Broadleaf Shrubs	3 gallon
Low Evergreen/Broadleaf Shrubs	3 gallon
Large Street Trees	10 feet in height, 2.0-inch caliper
Medium Street Trees	6 feet in height, 2.0-inch caliper
Ground Cover	No minimum

#### E. Plant List

The plant list has been designed to provide information to the community and assist in identifying trees and shrubs which fulfill the requirements of the zoning ordinance. Plants are listed in alphabetical order according to the scientific name. Directly below the scientific name is the common name and cultivars that are considered to be acceptable. Plant material found in the acceptable list is not all-inclusive. These trees and shrubs listed are hardy to northern Kentucky in USDA Zones 6A and 6B. These landscape materials should be relatively maintenance-free, as well as, suitable to the weather and soil conditions in northern Kentucky. Native plants are recommended and preferable for use.

There are some plant materials which, due to interference with underground utilities, undesirable thorns or fruit, growth patterns, susceptibility to disease, and incompatibility with urban environments, or are considered to be Terrestrial Nuisance Species / Invasive Species, are not to be used to meet the landscape regulations. Trees and shrubs which are deemed to fall into these categories are found in the Unacceptable for Use Table.

Terrestrial Nuisance Species (TNS)- are defined by the Kentucky Department of Fish & Wildlife Resources as “Non-native species that threaten the diversity or abundance of native terrestrial species or the ecological stability of ecosystems, or the commercial, agricultural, or recreational activities dependent on such ecosystems.”

Invasive Species- are defined by the Federal Invasive Species Advisory Committee as “A species that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm to human health.

The level of threat of TNS or invasive species to the natural ecosystems of Kentucky fall within two categories:

Severe Threat- According to the Kentucky Exotic Pest Plant Council a severe threat is an “Exotic plant species which possess characteristics of invasive species and spread easily into native plant communities and displaces native vegetation; includes species which are or could become widespread in Kentucky.”

Significant Threat- According to the Kentucky Exotic Pest Plant Council a significant threat is an “Exotic plant species which possess some invasive characteristics, but have less impact on native plant communities; may have the capacity to invade natural communities along disturbance corridors, or to spread from stands in disturbed sites into undisturbed areas, but have fewer characteristics of invasive species than #1 rank.”

TNS and invasive species are a problem for Kentucky because of the biological, socio-economic, and aesthetic impacts of these species. Control of these species can preserve the vast amount of beautiful landscape Northern Kentucky has. TNS and invasive species can sometimes be found in nurseries and unknowingly distributed.

- Biological impact- TNS and invasive species can disrupt the balance of food webs and nutrient cycling, degrade natural habitats, reduce native organisms and increase competition, and decrease biodiversity.
- Socio-economic impact- TNS and invasive species can deplete limited management resources, contribute to a loss of tourism dollars such as hunting or hiking, reduce property values by “smothering” forests and open space, decrease productivity and increase costs of commercial logging and agricultural operations, and interfere with transportation rights-of-way.
- Aesthetic impact- TNS and invasive species can also impact the cultural and generational integrity of living near and having access to a healthy ecosystem because TNS and invasive species permanently change the function and form of the landscape.

The plant material is systematically assigned into lists based upon height as the primary characteristic and secondly based upon whether it is deciduous or coniferous. This information is necessary to determine planting location compatibility with manmade environmental features such as utility lines, sidewalks, and streets. Information on each plant is divided into plant characteristics and plant uses. Plant characteristics refer to the physical attributes of a plant, including height, spread, form, urban tolerance, disease, and insect intolerance. Plant use refers to the appropriate location of use such as perimeter, interior, street tree, buffer, or open space.

Acceptable Plant List	
I.	Large Shade Trees
II.	Medium Trees (25-50 Feet in Height)
III.	Evergreen Trees
IV.	Large Deciduous Shrubs
V.	Medium Deciduous Shrubs
VI.	Small Deciduous Shrubs
VII.	Low Deciduous Shrubs
VIII.	Large Evergreen Shrubs
IX.	Medium Evergreen Shrubs
X.	Small Evergreen Shrubs
XI.	Low Evergreen Shrubs
XII.	Large Street Trees
XIII.	Medium Street Trees
XIV.	Ground Covers

Unacceptable Plant List	
I.	TNS / Invasive Species - Severe Threat
II.	TNS/ Invasive Species - Significant Threat
III.	Other Unacceptable Plants and Trees

1. *Planting List Species Characteristics*

a. Plant Type

Each acceptable material in the plant list is either deciduous (D) or evergreen (E). This is essential since only specific plant types can meet ordinance requirements such as winter opacity or triangle visibility. Unacceptable plants and trees are those which cannot be planted in public spaces because they do not have suitable characteristics. Ordinance required landscaping cannot include these plants and trees.

b. Height

The height of plant materials is given in ranges because dimensions vary depending on site conditions, climate, temperature, and how well plants adapt to these conditions. For example, under ideal conditions, a plant may reach a height of up to 20 feet, but because of conditions at a specific site, the same tree may be limited to a height of just 10 feet. Limited room for root growth also restricts maximum height. Such areas include raised planters, parking lots, streets, or areas where there is considerable competition between plants. Plants that tolerate pruning may be kept to a smaller size.

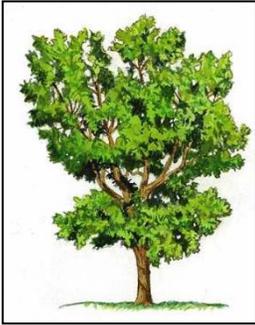
c. Spread

Spread refers to the width of a tree’s mature crown. Spread partially determines the suitability of a plant for a particular. Plants with wide-spreading forms, require a large area to develop. Upright forms are used effectively where space is limited. All plants shall be allowed ample room to develop. Spread shall be measured in feet, with the average mature spread of the plant indicated. Spread is normally listed as a range because of its variability.

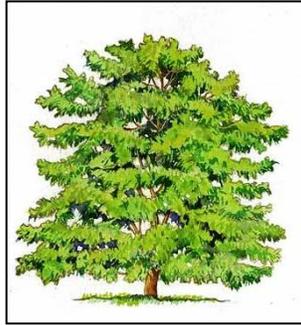
d. Form

Form is generally referred to as the outline of the crown but indicates much more. Form is determined by the line, direction, and arrangement of branches and twigs. Form has mass and volume since trees project in all directions: upward, downward, and sideways. The form of a plant should be typical of the species at the time of installation, but may be altered to create a desired effect, as long as the plant still meets ordinance requirements.

**Rounded**



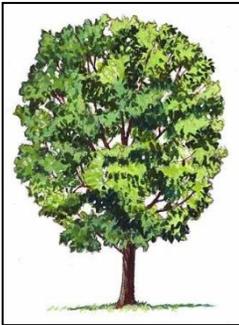
**Spreading**



**Pyramidal**



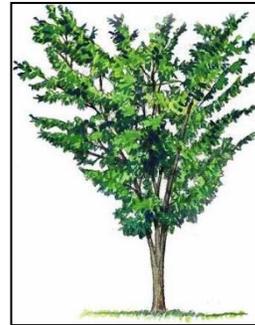
**Oval**



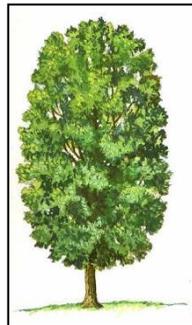
**Conical**



**Vase Shaped**



**Columnar**



e. Urban Tolerance

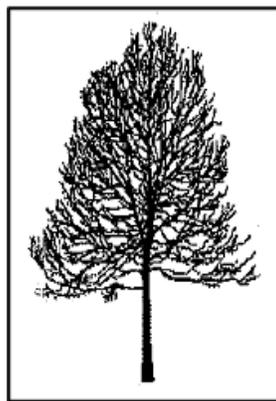
A plant tolerant of urban conditions must be able to withstand a variety of adverse conditions, including air pollution, poor and infertile soils, compact soils, heat and drought, and other similar conditions. Plants that have relatively few problems are considered to be urban tolerant.

f. Disease and Insect Tolerant

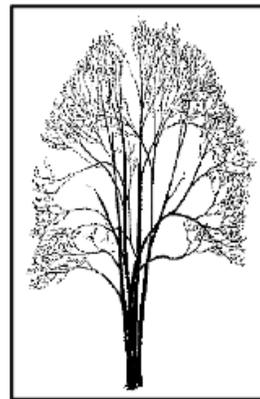
Disease and insect problems affect all trees to some extent. Some problems are barely noticeable and exert little effect on a tree's health. Disorders can restrict the tree's growth, cause a gradual decline in health, and eventually lead to the tree's death. The severity of a problem depends on the type of tree, condition of the tree, type of disorder, time of year, immediate weather conditions, along with many other factors. Disorders that are frequent, widespread, or highly destructive should greatly limit the use of a particularly susceptible tree species, e.g. tip blight on Austrian pines.

g. Density

Density refers to a quantity of foliage and branching and is measured by comparing positive space to negative space. Positive space includes all tree characteristics perceived when the tree is viewed as a two-dimensional silhouette with dense branching and foliage. Negative space is a space that appears between branching and foliage. It is the open area through which the sky and background can be seen.



**Dense**



**Open**

h. Planting Location

The Plant List identifies the appropriate location where each species may be planted to accommodate its particular growth pattern, urban tolerance, and root system as it relates to meeting the landscape regulations.

2. *Modifications*

Recognizing that it is sometimes not possible to provide to find sufficient plant material due to supply, species availability, site conditions, or customer preference, modifications are possible. Species are not limited to those found in the Plant List. Other species may be approved by the Zoning Administrator provided the species achieves the screening requirements and are hardy to the northern Kentucky environment in USDA Zones 6A and 6B.

All landscaping has been installed and passed the landscape field inspection or;

An extension of six months has been granted by the Zoning Administrator to accommodate planting seasons as required for plant species

The landscape ordinance requires all landscaping to be in healthy condition one year after the initial inspection. A second inspection will be made by the Zoning Administrator at this time.

Schedule a one-year re-inspection with the Zoning Administrator. This inspection evaluates the health condition of the plant materials and their compliance with the landscape planting plan as submitted and approved by the Zoning Administrator.

The following form is used for field inspections. It will be helpful to permit applicants to review this information to expedite the length of the approval process.

### 15.07 B. Acceptable Plant List

#### I. Large Shade Trees

I. Large Shade Trees		PLANT CHARACTERISTICS						PLANT USES						COMMENTS	
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING		OPEN SPACE USE
<b>ACER NEGUNDO</b> Box Elder	D	30' to 50'	30' to 50'											X	Riparian zone only plantings. Will naturally seed in if no-mow zone is established by stream.
<b>ACER RUBRUM</b> Red Maple 'Armstrong' 'Autumn Flame' 'Columnar' 'October Glory' 'Red Sunset' 'Scarlet Sentinel'	D	40' to 60'	40' to 50'	Oval			X	7'+	X	X	X	X		X	Numerous cultivars are superior to the basic species and should be considered for use. Requires room to develop; won't tolerate heavily polluted urban streets; preferred food of Asian Longhorn Beetle.
<b>ACER SACCHARNIUM</b> Silver Maple	D	50' to 70'	40' to 50'											X	Surface roots, especially in compacted soil. Don't cut into heartwood-decays rapidly- otherwise a hardy tree.
<b>ACER SACCHARUM</b> Sugar Maple	D	60' to 75'	50' to 60'	Rounded	X	X	X	7'+	X	x	X			X	One of the best larger lawn and shade trees; not for downtown or other crowded areas. Possible use in suburban areas as a street tree. Intolerant of road salt. Subspecies "Nigrum" is more drought tolerant.
<b>ASECULUS GLABRA</b> Ohio Buckeye	D	40' to 70'	20' to 40'	Rounded										X	All parts poisonous if ingested.

I. Large Shade Trees	PLANT CHARACTERISTICS							PLANT USES							
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<b>ASECULUS OCTRANDRA</b> (A. Flava) Yellow Buckeye	D	60' to 75'	20' to 40'	Oval										X	All parts poisonous if ingested.
<b>BETULA LENTA</b> Sweet Birch	D	40' to 50'	30' to 40'	Pyramidal to Rounded					X	X	X			X	Intolerant of polluted urban areas; best birch for yellow fall color; good for large, naturalized areas. Nice bark.
<b>BETULA NIGRA</b> River Birch	D	40' to 70'	40' to 60'	Oval to Rounded		X			X	X	X			X	More adaptable and disease resistant than other birch trees; handsome tree; good for wet areas.
<b>CARYA ILLINOINENSIS</b> Pecan	D	70' to 100'	40' to 75'	Oval										X	Grows in rich, moist soil in full sun. Hard to transplant. No major pest problems.
<b>CARYA CORDIFORMIS</b> Butternut Hickory	D	50' to 75'	20' to 30'	Irregular										X	Can be planted by streams.
<b>CARYA GLABRA</b> Pignut Hickory	D	50' to 60'	25' to 35'	Oval										X	Showy fruit and good fall color. Grows in well drained soil. Intolerant of shade and needs a large space to grow.
<b>CARYA LACINIOSA</b> Shellbark Hickory	D	60' to 80'	20' to 30'	Spreading										X	Needs a large space to grow and grows in areas that are periodically flooded.
<b>CARYA OVATA</b> Shagbark Hickory	D	60' to 80'	40' to 60'	Oblong										X	Can be planted by streams. Needs a large space to grow.
<b>CATALPA SPECIOSA</b> Northern Catalpa	D	40' to 60'	20' to 40'	Irregular										X	Surface roots. Tolerant of both wet and dry soils.
<b>CELTIS LAEVIGATA</b> Sugar Hackberry	D	60' to 80'	50' to 60'	Rounded	X	X	X	7'+	X	X	X				Wonderful shade tree. Locate where mechanical injury unlikely; tends to rot if injured.

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<b>CELTIS OCCIDENTALIS</b> Common Hackberry 'Chicagoland' 'Prairie Pride'	D	40' to 60'	40' to 60'	Rounded		X	X	7'+						X	Excellent wildlife tree. 'Prairie Pride' is immune to mite that causes witches broom.
<b>CLADRATIS KENTUCKEA</b> Yellowwood	D	30' to 50'	40' to 50'	Vase Shaped			X	7'+	X	X	X			X	Excellent flowers and foliage; tolerates moist soil conditions; poor branching angles often require corrective pruning; surface roots.
<b>DIOSPYROS VIRGINIANA</b> Common Persimmon	E	35' to 60'	20' to 35'	Oval										X	Establishes well on compacted soils.
<b>FAGUS GRANDIFOLIA / FAGUS AMERICANA</b> American Beech	D	50' to 70'	100' to 120'	Rounded		X							X	X	Recommended for shade areas only. Has surface roots.
<b>GLEDISTIA TRIACANTHOS var inermis</b> Thornless Honey Locust 'Moriane' 'Shademaster' 'Skyline' 'Sunburst'	D	50' to 75'	30' to 50'	Rounded	X		X	7'+	X	X	X				Only thornless cultivars are acceptable; cultivars have less disease and insect problems than straight species; provides a light, filtered shade; widely used. 'Sunburst, not generally recommended due to overplanting and disease problems. Seed pods rather unsightly and create a lot of litter. Surface roots.
<b>HALESIA TETRAPTERA</b> Carolina Silverbell	D	30' to 40'	20' to 35'	Oval to Rounded		X	X	5'+	X	X	X				Prefers rich, well drained, acid soils; intolerant of adverse conditions; often must be limbed to meet ordinance.

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<b>LIQUIDAMBAR STYRACIFLUA</b> Sweetgum 'Festival' 'Moraine' 'Happidaze' 'Rotundiloba'	D	60' to 70'	40' to 50'	Pyramidal to Oval			X	8'+	X	X	X			X	Excellent tree for large areas; extensive root system needs room to develop; avoid polluted areas. Fruit can be considered a nuisance. Needs pH of 6.5 or less. 'Happidaze' and 'Rotundiloba' are almost fruitless.
<b>LIRIODENDRON TULIPFERA</b> Tulip Poplar Yellow Poplar	D	70' to 90'	35' to 50'	Oval to Rounded			X	8'+	X	X	X			X	Can grow to 150' or taller, not for small areas. Verticillium develops if salt gets on roots. Never in a monoculture. Honeydew/sooty mold.
<b>MAGNOLIA ACUMINATA</b> Cucumbertree Magnolia	D	50' to 80'	50' to 80'	Pyramidal to Rounded			X	8'+	X	X	X			X	Develops massive spreading branches, not for polluted areas or dry soils. Does not tolerate compaction.
<b>NYSSA SYLVATICA</b> Black Gum, Tupelo	D	30' to 50'	20' to 30'	Oval to Rounded	X	X	X	5'+	X	X	X	X		X	One of the most beautiful native trees; intolerant of high pH soils difficult to transplant.
<b>OSTRYA VIRGINIANA</b> Hophornbeam	D	25' to 40'	20' to 30'	Rounded	X	X	X	5'+	X	X	X	X		X	Good tree where space is limited; somewhat slow to establish; occasionally must be limbed. Lovely bark and foliage, nice downtown street tree.
<b>PINUS ECHINATA</b> Short Leaf Pine	E	80' to 100'	25' to 35'	Pyramidal										X	Easily grown in average, dry to medium, well-drained soils in full sun. Tolerates some light shade. Tolerates a wide range of soils, but prefers sandy loams
<b>PINUS STROBUS</b> White Pine	E	50' to 80'	20' to 40'	Pyramidal					X				X		Soft, feathery appearance because of foliage, extremely intolerant of air pollution; and weak wooded.

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<b>PRUNUS SEROTINA</b> Black Cherry	D	50' to 60'	25' to 30'	Oval										X	Easily grown in average, medium, well-drained soils in full sun to part shade. Best in moist, fertile loams in full sun
<b>QUERCUS ALBA</b> White Oak	D	60' to 100'	50' to 80'	Rounded	X	X	X	7'+	X	X	X			X	Best grown in rich, moist, acidic, well-drained loams in full sun Drought Tolerant.
<b>QUERCUS BICOLOR</b> Swamp White Oak	D	50' to 60'	50' to 55'	Rounded	X		X	7'+	X	X	X			X	Excellent floodplain tree. Good anywhere; drought tolerant.
<b>QUERCUS COCCINEA</b> Scarlet Oak	D	70' to 75'	40' to 50'	Pyramidal to Rounded	X	X	X	7'+	X	X	X				Difficult to locate commercially; outstanding ornamental tree; somewhat difficult to transplant.
<b>QUERCUS FALCATA</b> Southern Red Oak	D	70' to 80'	50' to 70'	Rounded	X	X	X	7'+						X	Tolerates some part shade. Grows well in sandy soils. Tolerates poor soils and drought. Also tolerates soils with brief flooding. Tolerates air pollution
<b>QUERCUS IMBRICARIA</b> Shingle Oak	D	50' to 60'	40' to 60'	Oval to Rounded	X	X	X	7'+	X	X	X			X	Nice tree when allowed room to develop; easier to transplant than most oaks. Tolerates most adverse conditions.
<b>QUERCUS MACROCARPA</b> Bur Oak	D	70' to 80'	70' to 80'	Irregular	X				X					X	Needs large site. Easily grown in average, dry to medium, well-drained soils in full sun. Prefers moist well-drained loams, but adapts to a wide range of soil conditions. Good drought tolerance.
<b>QUERCUS MUEHLENBERGII</b> Chinkapin Oak	D	70' to 80'	80' to 100'	Rounded	X	X	X	7'+	X	X	X			X	Easily grown in average, medium, well-drained soils in full sun. Although it primarily grows in dry, rocky soils in the wild, it seems to prefer moist fertile loams in cultivation. Relatively good drought tolerance. May take up to 30 years for this tree to bear a first crop of acorns.

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<b>QUERCUS NIGRA</b> Water Oak	D	50' to 80'	40' to 60'	Oval to Rounded	X	X	X	7'+	X	X	X			X	Used extensively in the South; adaptable to moist, wet sites; leaves persist into winter.
<b>QUERCUS PALUSTRIS</b> Pin Oak 'Crown Rite' 'Sovereign'	D	60' to 70'	25' to 40'	Pyramidal	X				X					X	Limit use to floodplain areas. Easily grown in average, medium to wet, acidic soils in full sun. Prefers moist loams. Tolerates poorly drained soils. Tolerates some flooding.
<b>QUERCUS PHELLOS</b> Willow Oak	D	40' to 60'	40' to 50'	Pyramidal to Oval	X	X	X	7'+	X	X	X			X	Very handsome tree; widely used in South; finer textured than other oaks.
<b>QUERCUS ROBUR</b> English Oak 'Fastigiata'	D	60' to 80'	50' to 60'	Pyramidal to Rounded	X				X	X	X				Widely used in Europe; too large for most settings; tolerates high pH soils. Powdery mildew is a cosmetic issue.
<b>QUERCUS RUBRA</b> Northern Red Oak	D	60' to 75'	40' to 50'	Rounded	X	X	X	7'+	X	X	X			X	Widely used; fast growing oak; transplants easily; valuable for a variety of landscape uses.
<b>QUERCUS SHUMARDII</b> Shumard Oak	D	40' to 60'	40' to 50'	Rounded	X	X	X	7'+	X	X	X			X	Not widely known and difficult to find commercially. Excellent street tree
<b>QUERCUS STELLATA</b> Post Oak	D	40' to 50'	25' to 35'	Rounded										X	Shrubby. Best grown in rich, moist, acidic, well-drained loams in full sun. Adapts to a wide variety of soil conditions from poor dry sandy soils to moist heavy loams. Prefers acidic soils. Good drought tolerance.
<b>SASSAFRAS ALBIDUM</b> Sassafras	D	30' to 60'	25' to 40'	Rounded	X	X			X	X	X			X	May need to be limbed up for some uses. Tends to sucker.
<b>STEWARTIA PSEUDO-CAMELLIA</b> Japanese Stewartia	D	20' to 35'	20' to 30'	Oval		X			X	X	X				Superb specimen tree; requires rich, moist soils; difficult to transplant; hardest of the stewartias; hard to find commercially.

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<b>TAXODIUM DISTICHUM</b> Bald Cypress 'Shawnee Brave'	D	50' to 70'	20' to 30'	Pyramidal	X	X	X	7'+	X	X	X			X	Often must be limbed up to meet ordinance requirements; handsome specimen tree.
<b>THUJA</b> 'GREEN GIANT'	E	40' to 60'	12' to 18'	Columnar	X	X			X				X		Best grown in moist, fertile, well-drained soils in full sun to part shade.
<b>THUJA OCCIDENTALIS</b> Western Arborvitae	E	40' to 60'	10' to 15'	Columnar	X	X			X				X		Very dense evergreen; requires considerable atmospheric moisture; numerous cultivars, but most are much smaller.
<b>TILIA AMERICANA</b> American Linden	D	60' to 80'	30' to 60'	Rounded			X	7'+	X					X	Inferior to T. cordata Easily grown in average, medium moisture, well-drained soils in full sun to part shade. Tolerates some drought. Prefers moist, fertile, well-drained loams. Generally intolerant of air pollution and urban conditions.
<b>ULMUS ALATA</b> Winged Elm	D	30' to 40'	20' to 30'	Rounded				5'+						X	Often infected with powdery mildew. Tough trees; limb up for street trees.
<b>ULMUS AMERICANA</b> American Elm *Must be a hybrid resistant to Dutch Elm Disease	D	60' to 80'	40' to 55'	Rounded				7'+	X	X	X			X	Use only hybrids resistant to Dutch Elm Disease
<b>ULMUS PARVIFOLIA</b> Lacebark Elm	D	40' to 50'	40' to 50'	Rounded	X	X		7'+	X	X	X				Resistant to Dutch Elm disease; often confused with U. pumila, but is a much superior ornamental tree. Produces lots of seedlings, has an aggressive root system, absorbs water, nutrients and space.
<b>ACER BUERGERANUM</b> Trident Maple	D	30' to 35'	25'	Oval- Rounded to Round Rounded	X	X	X	5'+	X						Fall color; can be trained to a single trunk and limbed up; popular street tree.

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<b>ACER CAMPESTRE</b> Hedge Maple	D	25' to 35'	25' to 35'	Rounded	X	X	X	5'+	X	X	X				Excellent medium-sized tree; useful in areas where space is limited; attractive dark green foliage.
<b>AESCULUS x Carnea</b> 'Red Horse Chestnut'	D	30' to 40'	30' to 40'	Rounded	X			7'+	X						Easily grown in average, medium moisture, well-drained soils in full sun to part shade. Prefers moist, fertile soils. Foliage tends to scorch and generally depreciate in dry conditions.
<b>CARPINUS BETULUS</b> European Hornbeam 'Asplenifolia' 'Columnaris' 'Fastigiata'	D	40' to 60'	30' to 50'	Oval		X			X	X	X			X	Must be limbed up to meet Landscape Ordinance requirements; outstanding specimen tree; there are many excellent cultivars that deserve use.
<b>CERCIDPHYLLUM JAPONICUM</b> Kastura Tree	D	40' to 50'	30' to 50'	Oval to Columnar	X	X	X	7'+	X	X	X	X			Male forms are narrow and upright while female forms are round and spreading; handsome tree; has to be limbed to meet ordinance requirements. Shallow roots. Drought intolerant; must be watered in a drought.
<b>CHAMAECYPARIS OBTUSE</b> Hinoki Falsecypress	E	50' to 70'	10' to 20'	Pyramidal		X			X				X		Very dense evergreen; needs moist, humid conditions and protection from wind; many cultivars, but most are a smaller size.
<b>CHAMAECYPARIS PISIFERA</b> Sawara Falsecypress	E	50' to 70'	10' to 20'	Pyramidal		X			X	X			X		Requires moist, humid conditions; numerous outstanding cultivars.

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<b>CORYLUS COLUMA</b> Turkis Filbert	D	40' to 50'	20' to 30'	Pyramidal	X		X	5'+	X	X	X				Excellent street tree. Best in full sun. Tolerates average soils, but not unamended heavy clays. Newly planted trees need consistent moisture. Once established in the landscape, trees tolerate drought. Suckering may occur. Generally tolerant of urban conditions.
<b>EUCOMMIA ULMOIDES</b> Hardy Rubber Tree	D	40' to 50'	40' to 50'	Rounded	X	X	X	7'+	X	X	X	X			Virtually problem free; outstanding dark foliage; excellent street tree. Very drought tolerant; must cut water sprouts.
<b>FAGUS SYLVATICA</b> European Beech 'Asplenifolia' 'Fastiagata' 'Riversii' 'Rohanii' 'Rotundifolia'	D	50' to 60'	35' to 45'	Oval to Rounded		X							X	X	Doesn't meet most ordinance requirements because of low branching pattern, many excellent cultivars that could be used as a large screen; needs room to develop.
<b>GINKGO BILOBA</b> (Males Only) Ginkgo 'Autumn Gold' 'Fastiagata'	D	50' to 80'	30' to 50'	Pyramidal to Rounded	X	X	X	7'+	X	X	X				Tolerates adverse conditions; excellent tree for streets and other urban uses; outstanding ornamental qualities.
<b>LARIX DECIDUA</b> European Larch	D	70' to 75'	25' to 35'	Pyramidal			X	7'+	X	X			X	X	Nice specimen tree for large areas; intolerant of adverse conditions; messy winter appearance; does well in wet areas; especially good for tough sites.
<b>METASEQUOIA GLYPTOSTROBOIDES</b> Dawn Redwood	D	70' to 100'	25'	Pyramidal to Conical	X	X		8'+	X	X			X		Can suffer from early freeze damage; should only be used in large areas; very adaptable.

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<b>PARROTIA PERSICA</b> Persian Parrotia	D	20' to 40'	15' to 30'	Oval	X	X	X	5'+	X	X	X				Outstanding bark and foliage color; excellent for a variety of uses although not very well known. Needs shade, good soil, uniform moisture.
<b>PHELLODENDRON AMURENSE</b> Cork Tree	D	30' to 45'	30' to 40'	Rounded	X	X	X	5'+	X	X	X				Very adaptable, withstands most adverse conditions, useful in largest settings. Picturesque appearance. Male only for street tree, female is invasive.
<b>PICEA ABIES</b> Norway Spruce	E	40' to 60'	25' to 30'	Pyramidal	X				X				X		Loses form with age. Commonly used as a windbreak; can be pruned into a hedge.
<b>PICEA GLAUCA</b> White Spruce	E	40' to 60'	10' to 20'	Pyramidal	X				X				X		Very adaptable; tolerates adverse conditions better than other spruce trees.
<b>PICEA OMORIKA</b> Serbian Spruce	E	50' to 60'	20' to 25'	Pyramidal	X				X				X		Excellent dark green foliage; tolerates city conditions.
<b>PICEA ORIENTALIS</b> Oriental Spruce	E	50' to 60'	20' to 30'	Pyramidal	X				X				X		Outstanding ornamental evergreen; needs protection from winter winds; low branching pattern restricts use.
<b>PINUS RESINOSA</b> Red Pine	E	50' to 80'	20' to 40'	Pyramidal to Oval	X	X			X				X		Tolerates adverse conditions; does best farther north; develops a picturesque, symmetrical form with age.
<b>PLANTANUS x ACERIFOLIA</b> London Planetree 'Bloodgood'	D	70' to 100'	60' to 80'	Pyramidal to Rounded	X		X	8'+	X	X					Tolerates adverse conditions; best used in large areas because of size; disease and insects' problems can be serious; surface roots; good tough street tree.
<b>PRUNUS SARGENTII</b> Sargent Cherry 'Columnaris'	D	40' to 50'	30' to 50'	Rounded	X	X		5'+	X	X	X	X			Tolerant of adverse conditions; one of the best large cherries for ornamental use. Fruit of 'Columnaris' can be messy.

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<b>PRUNUS SUBHIRTELLA</b> Higan Cherry 'Autumnalis' var. pendula	D	20' to 40'	15' to 30'	Rounded	X	X		5'+	X	X	X				Variable in form and flower colors; striking when in flower; numerous cultivars.
<b>PRUNUS x YEDOENSIS</b> Yoshino Cherry	D	20' to 40'	20' to 40'	Rounded	X	X		5'+	X	X	X				High maintenance but outstanding pinkish-white flowers. Attracts birds and butterflies.
<b>QUERCUS ACUTISSIMA</b> Sawtooth Oak	D	35' to 45'	30' to 40'	Rounded	X	X	X	7'+	X	X	X			X	Slow growth rate limits use; lustrous dark green foliage; not widely known but deserves more use. Doesn't produce much fruit; remove lower branches as street tree.
<b>STEPHANOBIUM JAPONICUM</b> Japanese Pagoda 'Princeton Upright'	D	30' to 40'	40' to 60'	Rounded	X		X	7'+	X	X	X				Excellent flowers; adaptable to moist conditions; good tree for a variety of uses; should be used more extensively. Beans are messy and can discolor concrete.
<b>STYRAX JAPONICUS</b> Japanese Snowbell	D	20' to 30'	20' to 30'	Rounded	X		X	7'+	X						Likes good soil, uniform moisture and a bit of shade. Low branched.
<b>SYRINGA RETICULATA</b> Japanese Tree Lilac	D	20' to 30'	15' to 25'	Oval	X	X	X	5'+	X	X	X				Most trouble - free lilac; more adaptable than other lilac; spectacular white flower display.
<b>TILIA CORDATA</b> Littelleaf Linden 'Chancellor' 'Greenspire' 'June Bride'	D	60' to 70'	30' to 50'	Oval	X		X	7'+	X	X	X	X			Smaller leaves (less messy) and less prone to breakage than T. americana
<b>TILIA TORMENTOSA</b> Silver Linden 'Sterling'	D	50' to 70'	30' to 50'	Oval to Rounded	X		X	5'+	X	X	X	X		X	More drought tolerant and tolerant of alkaline soils; Japanese beetle less of a problem.

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<b>TILIA X EUCHLORA</b> Crimean Linden 'Redmond'	D	40' to 60'	20' to 30'	Oval	X	X	X	7'+	X	X	X	X			Easily grown in average, medium moisture, well-drained soils in full sun to part shade. Adapts to a wide range of soil conditions. Good tolerance for urban conditions. Purchase trees on their own roots, where available.
<b>ZELKOVA SERRATA</b> Japanese Zelkova 'Village Green'	D	50' to 80'	40' to 70'	Vase- shaped	X		X	7'+	X	X	X				Outstanding ornamental tree; has been used as a replacement for American Elm; tolerates wind and drought; excellent street tree needs timely pruning.

## II. Medium Trees

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING		OPEN SPACE USE
<b>ACER BUERGERANUMA</b> Trident Maple	D	30' to 35'	25'	Oval- Rounded to Round Rounded	X	X	X	5'+	X						Fall color; can be trained to a single trunk and limbed up; popular street tree.
<b>ACER CAMPESTRE</b> Hedge Maple	D	25' to 35'	25' to 35'	Rounded	X	X	X	5'+	X	X	X				Excellent medium-sized tree; useful in areas where space is limited; attractive dark green foliage.

II. Medium Trees	PLANT CHARACTERISTICS						PLANT USES								
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<b>ACER PALMATUM</b> Japanese Maple 'Actropurpleum' 'Bloodgood' 'Burgundy Lace' 'Crispum'	D	15' to 25'	15' to 25'	Rounded					X	X	X				Outstanding ornamental tree; frequently used because of slow growth and need for winter protection; recommended for private use.
<b>ACER PENSYLVANICUM</b> Striped Maple	D	15' to 20'	12' to 20'	Rounded		X			X	X	X				Tree form only; prefers partial shade; intolerant of adverse conditions; lovely white striped bark.
<b>ACER TATARICUM</b> var. Ginnala Amur Maple	D	15' To 18'	15' To 20'	Rounded	X	X		7'+	X	X	X			X	Handsome multi-stemmed shrub tree; withstands heavy pruning; inconsistent fall color; very adaptable; tough.
<b>AESCULUS PAVIA</b> Red Buckeye	D	10' to 20'	10' to 20'	Rounded	X	X			X	X			X	X	Attracts hummingbirds; foliage tends to scorch and generally depreciate in dry conditions.
<b>ALNUS SERRULATA</b> Tag Alder	D	15' to 25'	10' to 20'	Rounded	X	X			X	X			X	X	Excellent for use along stream banks and in poor soil areas.

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<b>AMELANCHIER ARBOREA</b> Downy Serviceberry	D	25' to 30'	10' to 15'	Rounded			X	5'+	X	X			X		Does best in a naturalistic planting. Only single trunks allowed for street trees.
<b>AMELANCHIER CANADENSIS</b> Shadblow Serviceberry	D	10' to 20'	10' to 20'	Rounded		X							X	X	Dense, upright shrub with erect stems tolerates wet soil better than other serviceberries; use as screen if planted close together.
<b>AMELANCHIER LAEVIS</b> Allegheny Serviceberry	D	25' to 30'	15' to 25'	Rounded		X	X	7'+	X	X	X			X	Attractive multi-stemmed tree; often must be limbed up to meet ordinance requirements; possible use in sight triangle if single-stemmed forms are selected. Prefers some shade.
<b>ASIMINIA TRILOBA</b> Pawpaw	D	15' to 20'	15' to 20'	Rounded	X	X			X	X			X	X	Aggressive competitor. Excellent for use in stream areas.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<b>CARPINUS CAROLINIANA</b> American Hornbeam	D	20' to 30'	20' to 30'	Rounded		X	X	5'+	X	X	X			X	Full sun to partial shade; often must be limbed up to meet ordinance requirements; tolerates moist, well drained soils, interesting native tree. Can be low branched; limb up in nursery; surface roots.
<b>CERCIS CANDENSIS</b> Eastern Redbud 'Flame' 'Forest Pansey' 'Oklahoma' 'Royal'	D	20' to 25'	20' to 30'	Rounded	X	X			X	X	X			X	Excellent native tree; graceful ascending branches, normally must be limbed up to meet ordinance requirements; showy pink-purple flowers. Best not used as street trees due to low disease resistance and short life. 'Oklahoma' has nicer foliage.

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<b>CHIONANTHUS VIRGINICUS</b> White Fringetree	D	15' to 30'	15' to 30'	Broadly Rounded	X	X	X	7' +	X	X	X		X		Probably best with some afternoon shade; attracts birds, Seldom needs pruning. Tolerant of air pollution and adapts well to urban settings. Intolerant of prolonged dry conditions.
<b>CORNUS ALTERNIFOLIA</b> Pagoda Dogwood	D	15' to 25'	20' to 30'	Rounded	X	X			X	X	X			X	Low branched tree or shrub; interesting horizontal branching; must be limbed up to meet ordinance requirements.
<b>CORNUS FLORIDA</b> Flowering Dogwood 'Cherokee Chief' 'Cherokee Princess' var. rubra 'White Cloud'	D	20' to 25'	20' to 30'	Rounded		X		7' +	X	X	X			X	Excellent low branched ornamental tree; must be limbed up to meet ordinance requirements; spectacular when flowering; recommended for private use.
<b>CORNUS KOUSA</b> Kousa Dogwood 'Milky Way'	D	15' to 20'	15' to 20'	Rounded		X		7' +	X	X	X		X	X	Possibly use if limbed up, but naturally develops a low branching structure; recommended for private use.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<b>CORNUS MAS</b> Corneliancherry Dogwood	D	20' to 25'	15' to 20'	Oval to Rounded	X	X			X	X	X		X		Usually branches to ground; possible if limbed up; attractive yellow flower display; recommended for private use.
<b>CRATAEGUS X LAVALLEI</b> Lavelle Hawthorn	D	15' to 25'	10' to 20'	Oval	X		X	7'+	X	X	X	X	X		Small dense tree, essentially thornless; normally must be limbed up to meet ordinance regulations.
<b>EUONYMUS ATROPURPUREUS</b> Eastern Wahoo	D	12' to 24'	10' to 20'	Irregular	X				X	X			X	X	Susceptible to scale, good for use in rain garden, attracts birds, will not tolerate wet, poorly-drained soil
<b>HAMAMELIS VERNALIS</b> Ozark Witch Hazel	D	20' to 30'	20' to 25'	Rounded	X	X							X	X	Fall blooming. Consistent moisture is best (leaf scorch may occur during periods of summer drought)
<b>MAACKIA AMURENSIS</b> Amur Maackia	D	20' to 30'	25'	Rounded	X	X	X	5'+							Narrow diameter trunk; prune early on to remove low branches.

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<b>MAGNOLIA VIRGINIANA</b> Sweetbay Magnolia	D	10' to 20'	10' to 20'	Oval		X			X		X		X		Large multi-stemmed; better in wet soils than other magnolias, possible use if central leader forms are used.
<b>MAGNOLIA X SOULANGIANA</b> Saucer Magnolia	D	20' to 25'	20' to 30'	Rounded		X			X	X	X		X		Low-branched and normally must be limbed up to meet ordinance requirements although this destroys form. Seldom used to meet landscaping requirements, but recommended highly for private use.
(varieties) 'Bob White' 'Coral Cascade' 'Dolgo' 'Harvest Gold' 'Red Jade' 'Red Swan' 'Snowdrift' 'Vanguard' 'White Angel'	D	10' to 25'	10' to 30'	Varied	X	X		7'+	X	X	X	X			Only disease and insect resistant cultivars are acceptable; possible use depends on branching height; often must be limbed up; valued for foliage, fruit, flowers, and variations in size and form; numerous cultivars and landscape uses.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<i>PHILADELPHUS X VIRGINALIS</i> Mockorange	D	10' to 15'	10' to 15'	Rounded	X	X									Attracts butterflies, This hybrid shrub may be cut to the ground (also immediately after flowering) if it becomes scraggly, unkempt or otherwise in need of rejuvenation.
<i>PRUNUS AMERICANA</i> American Plum	D	15' to 25'	12' to 18'	Rounded									X	X	Easily grown in average, dry to medium, well-drained soils in full sun to part shade. Remove suckers to prevent unwanted spread. Fairly adaptable.
<i>PRUNUS ANGUSTIFLORIA</i> Chickasaw Plum	D	12' to 20'	15' to 20'	Rounded									X	X	Remove root suckers to prevent any unwanted spread. Adaptable to wide range of growing conditions and soils.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<b>SERRULATA (Cult)</b> Oriental Cherry (Cult) 'Kwanzan' 'Shirofugen'	D	15' to 20'	15' to 20'	Vase-Shaped	X				X	X	X				Straight species is inferior and seldom used, but there are numerous outstanding cultivars; excellent flower display; low branched.
<b>PRUNUS VIRGINIANA</b> Common Chokecherry	D	20' to 30'	18' to 25'	Rounded										X	Grow in average, dry to medium, well-drained loams in full sun to part shade. Best flowering is in full sun.
<b>PTELEA TRIFOLIATA</b> Hoptree	D	15' to 20'	15' to 20'	Rounded	X	X			X	X			X		Does well in sun or shade. Easily grown in average, dry to medium, well-drained soils
<b>RHAMNUS CAROLINIANA</b> Carolina Buckthorn	D	10' to 25'	10' to 25'	Oval	X	X			X	X			X		Easily grown in average, medium moisture, well-drained soils in full sun to part shade. Prefers alkaline soils (add lime to acidic soils). Prefers consistent moisture.

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<b>RHUS TYPHINA</b> Staghorn Sumac	D	15' to 25'	15' to 25'	Spreading	X	X			X	X			X		Plant may spread aggressively by root suckers. Tolerant of a wide range of soils except for those that are poorly drained.
<b>STAPHYLEA TRIFOLIA</b> American Bladdernut	D	10' to 15'	5' to 10'	Upright	X	X								X	Prefers damp, moist, well-drained soils.
<b>STEWARTIA PSEUDO-CAMELLIA</b> Japanese Stewartia	D	20' to 35'	20' to 30'	Oval		X			X	X	X				Superb specimen tree; requires rich, moist soils; difficult to transplant; hardiest of the stewartias; hard to find commercially.
<b>STYRAX JAPONICUS</b> Japanese Snowbell	D	20' to 30'	20' to 30'	Rounded	X			7'+	X						Likes good soil, uniform moisture and a bit of shade. Low branched.

### III. Evergreen Trees

III. Evergreen Trees	PLANT CHARACTERISTICS						PLANT USES								
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<b>ABIES CONCOLOR</b> White Fir	E	30' to 50'	15' to 30'	Pyramidal	X	X			X				X		Can be used as a screen between conflicting land uses; doesn't meet other ordinance requirements because of the low branch pattern; best used in large areas where there is room for plant development.
<b>CHAMAECYPARIS OBTUSE</b> Hinoki Falsecypress	E	50' to 70'	10' to 20'	Pyramidal		X			X				X		Very dense evergreen; needs moist, humid conditions and protection from wind; many cultivars, but most are a smaller size.
<b>CHAMAECYPARIS PISIFERA</b> Sawara Falsecypress	E	50' to 70'	10' to 20'	Pyramidal		X			X	X			X		Requires moist, humid conditions; numerous outstanding cultivars, but they are a smaller size, loses beauty with age.
<b>DIOSPYROS VIRGINIANA</b> Common Persimmon	E	35' to 60'	20' to 35'	Oval									X		Establishes well on compacted soils.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<b>PICEA ABIES</b> Norway Spruce	E	40' to 60'	25' to 30'	Pyramidal	X				X				X		Loses form with age. Commonly used as a windbreak; can be pruned into a hedge
<b>PICEA GLAUCA</b> White Spruce	E	40' to 60'	10' to 20'	Pyramidal	X				X				X		Very adaptable; tolerates adverse conditions better than other spruce trees.
<b>PICEA OMORIKA</b> Serbian Spruce	E	50' to 60'	20' to 25'	Pyramidal	X				X				X		Excellent dark green foliage; tolerates city conditions; does well in almost any urban area.
<b>PICEA ORIENTALIS</b> Oriental Spruce	E	50' to 60'	20' to 30'	Pyramidal	X				X				X		Outstanding ornamental evergreen; needs protection from winter winds; low branching pattern restricts use.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<i>PINUS ECHINATA</i> Short Leaf Pine	E	80' to 100'	25' to 35'	Pyramidal										X	Easily grown in average, dry to medium, well-drained soils in full sun. Tolerates some light shade. Tolerates a wide range of soils,
<i>PINUS RESINOSA</i> Red Pine	E	50' to 80'	20' to 40'	Pyramidal to Oval	X	X			X				X		Tolerates adverse conditions; does best farther north; develops a picturesque, symmetrical form with age.
<i>PINUS STROBUS</i> White Pine	E	50' to 80'	20' to 40'	Pyramidal					X				X		Soft, feathery appearance because of foliage, intolerant of air pollution; weak wooded.

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<b><i>ILEX OPACA</i></b> American Holly	E	40' to 50'	18' to 40'	Pyramidal to Irregular					X				X	X	Needs sheltered location; some leaf minor problems. Need male and female for fruit. Normally 20' to 30' in height; can be used as a large screen; must be limbed up to meet most ordinance requirements
<b><i>ILEX PEDUNCULOSA</i></b> Longstalk Holly	E	20' to 30'	10' to 15'	Dense, Rounded	X	X			X	X			X		One of the hardiest red fruiting hollies.
<b><i>JUNIPERUS VIRGINIAN</i></b> Eastern Redcedar	E	40' to 50'	10' to 20'	Pyramidal	X	X			X				X		Can be used as a screen between conflicting land uses; cultivars are superior to straight species, but most are smaller in size. Best used in large areas; doesn't meet other ordinance requirements because of low branching pattern.

III. Evergreen Trees	PLANT CHARACTERISTICS						PLANT USES								
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<i>PINUS CEMBRA</i> Swiss Stone Pine	E	30' to 40'	15' to 25'	Pyramidal	X				X	X	X				Handsome evergreen; slow growth rate limits use; requires an open area with good air movement; transplants easier than most pines.
<i>PINUS PARVIFLORA</i> Japanese White Pine	E	25' to 50'	25' to 50'	Rounded	X				X				X		Develops a low-branched, wide-spreading form; tolerates most soils; good tree for small areas, slow growth rate.

#### IV. Large Deciduous Shrubs

IV. Large Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERMITTER	VEHICULAR USE/AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SCREENING	OPEN SPACE USE	COMMENTS
<b>AMELANCHIER CANADENSIS</b> Shadblow Serviceberry	D	10' to 20'	10' to 20'	Rounded		X	Dense				X	X	Dense, upright shrub with erect stems tolerates wet soil better than other serviceberries; use as screen if planted close together.
<b>*ASIMINA TRILOBA</b> Pawpaw	D	15' to 20'	15' to 20'	Rounded	X	X	Dense	X	X		X	X	Aggressive competitor. Excellent for use in stream areas. Berries are edible.
<b>CORNUS KOUSA</b> Kousa Dogwood 'Milky Way'	D	15' to 20'	15' to 20'	Rounded		X	Dense	X	X	X	X	X	Possibly use if limbed up, but naturally develops a low branching structure; recommended for private use.
<b>CORNUS MAS</b> Cornelian Cherry-Dogwood	D	20' to 25'	15' to 20'	Oval to Rounded	X	X	Dense	X	X	X	X		Usually branches to ground; possible if limbed up; attractive yellow flower display; recommended for private use.
<b>FORSYTHIA X INTERMEDIA</b> Border Forsythia	D	8' to 10'	10' to 12'	Rounded	X	X	Dense	X			X		Benefits from selective pruning of larger branches; can be kept smaller with pruning.

IV. Large Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SCREENING	OPEN SPACE USE	COMMENTS
<b>HYDRANGEA PANICULATA</b> Panicle Hydrangea	D	15' to 25'	10' to 20'	Irregular	X		Dense				X	X	Should probably be reserved for large out of the way areas.
<b>MAGNOLIA STELLATA</b> Star Magnolia	D	15' to 20'	10' to 15'	Rounded		X	Dense	X			X		Dense shrub-like form; good screen but needs ample room, needs winter protection; avoid southern exposure.
<b>MAGNOLIA VIRGINIANA</b> Sweetbay Magnolia	D	10' to 20'	10' to 20'	Oval		X	Dense	X		X	X		Large multi-stemmed shrub; better in wet soils than other magnolias, possible use if central leader forms are used.
<b>PHILADELPHUS X VIRGINALIS</b> Mockorange	D	10' to 15'	10' to 15'	Rounded	X	X							Attracts butterflies, full sun to part shade. Tolerates a wide range of soils except poorly-drained ones.
<b>*STAPHYLEA TRIFOLIA</b> American Bladdernut	D	10' to 15'	5' to 10'	Upright	X	X						X	Prefers damp, moist, well-drained soils.

IV. Large Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SCREENING	OPEN SPACE USE	COMMENTS
<b>VIBURNUM LENTAGO</b> Nannyberry	D	15' to 18'	6' to 10'	Rounded	X	X	Dense	X	X		X		Attracts birds and butterflies, tolerant of air pollution, Remove root suckers to control spread unless naturalization is desired.
<b>VIBURNUM OPULUS</b> Cranberrybush Virburnum	D	8' to 10'	10' to 15'	Oval to Rounded	X		Dense	X	X		X	X	Attractive fruit and flower display; good screen for large area.
<b>VIBURNUM PRUNIFOLIUM</b> Blackhaw Viburnum	D	12' to 15'	8' to 12'	Rounded	X	X	Dense	X	X		X	X	Attracts birds and butterflies, Tolerates drought. Prune immediately after flowering since flower buds form in summer for the following year.
<b>VIBURNUM X RHYTIDOPHYLLOIDES</b> 'Alleghany' 'Willowwood'	D	8' to 10'	8' to 10'	Rounded	X	X		X			X	X	Attracts birds and butterflies, full sun to part shade
<b>VIBURNUM RUFIDULUM</b> Southern or Rusty Blackhaw	D	12' to 15'	8' to 12'	Rounded	X	X	Dense	X	X		X	X	Attracts birds and butterflies, full sun to part shade, plants generally grow denser in full sun

IV. Large Deciduous Shrubs		PLANT CHARACTERISTICS					PLANT USES					COMMENTS	
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SCREENING		OPEN SPACE USE
<b>VIBURNUM SIEBOLDII</b> Siebold Viburnum	D	15' to 20'	10' to 15'	Rounded	X	X	Dense	X			X	X	Large, coarse shrub; requires ample moisture; best used in large areas.
<b>VIBURNUM TRIOBUM</b> American Cranberrybush	D	8' to 12'	8' to 12'	Rounded	X	X	Dense	X	X		X	X	Multi-stemmed shrub; transplants easily; needs well drained moist soil, good screen for large areas.

#### V. Medium Deciduous Shrubs

V. Medium Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SCREENING	OPEN SPACE USE	COMMENTS
<b>ACANTHOPANAX SIEBOLDIANUS</b> Five-leaf Aralia	D	8' to 10"	8' to 10"	Rounded	X	X	Dense	X	X	X			Erect shrub with arching branching; extremely adaptable; numerous sharp-pointed thorns that are effective for stopping circulation.
<b>ARONIA ARBUTIFOLIA</b> Red Chokeberry	D	6' to 10'	3' to 5'	Oval to Columnar	X	X	Intermediate	X	X	X		X	Somewhat leggy, develops a rounded crown. Requires a low facer plant to be effective for screening; must be planted closely together to achieve required density.
<b>ARONIA MELANOCARPA</b> Black Chokeberry	D	3' to 5'	3' to 5'	Rounded	X	X	Open	X	X	X		X	Tends to sucker profusely and forms large colonies.
<b>BERBERIS JULIANAE</b> Wintergreen Barberry	D	6' to 10'	6' to 10'	Columnar to Rounded	X	X	Dense	X	X	X		X	Semi-evergreen; numerous small thorns; excellent screen or barrier plant; hardiness is sometimes a problem.

V. Medium Deciduous Shrubs		PLANT CHARACTERISTICS					PLANT USES					COMMENTS	
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SCREENING		OPEN SPACE USE
<b>CALYCANTHUS FLORIDUS</b> Carolina Allspice	D	6' to 9'	6' to 12'	Rounded	X	X	Dense	X	X	X		X	Very fragrant flowers with a sweet strawberry scent; adaptable; does well in shade.
<b>CEPHALANTHUS OCCIDENTALIS</b> Buttonbush	D	3' to 6'	3' to 6'	Rounded		X	Open					X	Best reserved for moist areas in a naturalized situation.
<b>CHAENOMELES SPECIOSA</b> Flowering Quince	D	6' to 10'	6' to 10'	Rounded	X		Dense	X	X	X			Dense, twiggly form with spiny branches; used mainly because of flower display; good barrier plant.
<b>CORNUS AMOMUM</b> Silky Dogwood	D	6' to 10'	6' to 10'	Rounded		X	Open					X	Best used for naturalizing in moist and wet soils; prefers partially shaded areas
<b>CORNUS SERICA</b> Redosier Dogwood	D	7' to 9'	10'+	Rounded	X		Open	X	X	X		X	Very adaptable; twig blight can be a problem.
<b>COTONEASTER LUCIDUS</b> Hedge Cotoneaster	D	5' to 10'	6' to 10'	Rounded	X	X	Dense	X	X	X			Frequently used as a hedge; handsome dark green foliage; vigorous, durable shrub.

V. Medium Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SCREENING	OPEN SPACE USE	COMMENTS
<b>COTONEASTER MULTIFLORA</b> Many Flowered Cotoneaster	D	8' to 12'	12' to 15'	Rounded	X	X	Dense	X	X	X			Develops a fountain-like appearance; somewhat difficult to transplant; attractive white flowers; requires room to develop.
<b>FORSYTHIA SUSPENS</b> Weeping Forsythia	D	8' to 10"	10' to 15'	Fountain-like	X	X	Dense	X		X			Branches can be trained along a wall, fence, or other structure.
<b>FORSYTHIA MAJOR</b> Larger Fothergilla	D	6' to 10'	5' to 8'	Pyramidal to Rounded		X	Dense	X	X	X			Requires acid soil and good drainage; attractive dark green foliage.
<b>HAMAMELIS VERNALIS</b> Vernal Witchhazel	D	6' to 10'	6' to 10'	Rounded	X	X	Dense	X	X	X	X		Neat, multi-stemmed form. Smallest witch hazel; durable, adaptable plant; flowers early.
<b>LINDERA BENZOIN</b> Spicebush	D	6' to 12'	6' to 12'	Rounded	X	X	Dense	X	X	X		X	Forage for wildlife, excellent open space selection.

V. Medium Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SCREENING	OPEN SPACE USE	COMMENTS
<b>LONICERA FRAGRANTISSIMA</b> Fragrant Honeysuckle	D	6' to 10'	6' to 10'	Rounded	X		Dense	X	X	X			Tangled mass of branches; good hedge; very adaptable; fragrant white flowers.
<b>MYRICA PENNSYLVANICA</b> Northern Bayberry	D	5' to 12'	5' to 12'	Rounded	X	X	Dense	X	X	X			Semi-evergreen; extremely adaptable; combines well with broadleaf evergreens; many uses.
<b>SAMVUCUX CANADENSIS</b> American Elder	D	Var	Var	Spreading	X	X	Open					X	Best used in naturalized areas.
<b>VIBURNUM DENTATUM</b> Arrowwood Viburnum	D	6' to 8'	6' to 12'	Rounded	X	X	Dense	X	X	X		X	Most durable viburnum; not as attractive as most viburnums; good as a hedge; suckers freely and can become unkempt
<b>VIBURNUM MOLLE</b> Kentucky Viburnum	D	8' to 12'	8' to 12'	Rounded	X	X	Dense	X	X	X		X	Fall foliage is red to reddish-purple; full sun to part shade

V. Medium Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SCREENING	OPEN SPACE USE	COMMENTS
<i>VIRBURNUM PLICATUM</i> VAR. <i>TORMENTOSUM</i> Cranberrybush Viburnum	D	8' to 12'	9' to 12'	Rounded	X	X	Dense	X	X	X			Horizontal branching; outstanding flower display; excellent screen for large areas.
<i>VIRBURNUM X BURKWOODII</i> Burkwood Virburmum	D	8' to 10'	6' to 8'	Oval to Rounded	X	X	Intermediate	X	X	X			Blends well with broadleaf evergreens; somewhat unkempt in appearance and usually requires pruning; very fragrant flowers.

## VI. Small Deciduous Shrubs

VI. Small Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER SCREENING	SERVICE AREA SCREENING	GROUND COVER	OPEN SPACE USE	COMMENTS
<b>CLETHRA ALNIFOLIA</b> Summersweet Clethra	D	5' TO 7'	5' TO 7'	Oval to Rounded	X	X	Dense		X				Good shrub for wet areas; attractive, fragrant flowers appear in late summer; very clean.
<b>RHUS AROMATICA</b> Fragrant Sumac	D	3' to 6'	6' to 10'	Spreading	X	X	Dense		X				Size can vary; develops into a low, spreading mound; good plant for difficult sites.
<b>RIBES ALPINUM</b> Alpine Currant	D	3' to 6'	6' to 9'	Rounded	X		Dense		X				Responds well to pruning and makes an excellent hedge; tolerant to adverse conditions
<b>ABELIA X GRANDIFLORA</b> Glossy Abelia	D	3' to 5'	3' to 5'	Rounded to Wide-Spreading	X	X	Dense		X				Often killed back in severe winters unless protected; handsome pink flower display; blends well with broadleaf evergreens; limited hardiness.
<b>ABELIOPHYLLUM DISTICHUM</b> Korean Abelialeaf	D	3' to 5'	3' to 4'	Rounded to Wide-Spreading	X	X	Intermediate		X				Excellent early spring flower display; requires winter protection.

VI. Small Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER SCREENING	SERVICE AREA SCREENING	GROUND COVER	OPEN SPACE USE	COMMENTS
<b>BERBERIS THUNBERGII</b> Japanese Barberry 'Crimson Pygmy'	D	3' to 5'	4' to 7'	Rounded	X	X	Very Dense		X				Good hedge or barrier; numerous sharp, spiny thorns; 'Crimson Pygmy' seldom above 2.5' in height; very adaptable
<b>BERBERIS VERRUCULOSA</b> Warty Barberry	D	3' to 5'	3' to 6'	Rounded to Wide-Spreading	X	X	Dense		X			X	Excellent low barrier or screen; lustrous, dark green foliage; possible winter damage if not protected.
<b>CEANOTHUS AMERICANUS</b> New Jersey Tea	D	3' to 4'	3' to 5'	Rounded	X	X						X	Attracts hummingbirds, and butterflies, likes full sun and partial shade
<b>COTONEASTER HORIZONTALIS</b> Rock Cotoneaster	D	2' to 3'	5' to 8'	Rounded to Wide-Spreading	X	X	Dense				X		Flat and wide-spreading; excellent ground cover for a large area.
<b>DEUTZIA GRAXILIS</b> Slender Deutzia	D	2' to 4'	3' to 4'	Rounded	X	X	Intermediate		X				Very adaptable; best of the Deutzias; good flower display; use as a low hedge or screen.

VI. Small Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER SCREENING	SERVICE AREA SCREENING	GROUND COVER	OPEN SPACE USE	COMMENTS
<b>FOTHERGILLA GARDENII</b> Dwarf Fothergilla	D	2' to 4'	3' to 4'	Rounded		X	Inter-mediate		X				Requires moist, acid soils; handsome flowers and foliage; possible for a variety of uses.
<b>HYPERICUM FRONDOSOM</b> Golden St. Johnswort	D	3' to 4'	3' to 4'	Upright		X	Inter-mediate		X			X	Excellent for filler strip along stream.
<b>HYPERICUM PROLIFICUM</b> Shrubby St. Johnswort	D	2' to 4'	2' to 4'	Rounded	X	X	Dense		X			X	Tolerates a variety of adverse conditions; attractive bright yellows flowers add color in summer.
<b>POTENTILLA FRUTICOSA</b> Bush Cinquefoil 'Ferreri' 'Moonlight'	D	1' to 4'	2' to 4'	Rounded	X	X	Inter-mediate		X				Graceful, refined appearance; requires pruning every 2 to 3 years to keep from becoming straggly; handsome low shrub.
<b>SPIRAEA X BUMALDA</b> Bumalda Spirea 'Anthony Watereri'	D	2' to 3'	3' to 5'	Rounded to Wide-Spreading	X		Dense		X				Often used as a facer plant for tall, leggy screens; tolerates all but wet soils.

## VII. Low Deciduous Shrubs

VII. Low Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	GROUND COVER	COMMENTS
<b>ABELIA X GRANDIFLORA</b> Glossy Abelia	D	3' to 5'	3' to 5'	Rounded to Wide-Spreading	X	X	Dense		X				Often killed back in severe winters unless protected; handsome pink flower display; blends well with broadleaf evergreens; limited hardiness.
<b>ABELIOPHYLLUM DISTICHUM</b> Korean Abelialeaf	D	3' to 5'	3' to 4'	Rounded to Wide-Spreading	X	X	Intermediate		X				Excellent early spring flower display; requires winter protection.
<b>BERBERIS THUNBERGII</b> Japanese Barberry 'Chrimson Pygmy'	D	3' to 5'	4' to 7'	Rounded	X	X	Very Dense		X				Good hedge or barrier; numerous sharp, spiny thorns; 'Crimson Pygmy' seldom above 2.5' in height; very adaptable
<b>BERBERIS VERRUCULOSA</b> Warty Barberry	D	3' to 5'	3' to 6'	Rounded to Wide-Spreading	X	X	Dense		X				Excellent low barrier or screen; lustrous, dark green foliage; possible winter damage if not protected.
<b>CEANOTHUS AMERICANUS</b> New Jersey Tea	D	3' to 4'	3' to 5'	Rounded	X	X	Dense		X				Attracts hummingbirds, and butterflies, likes full sun and partial shade

VII. Low Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	GROUND COVER	COMMENTS
<b>COTONEASTER HORIZONTALIS</b> Rock Cotoneaster	D	2' to 3'	5' to 8'	Rounded to Wide-Spreading	X	X	Dense					X	Flat and wide-spreading; excellent ground cover for a large area.
<b>DEUTZIA GRAXILIS</b> Slender Deutzia	D	2' to 4'	3' to 4'	Rounded	X	X	Intermediate		X				Very adaptable; best of the Deutzias; good flower display; use as a low hedge or screen.
<b>FOTHERGILLA GARDENII</b> Dwarf Fothergilla	D	2' to 4'	3' to 4'	Rounded		X	Intermediate		X				Requires moist, acid soils; handsome flowers and foliage; possible for a variety of uses.
<b>HYPERICUM FRONDOSOM</b> Golden St. Johnswort	D	3' to 4'	3' to 4'	Upright		X	Intermediate		X				Excellent for filler strip along stream.
<b>HYPERICUM PROLIFICUM</b> Shrubby St. Johnswort	D	2' to 4'	2' to 4'	Rounded	X	X	Dense		X				Tolerates a variety of adverse conditions; attractive bright yellows flowers add color in summer.

VII. Low Deciduous Shrubs	PLANT CHARACTERISTICS						PLANT USES						
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	GROUND COVER	COMMENTS
<b>POTENTILLA FRUTICOSA</b> Bush Cinquefoil 'Ferreri' 'Moonlight'	D	1' to 4'	2' to 4'	Rounded	X	X	Inter-mediate		X				Graceful, refined appearance; requires pruning every 2 to 3 years to keep from becoming straggly; handsome low shrub.
<b>SPIRAEA X BUMALDA</b> Bumalda Spirea 'Anthony Watereri'	D	2' to 3'	3' to 5'	Rounded to Wide-Spreading	X		Dense		X				Often used as a facer plant for tall, leggy screens; tolerates all but wet soils.

### VIII. Large Evergreen Shrubs

VIII. Large Evergreen Shrubs	PLANT CHARACTERISTICS						PLANT USES							
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	SCREENING	OPEN SPACE USE	COMMENTS
<b><i>ILEX X ATTENUATA</i></b> Foster Holly 'Fosteri'	E	10' to 20'	5' to 10'	Pyramidal	X	X	Very Dense	X		X		X		Dense, handsome evergreen; excellent year-round screen; possible winter damage.
<b><i>JUNIPERUS CHINENSIS</i></b> Chinese Juniper 'Hetzii' 'Keteleeri' 'Mint Julip' 'Mount Batten' 'Pfitzeriana' 'Robusta Green'	E	12' to 25'	Varied	Varied	X		Very Dense	X	X	X		X		Only cultivars are acceptable; uses depend on the size, shape, and growth habit of each cultivar; dense evergreen forms.
<b><i>PINUS MUGO</i></b> Mugo Pine	E	15' to 20'	20' to 30'	Varied	X		Intermediate					X		Variable in form, although normally low, and broad-spreading, can be pruned yearly to keep dwarf.
<b><i>PLATYCIADUS ORIENTALIS</i></b> Oriental Arborvitae	E	15' to 25'	10' to 12'	Pyramidal to Oval	X	X	Very Dense	X	X	X		X		Dense evergreen form; tolerates heat and adverse soils; needs wind and protection.

VIII. Large Evergreen Shrubs	PLANT CHARACTERISTICS						PLANT USES							
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	SCREENING	OPEN SPACE USE	COMMENTS
<b>TAXUS CUSPIDATA</b> Yew (Cult) 'Capitata' 'Intermedia' 'Nana' 'Thayen'	E	10' to 20'	10' to 30'	Varied	X	X	Very Dense	X		X		X		Responds well to pruning and can be kept much smaller than size listed; excellent dense hedges.
<b>VIBURNUM RHYTIDOPHYLLUM</b> Leatherleaf Viburnum	E	10' to 15'	10' to 15'	Rounded	X	X	Dense			X		X	X	Blends well with other evergreens; tolerates heavy shade; best used in large area.

### IX. Medium Evergreen Shrubs

IX. Medium Evergreen Shrubs	PLANT CHARACTERISTICS						PLANT USES						COMMENTS	
	SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE		SCREENING
<b>CHAMECYPARIS PISIFERA</b> Sawara Falselyparis 'Cyano-viridis' 'Filifera' 'Filifera Aurea' 'Plumosa' 'Pulomosa Aurea' 'Squarrosa'	E	6' to 8'	6' to 7'	Varied		X	Very Dense	X	X	X		X		Only cultivars are acceptable for this size group; numerous outstanding cultivars; all prefer moist, humid conditions; large variety of forms, colors, and textures.
<b>ILEX CRENATA</b> Japanese Holly 'Convexa' 'Microphylla' 'Rotundifolia'	E	5' to 8'	5' to 8'	Rounded	X	X	Dense		X			X		Slow growth rate limits use as a large screen; possible winter damage pending on cultivar; best used as a low shrub or hedge.
<b>ILEX GABRATA</b> Inkberry	E	6' TO 8'	8' TO 10'	Oval to Rounded	X	X	Dense		X			X		Becomes somewhat open with age, but responds well to heavy pruning; slow growth rate; many uses.
<b>ILEX VERTICILLATA</b> Winterberry	E	6' to 9'	6' to 9'	Oval to Rounded	X	X	Dense	X	X	X	X	X	X	Excellent for wet areas; requires both male and female plant for fruit; prefers rich acid soils; slow growing.

IX. Medium Evergreen Shrubs	PLANT CHARACTERISTICS						PLANT USES							
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	SCREENING	OPEN SPACE USE	COMMENTS
<b><i>ILEX MESERVE</i></b> Meserve Holly 'Blue Angel' 'Blue Prince' 'Blue Princess'	E	6' to 10'	6' to 10'	Varied	X	X	Dense	X	X	X		X		Shrubby evergreen form; seldom any winter damage; one of the hardiest and most ornamental holly; can be kept smaller by pruning.
<b><i>*JUNIPERUS COMMUNIS</i></b> Common Juniper	E	5' to 10'	8' to 12'	Varied	X		Dense	X				X	X	Attractive to wildlife, excellent for songbirds cover and screen
<b><i>KALMIA LATIFOLIA</i></b> Mountain-laurel	E	7' to 10'	7' to 10'	Rounded			Dense		X			X		Can grow to 30' further south; handsome broadleaf evergreen; requires rich, moist, acid soil.
<b><i>PIERIS JAPONICA</i></b> Japanese Pieris	E	9' to 12'	6' to 8'	Oval			Dense	X	X	X		X		Broadleaf evergreen; requires rich, moist, acid soil, difficult to grow; requires winter protection; highly recommended for use with other broadleaf evergreens; should only be used in protected areas.

IX. Medium Evergreen Shrubs	PLANT CHARACTERISTICS						PLANT USES							
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	SCREENING	OPEN SPACE USE	COMMENTS
(Varieties) <i>Rhododendron</i> (Var)	E	Var	Var	Varied			Dense	X	X	X		X		Requires shade and protection from winter and wind damage; excellent plant where it will grow; blends well with other broadleaf evergreens.
<b>TAXUS X MEDIA</b> Anglojap Yew 'Brownii' 'Chadwickii' 'Densiformis' 'Hatfieldii' 'Hicksii' 'Wardii'	E	5' to 12'	Var	Varied	X	X	Very Dense	X	X	X		X	X	Can eventually grow to 10' tall if not pruned; responds extremely well to pruning and can be kept as low as 2' to 3' tall indefinitely; makes an excellent hedge.

## X. Small Evergreen Shrubs

X. Small Evergreen Shrubs	PLANT CHARACTERISTICS						PLANT USES							
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	SCREENING	OPEN SPACE USE	COMMENTS

<b>CHAMAECYPARIS OBTUSA</b> Hinoki Falsecypress 'Compacta' 'Grachs' 'Nana Gracillis'	E	5' TO 7'	5' TO 7'	Rounded		X	Very Dense		X			X	Straight species can grow to 60' or more in height; only cultivars are acceptable; thick, dark green foliage.
<b>LEUCOTHOE FONTANESIANA</b> Drooping Leucothoe	E	5' TO 7'	5' TO 7'	Weeping		X	Inter- mediate		X				Fountain-like appearance; intolerant of drought or winds; good undergrowth plant; broadleaf evergreen.
<b>PINUS MUGHO</b> Mugho Pine 'Compacta' var. mugho 'Slavinii'	E	5' TO 7'	5' TO 7'	Varied		X	Very Dense		X			X	Slow-growing; cultivars seldom become large enough to meet some landscape screening requirements; excellent low evergreen screens.

## XI. Low Evergreen Shrubs

XI. Low Evergreen Shrubs	PLANT CHARACTERISTICS						PLANT USES						COMMENTS	
	SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE		GROUND COVER
<b><i>BRUXUS MICROPHYLLA</i></b> Littleleaf Boxwood 'Compacta' var koreana 'Tide Hill' 'Wintergreen'	E	3' to 4'	3' to 4'	Rounded	X	X	Very Dense		X					Handsome, compact evergreen; protect from drying winds and very low temperatures; excellent hedge or screening.
<b><i>ILEX CRENATA</i></b> Japanese Holly 'Glory' 'Green Luster' 'Hellen' 'Hetzi'	E	2' to 4'	2' to 4'	Rounded to Spreading		X	Dense		X			X		Straight species is too large for this size group, numerous outstanding cultivars; possible need for winter protection depending on cultivar; excellent for a variety of uses.
<b><i>JUNIPERUS CHINENSIS</i></b> var. sargentii Sargents Chinese-Juniper	E	1.5' to 2.5'	7' to 9'	Wide-Spreading	X	X	Very Dense					X		One of the most adaptable junipers; salt-tolerant and blight resistant; excellent evergreen ground cover.
<b><i>JUNIPERUS HORIZONTALIS</i></b> Creeping Juniper 'Plumosa' 'Plumosa Compacta' 'Youngstown'	E	2' to 2.5'	6' to 10'	Wide Spreading	X	X	Very Dense					X		Compact evergreen form; one of the most popular junipers.

XI. Low Evergreen Shrubs	PLANT CHARACTERISTICS						PLANT USES							
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	GROUND COVER	OPEN SPACE USE	COMMENTS
<b>PICEA ABIES</b> Norway Spruce 'Nidformis'	E	3' to 5'	4' to 5'	Rounded to Wide Spreading			Very Dense		X					Straight species is too large for this size group; handsome birds' nest shaped evergreen.
<b>PRUNUS LAUROCERASUS</b> Common Laurelcherry 'Ohio Luyken' 'Rotundifolia' 'Zabeliana'	E	3' to 6'	3' to 6'	Rounded to Wide-Spreading			Dense		X					Broadleaf evergreen shrub; possible winter damage; handsome when used as a hedge; withstands pruning well.
<b>TAXUS BACCATA</b> English Yew 'Repandens'	E	2' to 4'	3' to 5'	Rounded to Wide-Spreading	X	X	Very Dense		X					Straight species exhibits frequent winter damage; 'Repandens' is a dwarf cultivar and is hardy.

## XII. Large Street Trees

XII. Large Street Trees		PLANT CHARACTERISTICS					PLANT USES							COMMENTS	
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING		OPEN SPACE USE
<b>ACER RUBRUM</b> Red Maple 'Armstrong' Autumn Flame' 'Columnar' 'October Glory' 'Red Sunset' 'Scarlet Sentinel'	D	40' to 60'	40' to 50'	Oval			X	7'+	X	X	X	X		X	Numerous cultivars are superior to the straight species and should be considered for use. Requires room to develop; won't tolerate heavily polluted urban streets; preferred food of Asian Longhorn Beetle. Surface roots for species diversity, too many already.
<b>ACER SACCHARUM</b> Sugar Maple	D	60' to 75'	50' to 60'	Rounded	X	X	X	7'+	X	x	X			X	One of the best larger lawn and shade trees; not for downtown or other crowded areas. Possible use in suburban areas as a street tree. Intolerant of road salt. Subspecies "Nigrum" is more drought tolerant.
<b>CELTIS LAEVIGATA</b> Sugar Hackberry	D	60' to 80'	50' to 60'	Rounded	X	X	X	7'+	X	X	X				Wonderful shade tree. Locate where mechanical injury unlikely; tends to rot if injured.
<b>CELTIS OCCIDENTALIS</b> Common Hackberry 'Chicagoland' 'Prairie Pride'	D	40' to 60'	40' to 60'	Rounded		X	X	7'+						X	Excellent wildlife tree. 'Prairie Pride' is immune to mite that causes witches' broom.
<b>CLADRATIS KENTUCKEA</b> Yellowwood	D	30' to 50'	40' to 50'	Vase Shaped			X	7'+	X	X	X			X	Excellent flowers and foliage; tolerates moist soil conditions; poor branching angles often require corrective pruning; surface roots.
<b>GLEDISTIA TRIACANTHOS var</b> Thornless Honey Locust 'Moriane' 'Shademaster' 'Skyline'	D	50' to 75'	30' to 50'	Rounded	X		X	7'+	X	X	X				Only thornless cultivars are acceptable; cultivars have less disease and insect problems than straight species; provides a light, filtered shade; widely used.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING		OPEN SPACE USE
<b>HALESIA TETRAPTERA</b> Carolina Silverbell	D	30' to 40'	20' to 35'	Oval to Rounded		X	X	5'+	X	X	X				Prefers rich, well drained, acid soils; intolerant of adverse conditions; often must be limbed to meet ordinance.
<b>LIQUIDAMBAR STYRACIFLUA</b> Sweetgum 'Festival' 'Moraine' 'Happidaze' 'Rotundiloba'	D	60' to 70'	40' to 50'	Pyramidal to Oval			X	8'+	X	X	X			X	Excellent tree for large areas; extensive root system needs room to develop; avoid polluted areas. Fruit can be considered a nuisance. Needs pH of 6.5 or less. 'Happidaze' and 'Rotundiloba' are almost fruitless.
<b>NYSSA SYLVATICA</b> Black Gum, Tupelo	D	30' to 50'	20' to 30'	Oval to Rounded	X	X	X	5'+	X	X	X	X		X	One of the most beautiful native trees; intolerant of high pH soils difficult to transplant.
<b>OSTRYA VIRGINIANA</b> Hophornbeam	D	25' to 40'	20' to 30'	Rounded	X	X	X	5'+	X	X	X	X		X	Good tree where space is limited; somewhat slow to establish; occasionally must be limbed. Lovely bark and foliage.
<b>QUERCUS ALBA</b> White Oak	D	60' to 100'	50' to 80'	Rounded	X	X	X	7'+	X	X	X			X	Drought Tolerant.
* <b>QUERCUS BICOLOR</b> Swamp White Oak	D	50' to 60'	50' to 55'	Rounded	X		X	7'+	X	X	X			X	Excellent floodplain tree. Good anywhere; drought tolerant.
<b>QUERCUS COCCINEA</b> Scarlet Oak	D	70' to 75'	40' to 50'	Pyramidal to Rounded	X	X	X	7'+	X	X	X				Difficult to locate commercially; outstanding ornamental tree; somewhat difficult to transplant.
<b>QUERCUS FALCATA</b> Southern Red Oak	D	70' to 80'	50' to 70'	Rounded	X	X	X	7'+						X	Tolerates some part shade. Grows well in sandy soils. Tolerates poor soils and drought. Also tolerates soils with brief flooding.
<b>QUERCUS IMBRICARIA</b> Shingle Oak	D	50' to 60'	40' to 60'	Oval to Rounded	X	X	X	7'+	X	X	X			X	Nice tree when allowed room to develop; easier to transplant than most oaks. Tolerates most adverse conditions.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING		OPEN SPACE USE
<i>QUERCUS MUEHLENBERGII</i> Chinkapin Oak	D	70' to 80'	80' to 100'	Rounded	X	X	X	7'+	X	X	X			X	Easily grown in average, medium, well-drained soils in full sun. Relatively good drought tolerance.
<i>QUERCUS NIGRA</i> Water Oak	D	50' to 80'	40' to 60'	Oval to Rounded	X	X	X	7'+	X	X	X			X	Used extensively in the South; adaptable to moist, wet sites; leaves persist into winter.
<i>QUERCUS PHELLOS</i> Willow Oak	D	40' to 60'	40' to 50'	Pyramidal to Oval	X	X	X	7'+	X	X	X			X	Very handsome tree; widely used in South; finer textured than other oaks.
<i>QUERCUS RUBRA</i> Northern Red Oak	D	60' to 75'	40' to 50'	Rounded	X	X	X	7'+	X	X	X			X	Widely used; fast growing oak; transplants easily; valuable for a variety of landscape uses.
<i>QUERCUS SHUMARDII</i> Shumard Oak	D	40' to 60'	40' to 50'	Rounded	X	X	X	7'+	X	X	X			X	Not widely known and difficult to find commercially. Excellent street tree
<i>TAXODIUM DISTICHUM</i> Bald Cypress 'Shawnee Brave'	D	50' to 70'	20' to 30'	Pyramidal	X	X	X	7'+	X	X	X			X	Often must be limbed up to meet ordinance requirements; handsome specimen tree.
<i>TILIA AMERICANA</i> American Linden	D	60' to 80'	30' to 60'	Rounded			X	7'+	X					X	Inferior to <i>T. cordata</i> , attracts birds and butterflies, Easily grown in average, medium moisture, well-drained soils in full sun to part shade. Tolerates some drought, Generally intolerant of air pollution and urban conditions.
<i>ULMUS PARVIFOLIA</i> Lacebark Elm	D	40' to 50'	40' to 50'	Rounded	X	X	X	7'+	X	X	X				Resistant to Dutch Elm disease; often confused with <i>U. pumila</i> , but is a much superior ornamental tree. Produces lots of seedlings, but doesn't seem to move to the woods. Aggressive root system, absorbs water, nutrients and space.

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<b>ACER BUERGERANUM</b> Trident Maple	D	30' to 35'	25'	Oval- Rounded to Round Rounded	X	X	X	5'+	X						Fall color; can be trained to a single trunk and limbed up; popular street tree.
<b>ACER CAMPESTRE</b> Hedge Maple	D	25' to 35'	25' to 35'	Rounded	X	X	X	5'+	X	X	X				Excellent medium-sized tree; useful in areas where space is limited; attractive dark green foliage.
<b>AESCULUS</b> Carnea 'Red Horse Chestnut'	D	30' to 40'	30' to 40'	Rounded	X		X	7'+	X						Foliage tends to scorch in dry conditions.
<b>CARPINUS BETULUS</b> European Hornbeam 'Asplenfolia' 'Columnaris' 'Fastigiata'	D	40' to 60'	30' to 50'	Oval		X	X		X	X	X			X	Must be limbed up to meet Landscape Ordinance requirements; outstanding specimen tree; there are many excellent cultivars that deserve use.
<b>CERCIDPHYLLUM JAPONICUM</b> Kastura Tree	D	40' to 50'	30' to 50'	Oval to Columnar	X	X	X	7'+	X	X	X	X			Limed up to meet ordinance requirements. Shallow roots. Drought intolerant; must be watered in a drought.
<b>CORYLUS COLUMA</b> Turkis Filbert	D	40' to 50'	20' to 30'	Pyramidal	X		X	5'+	X	X	X				Excellent street tree. full sun to part shade. Best in full sun. Tolerates average soils, but not unamended heavy clays. Newly planted trees need consistent moisture. Once established in the landscape, trees tolerate drought.
<b>EUCOMMIA ULMOIDES</b> Hardy Rubber Tree	D	40' to 50'	40' to 50'	Rounded	X	X	X	7'+	X	X	X	X			Virtually problem free; outstanding dark foliage; lacking in other ornamental qualities; excellent street tree. Very drought tolerant; must cut water sprouts.

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<b>GINGKO BILOBA</b> (Male Only) Ginkgo 'Autumn Gold' 'Fastigiata'	D	50' to 80'	30' to 50'	Pyramidal to Rounded	X	X	X	7'+	X	X	X				Good street tree, tolerates air pollution, Tolerant of a wide range of soil conditions,
<b>LARIX DECIDUA</b> European Larch	D	70' to 75'	25' to 35'	Pyramidal			X	7'+	X	X			X	X	Nice specimen tree for large areas; intolerant of adverse conditions; messy winter appearance; does well in wet areas; especially good for tough sites.
<b>METASEQUOIA GLYPTOSTROBOIDES</b> Dawn Redwood	D	70' to 100'	25'	Pyramidal to Conical	X	X	X	8'+	X	X			X		Can suffer from early freeze damage; should only be used in large areas; very adaptable. Limb up for street tree.
<b>PARROTIA PERSICA</b> Persian Parrotia	D	20' to 40'	15' to 30'	Oval	X	X	X	5'+	X	X	X				Outstanding bark and foliage color; needs shade, good soil, moisture.
<b>PHELLODENDRON AMURENSE</b> Cork Tree	D	30' to 45'	30' to 40'	Rounded	X	X	X	5'+	X	X	X				Withstands most adverse conditions, useful in largest settings. Male only for street tree, female is invasive.
<b>PLANTANUS x ACERIFOLIA</b> London Planetree 'Bloodgood'	D	70' to 100'	60' to 80'	Pyramidal to Rounded	X		X	8'+	X	X					Tolerates adverse conditions; best used in large areas because of size; disease and insect problems can be serious; surface roots; good tough street tree.
<b>QUERCUS ACUTISSIMA</b> Sawtooth Oak	D	35' to 45'	30' to 40'	Rounded	X	X	X	7'+	X	X	X			X	Slow growth rate limits use; lustrous dark green foliage; not widely known but deserves more use. Doesn't produce much fruit; remove lower branches as street tree.

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<b>STEPHANOBIUM JAPONICUM</b> Japanese Pagoda 'Princeton Upright'	D	30' to 40'	40' to 60'	Rounded	X		X	7'+	X	X	X				Excellent flowers; adaptable to moist conditions; good tree for a variety of uses; should be used more extensively. Beans are messy and discolor concrete.
<b>STYRAX JAPONICUS</b> Japanese Snowbell	D	20' to 30'	20' to 30'	Rounded	X		X	7'+	X						Likes good soil, uniform moisture and a bit of shade. Low branched.
<b>TILIA CORDATA</b> Littleleaf Linden 'Chancellor' 'Greenspire' 'June Bride'	D	60' to 70'	30' to 50'	Oval	X		X	7'+	X	X	X	X			Smaller leaves less messy and less prone to breakage than T. americana
<b>TILIA TORMENTOSA</b> Silver Linden 'Sterling'	D	50' to 70'	30' to 50'	Oval to Rounded	X		X	5'+	X	X	X	X		X	More drought tolerant and tolerant of alkaline soils; Japanese beetle less of a problem
<b>TILIA X EUCHLORA</b> Crimean Linden 'Redmond'	D	40' to 60'	20' to 30'	Oval	X	X	X	7'+	X	X	X	X			Low maintenance, full sun to part shade, purchase trees on their own roots, where available.
<b>ZELKOVA SERRATA</b> Japanese Zelkova 'Village Green'	D	50' to 80'	40' to 70'	Vase-shaped	X		X	7'+	X	X	X				Outstanding ornamental tree; has been used as a replacement for American Elm; tolerates wind and drought; excellent street tree, needs timely pruning.

### XIII. Medium Street Trees

XIII. Medium Street Trees	PLANT CHARACTERISTICS						PLANT USES								
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	STREET TREE	RECOMMENDED PLANTING STRIP WIDTH	PROPERTY PERMITTER	VEHICULAR USE AREA PERIMETER	VEHICULAR USE AREA INTERIOR	SIGHT TRIANGLE	INCOMPATIBLE LAND USE SCREENING	OPEN SPACE USE	COMMENTS
<b>ACER BUERGERANUMA</b> Trident Maple	D	30' to 35'	25'	Oval-Rounded to Round Rounded	X	X	X	5'+	X						Fall color; can be trained to a single trunk and limbed up; popular street tree.
<b>ACER CAMPESTRE</b> Hedge Maple	D	25' to 35'	25' to 35'	Rounded	X	X	X	5'+	X	X	X				Excellent medium-sized tree; useful in areas where space is limited; attractive dark green foliage.
<b>ACER TATARICUM</b> <i>var. Ginnala</i> Amur Maple	D	15' To 18'	15' To 20'	Rounded	X	X	X	7'+	X	X	X			X	Handsome multi-stemmed shrub tree; withstands heavy pruning; inconsistent fall color; very adaptable; tough.
<b>AMELANCHIER ARBOREA</b> Downy Serviceberry	D	25' to 30'	10' to 15'	Rounded			X	5'+	X	X			X		Does best in naturalistic planting. Only single trunks allowed for street trees.

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<b>CARPINUS CAROLINIANA</b> American Hornbeam	D	20' to 30'	20' to 30'	Rounded		X	X	5'+	X	X	X				X Full sun to partial shade; often must be limbed up to meet ordinance requirements; tolerates moist, well drained soils, interesting native tree. Can be low branched; limb up in nursery; surface roots.
<b>CHIONANTHUS VIRGINICUS</b> White Fringetree	D	15' to 30'	15' to 30'	Broadly Rounded	X	X	X	7' +	X	X	X		X		Probably best with some afternoon shade.
<b>CRATAEGUS X LAVALLEI</b> Lavelle Hawthorn	D	15' to 25'	10' to 20'	Oval	X		X	7'+	X	X	X	X	X		Small dense tree, essentially thornless; normally must be limbed up to meet ordinance regulations;
<b>MAACKIA AMURENSIS</b> Amur Maakia	D	20' to 30'	25'	Rounded	X	X	X	5'+							Narrow diameter trunk; remove low branches.
<b>STYRAX JAPONICUS</b> Japanese Snowbell	D	20' to 30'	20' to 30'	Rounded	X		X	7'+	X						Likes good soil, uniform moisture, and a bit of shade. Low branched.

#### XIV. Ground Cover

XIV. Ground Cover	PLANT CHARACTERISTICS						PLANT USES							
SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	GROUND COVER	OPEN SPACE USE	COMMENTS
<b>AJUGA GENEVENSIS</b> Geneva Bugle	E	4" to 12"	Var	Wide-Spread	X	X	Dense					X		Tolerates sun or shade; evergreen; easily crushed if walked on.
<b>AJUGA REPTANS</b> Carpet Bugle	E	4" to 12"	Var	Wide-Spread	X	X	Dense				X	X		Very adaptable; numerous outstanding cultivars; excellent evergreen ground cover.
<b>ARCTOSTAPHYLOS UVA-URSI</b> Bearberry	D	6" to 12"	2' to 4'	Wide-Spread	X	X	Dense				X	X		Thick, broad, evergreen mat; does best in poor sandy soils; excellent ground cover for adverse situations.
<b>*BIGNONIA CAPREOLATA</b> Crossvine	E	Var	Var	Climbing Vine	X	X	Intermediate				X	X		Attracts hummingbirds, tolerates heavy shade, but flowers best in full sun or partial sun.
<b>CALLUNA VULGARIS</b> Scotch Heather	D	4" to 24"	2' to 3'	Wide-Spread	X	X	Dense				X	X		Requires rich, acid soil; very exacting cultural requirements; only lower growing cultivars are acceptable for use in sight triangle; one of the most beautiful ground covers.
<b>*CAMPSIS RADICANS</b> Trumpet creeper	D	Var	Var	Climbing Vine	X	X	Dense						X	Native but has a tendency to take over an area.

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<b>*CELASTRUS SCANDENS</b> American Bittersweet	D	Var	Var	Twining Vine	X	X	Intermediate						X	Low maintenance, attracts birds, mature vines require little pruning
<b>*CLEMATIS VIRGINIANA</b> Virginsbower	D	Var	Var	Climbing Vine	X	X	Intermediate				X	X		Low maintenance, full sun to part shade, species will thrive and bloom in considerable shade, can spread aggressively
<b>COTONEASTER ADPRESSA</b> Creeping Cotoneaster	D	12" to 18"	4' to 6'	Wide-Spread	X	X	Intermediate				X	X		Handsome horizontal branching; roots where branches touch the soil.
<b>COTONEASTER DAMMERI</b> Bearberry Cotoneaster 'Skogholm'	D	12" to 18"	6' to 8'	Wide-Spread	X		Intermediate				X	X		Branches creep along the ground; vigorous and fast growing; excellent ground cover.
<b>ERICA CARNEA</b> Spring Heath	D	6" to 18"	2' to 3'	Wide-Spread	X		Dense				X	X		Seldom grows over 12" tall; fine textured evergreen ground cover; similar to C. vulgaris.
<b>FORSYTHIA VIRIDISSIMA</b> Bronze Forsythia 'Bronxensis'	D	12" to 18"	2' to 3'	Rounded to Wide-spreading	X	X	Intermediate				X	X		Straight species is too large for use; 'Bronxensis' is a dwarf cultivar; excellent foliage and early spring flowers.
<b>*GAYLUSSACIA BRACHYCERA</b> Box Huckleberry	E	6" to 18"	Indef.	Dwarf Wide-spread	X	X	Dense				X	X		Requires acid, well-drained soil; full sun to partial shade.

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<b>HYPERICUM CALYCINUM</b> St. Johnswort	D	12" to 18"	18" to 24"	Rounded to Wide-spread	X	X	Intermediate				X	X	X	Experiences frequent winter damage.
<b>JUNIPERUS CONFERTA</b> Shore Juniper 'Blue Pacific' 'Emerald Sea'	E	12" to 18"	6' to 9'	Wide-spread	X	X	Very Dense				X	X		Possible winter damage; very adaptable; one of the most handsome juniper ground covers.
<b>JUNIPERUS HORIZONTALIS</b> Creeping Juniper 'Bar Harbor' 'Blue Chip' 'Blue Mar' 'Douglasi' 'Procumbens' 'Wiltoni'	E	12" to 24"	4' to 8'	Wide-spreading	X	X	Very Dense				X	X		Only lowest cultivars are acceptable for use in sight triangle; very adaptable; excellent for any dry, sunny area; numerous outstanding cultivars.
<b>JUNIPERUS SABINA</b> Savin Juniper 'Arcadia' 'Broadmoor' var tamariscifolia	E	12" to 18"	3' to 5'	Wide-spreading	X	X	Very Dense				X	X		Straight species is of little value, but numerous outstanding cultivars; withstands adverse conditions.
<b>LIRIOPE MUSCARI</b> Liriope	E	12" to 18"	Var	Wide-spreading	X	X	Intermediate				X	X		Tolerates almost any type of adverse condition; attractive, fine-textured grass-like appearance.

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<b>*PACHISTIMA CANBYI</b> Pachistima (Mountain Lover)	E	4" to 12"	Var	Wide-Spreading	X	X	Inter-mediate				X	X	X	Low maintenance, Best grown in organically rich, well-drained soils in part shade. Tolerates full sun. Thrives in rocky-sandy soils.
<b>PACHYSANDRA TEMINALIS</b> Japanese Spurge	E	1" to 10"	Var	Wide-Spreading	X	X	Inter-mediate				X	X		Foliage tends to bleach when grown in too much sun. Plants thrive in sun dappled shade under large trees, spread by rhizomes to form large colonies
<b>PARthenocissus TRICUSPIDATA</b> Boston Ivy	E	4" to 6"	2.5' to 3.5'	Wide-Spreading	X	X	Inter-mediate				X	X		Fast growing evergreen vine; likes partial shade and will cling to wall and fences.
<b>ROSA WICHURIANA</b> Memorial Rose	D	12"+	Var	Wide-Spreading	X	X	Inter-mediate				X	X		Semi-evergreen ground cover or vine; excellent for preventing soil erosion.
<b>SPIREA JAPONICA VAR. ALPINE</b>	D	8" to 12"	2' to 3'	Rounded to Wide-Spreading	X		Inter-mediate				X	X		Very fast growing delicate. Fine-textured plant; handsome pink flowers.
<b>THYMUS SERPHYLLUS</b> Mother-of-thyme	D	1" to 3"	Var	Wide-Spreading	X	X	Inter-mediate				X	X		Often dies back in winter and is used as a perennial.

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SCIENTIFIC NAME Common Name 'Cultivar'	PLANT TYPE	HEIGHT	SPREAD	FORM	URBAN TOLERANT	DISEASE AND INSECT TOLERANT	DENSITY	PROPERTY PERIMETER SCREENING	VEHICULAR USE AREA PERIMETER	SERVICE AREA SCREENING	SIGHT TRIANGLE	GROUND COVER	OPEN SPACE USE	COMMENTS
<b>VINCA MINOR</b> Periwinkle	D	3" to 6"	Var	Wide-Spreading	X		Inter-mediate				X	X		Excellent evergreen ground cover; handsome lilac blue flowers.
<b>*WISTERIA FRUTESCENS</b> American Wisteria	D	Var	Var		X	X	Inter-mediate				X	X		Full sun, Vines need regular pruning(s) in order to control size and shape of the plant and to encourage flowering.
<b>*XANTHORHIZA SIMPLICISSIMA</b> Yellowroof	D	12" to 24"	Var	Wide-Spreading		X	Inter-mediate					X		Suckers freely from roots; good ground cover for moist areas.

### 15.07 C. Unacceptable Plant List

I. TNS/ Invasive Species - Severe Threat		
SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<b><i>Ailanthus altissima</i></b>	Tree of Heaven	This tree produces extensive suckers from its roots and has been known to lift sidewalks and crack pavement up to 50' from the trunk.
<b><i>Alliaria petiolata</i></b>	Garlic Mustard	Most abundant in basic soils but spreading elsewhere; A serious pest of mesic forest and woodland; Highly disruptive to ecological systems and species
<b><i>Carduus nutans</i></b>	Musk Thistle	Across the state, most abundant on base-rich soils; Largely a disturbing ground/Ag weed, but with potential to invade natural grassland/woodland (not forest); prolific seeder; chemical control must be timed correctly because seed can ripen in treated heads
<b><i>Celastrus orbiculata</i></b>	Oriental Bittersweet	Across the state, most abundant on base-rich soils; rapidly spreading; Bird and people spread; measures to prevent its use in decorations needed; can form large thickets: usually open ground, but can invade the forest, woodland; threatens native bittersweet's gene pool

## I. TNS/ Invasive Species - Severe Threat

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Conium maculatum</i>	Poison Hemlock	Widespread in KY; Forms large patches that choke out native spp., can poison livestock
<i>Coronilla varia</i>	Crown vetch	Widespread, widely planted on roadsides; for erosion control; Forms monocultures that choke out most other species; fire promoted; especially prolific on base-rich soils; can invade grasslands, open forest, woodlands; threatening federally listed sp.
<i>Dioscorea oppositifolia</i>	Chinese yam	Widespread in KY; Serious pest of an open, mesic forest, woodland, riparian areas; plowing, disking, etc. spread it through fields and field to field; forms DENSE choking monocultures.
<i>Elaeagnus umbellata</i>	Autumn Olive	Widespread in KY; Most planted (mine areas, roadsides, w/l openings), and escaped; can form dense thickets under which little grows; persists under a canopy; bird spread
<i>Euonymus alatus</i>	Winged Euonymus, Burning Bush	Widespread in KY; Widely cultivated and escaped; bird spread; will establish in open or closed habitat and can form dense thickets
<i>Euonymus fortunei</i>	Winter Creeper	Widespread in KY; Widely cultivated and escaped; bird spread; will establish in open or closed habitat and can form dense thickets; high climber and can choke trees
<i>Festuca arundinacea</i> or <i>Lolium arundinaceum</i>	Kentucky 31 fescue	Widespread; Serious invader of grasslands/glades; threatens federally endangered sp.; can be damaging to wildlife and livestock
<i>Hibiscus syriacus</i>	Rose of Sharon	This prolific seeder has a deep taproot that is difficult to remove once the plant is 2-3 years old. It has escaped intended plantings to invade, crowd out and displace more desirable native plants. (sterile varieties are available)
<i>Lespedeza cuneata</i>	Sericea Lespedeza	Serious pest in grasslands; responds well to prescribed fire
<i>Ligustrum sinense</i> , <i>L. vulgare</i>	Chinese Privet	Throughout KY, but scattered; Widely planted for ornament and escaping; serious pest of wet to mesic forest systems; can establish under a canopy; bird spread, capable of forming regen killing thicket
<i>Lonicera japonica</i>	Japanese Honeysuckle	Widespread in KY; Serious pest in forests, open habitats too; chokes out native veg
<i>Lonicera maackii</i> , <i>L. morrowi</i> , <i>L. tatarica</i>	Amur/Bush Honeysuckle, Morrow's	Across KY, most abundant in base-rich soil areas; Invades disturbed ground and open forest; rapid growth; forms dense colonies prolific sprouted; rapid spread; prolific seeder (wind) Aggressive, rapidly spreading (birds) shrub/small tree which forms dense vegetation excluding (including trees) thickets under a tree canopy or in open
<i>Lythrum salicaria</i> L.	Purple Loosestrife	This aggressive invader replaces native vegetation, degrades wildlife habitat, and obstructs natural waterways.

## I. TNS/ Invasive Species - Severe Threat

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Melilotus alba</i>	White Sweet Clover	Across KY, most abundant in base-rich soil areas; Widely grown for forage; w/l openings, mine reclamation; extremely difficult to eradicate from thin gravelly or rock soils (such as glades); fire scarified seed so potential problem for grasslands, woodlands
<i>Melilotus officinalis</i>	Yellow Sweet Clover	Across KY, most abundant in base-rich soil areas; Widely grown for forage; w/l openings, mine reclamation; extremely difficult to eradicate from thin gravelly or rock soils (such as glades); fire scarified seed so a potential problem for grasslands, woodlands
<i>Microstegium vimineum</i>	Japanese Stilt Grass	The species spreads by seed. It flowers in late summer, and the small, abundant seeds can float and readily move with wildlife. It normally establishes on disturbed areas, both natural and manmade, and can tolerate a range of soil conditions.
<i>Miscanthus sinensis</i>	Chinese Silver Grass	Across KY, scattered, locally abundant; Aggressive, rapidly spreading (windblown seed); forms dense colonies excluding other vegetation; an extreme fire hazard in late fall/winter/early spring; invades open disturbed ground, grasslands, woodlands, and open forest; fire promoted, so of concern for Rx burn areas
<i>Paulownia tomentosa</i>	Princess Tree	Across KY, scattered, locally abundant; Generally, along roadsides, open areas, but can establish in the forest after a fire, wind events, etc.; prolific seeder (gravity, wind) and sprouted
<i>Phragmites australis</i>	Common Reed	invades a site it quickly can take over a marsh community, crowding out native plants, changing marsh hydrology, altering wildlife habitat, and increasing fire potential. Native plant species that are adapted to local conditions should be used in restoration projects and as a substitute for Phragmites erosion control practices.
<i>Polygonum cuspidatum</i>	Japanese Knotweed	Initially useful for erosion control, as an ornamental, and for landscape screening, Japanese knotweed spreads quickly to form dense thickets that can alter natural ecosystems or interfere with landscaping.
<i>Pyrus calleryana</i>	Callery Pear	Throughout KY, scattered, locally abundant; Widely planted street/yard tree; bird spread primarily starlings; establishes in open disturbed ground-roadsides, waste areas, fields, but also in grasslands and woodlands; tolerant of fire (good resprouter); expansion currently rapid; While this species group has been commonly used in the past in private and public landscaping, it exhibits problems with branch separation from the main trunk.
<i>Pueraria lobata</i>	Kudzu	This aggressive vine can grow 60 feet per year forming a continuous blanket of foliage. This massive covering often chokes out-competing native vegetation that provides food and habitat for native animals. The result is a large-scale alteration of biotic communities. Kudzu is also a problem in forest-agriculture and landscaping.
<i>Rosa multiflora</i>	Multiflora Rose	Statewide; Problem in forest openings, woodlands, and grasslands – seeds spread by birds; persistent in forests
<i>Sorghum halepense</i>	Johnson Grass	Widespread; Invades grasslands and woodlands from adjacent ag and roadside locations; difficult to control

### I. TNS/ Invasive Species - Severe Threat

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Stellaria media</i>	Chickweed	Primarily a species of disturbed, open ground, but can spread into forest settings and displace natives-extremely difficult to eradicate/control in this case without damage to natives

### II. TNS/ Invasive Species- Significant Threat

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Akebia quinata</i>	Chocolate Vine	Is able to invade forested habitats because it is shade tolerant. The dense mat of vines formed can displace native understory species. It can also climb into, smother, and kill small trees and shrubs.
<i>Albizia julibrissin</i>	Mimosa	Strong competitor with native trees and shrubs in open areas or forest edges as it can grow in a variety of soils, produce large seed crops, and re-sprout when damaged. Can become a serious competitor along riparian area. This tree is weak wooded, and messy with seed pods littering the ground. It is disease and insect intolerant.
<i>Arthraxon hispidus</i>	Jointhead Grass	It can form dense stands, particularly along shorelines that may threaten native vegetation. Jointhead grass often occurs with another highly invasive annual grass species, Japanese stilt grass
<i>Arctium minus</i>	Common Burdock	Can become a problematic invader of pastures, hay fields and open prairie ecosystems. It acts as a secondary host for pathogens, such as powdery mildew and root rot, which affect economically important plants. Reduces the value of sheep's wool due to the seed heads entangling in it. It is responsible for tainting milk products if grazed in large quantities.
<i>Berberis thunbergii</i>	Japanese Barberry	Is most problematic in mature forest communities in the eastern United States, where it often forms dense thickets. It occurs in upland and riparian settings, wetlands, pastures, and meadows
<i>Bromus inermis</i>	Smooth Bromegrass	Largely in high-base soils areas, but scattered throughout KY; Strongly rhizomatous and quickly forms monoculture; especially of concern for prairie areas, pasture
<i>Centaurea biebersteinii</i>	Spotted Knapweed	Across state, prefers baserich soil; Spreads rapidly, difficult to eradicate; invades grasslands easily; promoted by fire—will invade open forest, woodland
<i>Chrysanthemum leucanthemum</i>	Ox-eye Daisy	The plants have been shown to carry several crop diseases. It can thrive in a wide variety of soil types and can grow in sun to partial shade.
<i>Cirsium arvense</i>	Canada Thistle	Produce large numbers seeds, distribution in agricultural landscapes
<i>Daucus carota</i>	Queen Anne's Lace	Widespread; Serious pest in native grasslands/glades

## II. TNS/ Invasive Species- Significant Threat

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Dipsacus sylvestris</i>	Common Teasel	mainly a weed of pastures and roadsides, it sometimes also grows in natural communities and forms a large basal rosette of leaves in the early stages of growth. This rosette of leaves can cover a large area and shade other ground-dwelling plants nearby
<i>Eleusine indica</i>	Goose Grass	dominant weed" especially in farming systems and annual row-crops where it grows vigorously and produces abundant seedlings; invades disturbed habitats in natural areas and the margins of natural forests and grasslands, marshes, stream banks and coastal areas
<i>Glechoma hederacea</i>	Ground Ivy	Weedy and invasive; toxic to horses if they consume a large amount of fresh material or hay;
<i>Hedera helix</i>	English Ivy	aggressive invader threatening all levels of forested and open areas, growing along the ground as well as into the forest canopy. Vines climb up tree trunks and envelop branches and twigs, blocking sunlight from the host tree's foliage, impeding photosynthesis. An infested tree will exhibit decline for years before it dies. The weight of vines also makes trees susceptible to blowing over in storms. This plant has been confirmed as a reservoir for bacterial leaf scorch ( <i>Xylella fastidiosa</i> ), which affects a wide variety of trees
<i>Ipomoea hederacea</i>	Ivy-Leafed Morning-Glory	Considered a troublesome weed
<i>Ipomoea purpurea</i>	Purple Morning-Glory	Entwines around structures with tiny stems, grows to a height of 6' – 9' tall
<i>Lespedeza bicolor</i>	Bicolor Lespedeza	Across KY; Much planted with mine reclamation and in w/l openings; a serious pest in areas where Rx fire used as in grassland, forest or woodland; fire scarified seed and enhanced plant; forms dense thickets that can choke regen trees and native species
<i>Lespedeza stipulacea</i> (= <i>Kummerowia</i> )	Korean Lespedeza	Throughout KY, Widely planted for wildlife; Highly invasive in disturbed sites such as roadsides, lawns, waste areas and areas under Rx burn such as grassland, woodland
<i>Lespedeza striata</i> (= <i>Kummerowia</i> )	Kobe lespedeza	Throughout KY, Widely planted for wildlife; Highly invasive in disturbed sites such as roadsides, lawns, waste areas and areas under Rx burn such as grassland, woodland
<i>Mentha piperata</i>	Mint	An aggressive spreader: can overtake native plants if released near woodlands
<i>Morus alba</i>	White Mulberry	The mulberries are unsuitable because of the fruit that they produce, which is flesh and extremely messy.
<i>Mosla dianthera</i>	Miniature Beefsteak	prefers wet habitats such as marshes and roadside ditches.
<i>Ornithogalum umbellatum</i>	Star-of-Bethlehem	Plants can be aggressive spreaders in the garden (multiply by bulbils), and will quickly naturalize garden areas, often escaping into the wild.

## II. TNS/ Invasive Species- Significant Threat

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Poa pratensis</i>	Bluegrass	is considered an invasive weed in natural grassland ecosystems where it outcompetes native species and reduces biodiversity and alters nitrogen cycling and ecosystem function
<i>Polygonum cespitosum, persicaria</i>	Bunchy Knotweed, Lady's Thumb	occurs in disturbed habitats such as along roadsides and in pastures. Plants also inhabit wet areas.
<i>Populus (all)</i>	Poplar	All poplars are unacceptable because they are disease prone and weak wooded.
<i>Setaria faberi, viridis</i>	Giant Foxtail, Green Foxtail	Plants invade disturbed sites such as roadsides, landfills, fence rows, and right of ways.
<i>Spiraea japonica</i>	Japanese spiraea	Invades a variety of habitats including fields, forests, stream banks, and many disturbed areas. Once established, it can form dense stands that displace native vegetation and close open areas.
<i>Vinca minor</i>	Lesser Periwinkle	inhabits open to shady sites including forests and often escapes from old homesites. Vinca minor grows vigorously and forms dense and extensive mats along the forest floor, displacing native herbaceous and woody plant species

## III. Other Unacceptable Plants and Trees

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Acer negundo</i>	Box Elder	Flowers are borne in messy tassel-like clusters
<i>Acer saccharinum</i>	Silver Maple	The use of this tree should be tempered because of its extensive shallow root system that will cause drain tiles to clog and sidewalks to buckle. The tree is also weakly wooded which causes it to become a liability with age; often becomes too large for a street tree.
<i>Aesculus hippocastanum</i>	Horse Chestnut	These trees are all very messy, which is caused by the large fruit and low rate of leaf drop. None of these trees are hardy in a restricted area and therefore they should not be used in an urban area.
<i>Betula papyrifera</i>	Paper Birch	Susceptible to Bronze Birch Borer. Life expectancy in a site with some stress (i.e. street tree) is short in urban areas.
<i>Betula pendula</i>	European White Birch	This tree is very popular, unfortunately, the leaf miner and bronze Birch Borer are serious pests. Since most property owners will not take the necessary precautions it is advisable not to use this plant to meet any landscaping requirements. This tree is also intolerant of urban stress, short-lived with low branching pattern.

### III. Other Unacceptable Plants and Trees

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Fraxinus species</i>	Anything in Fraxinus Sp. Genus	The Emerald Ash Borer kills these trees.
<i>Ginkgo biloba (Female)</i>	Ginkgo	The female of this species is unacceptable anywhere because of its fruit. The fleshy seed is extremely messy and malodorous. Males are ok.
<i>Gleditsia triacanthos</i>	Common Honey Locust	This tree is too thorny for use in the urban environment to meet the ordinance requirements. Note that thornless varieties are OK (listed above).
<i>Gymnocledus dioica</i>	Kentucky Coffee Tree (Female)	Has very large seed pods and is messy.
<i>Juglans species</i>	Walnut	Messy seed pods.
<i>Kalopanax pictus</i>	Castor Aralia	A good shade tree, but excessive thorns make this tree unacceptable.
<i>Maclura promifera</i>	Osage Orange	Female flowers ripen to become a large, spherical syncarp (clustered fruit) weighing up to 2 lbs. Individual fruit looks similar to an orange and can be up to 4" in diameter.
<i>Morus rubra</i>	Red Mulberry	The mulberries are unsuitable because of the fruit that they produce, which is flesh and extremely messy.
<i>Pinus nigra</i>	Austrian Pine	Highly susceptible to Diploda tip blight
<i>Pinus sylvestris</i>	Scotch Pine	Not suitable for underplanting or shelterbelts. Variable hardiness, habitat, and adaptability.
<i>Platanus occidentalis</i>	American Sycamore	Disease and insect problems can be serious.
<i>Pseudotsuga menziesii</i>	Douglas Fir	Many disease problems. Not suitable for dry, windy areas or underplanting or windbreaks.
<i>Quercus palustris</i>	Pin Oak	Highly susceptible to Bacterial Leaf Scorch.
<i>Robinia pseudoacacia</i>	Black Locust	Very prolific and can out-compete other native plants, thorny.
<i>Catalpa bignonioides</i>	Southern Catalpa	Because of its weak wood and its fruit, this tree is too messy to warrant its use except in open areas.
<i>Malus sp.</i>	Crabapple	This tree is weedy and its fruit is too large to warrant the use of this tree to meet ordinance requirements. Some varieties are susceptible to disease.
<i>Salix babylonica</i>	Weeping Willow	Messy (always dropping small branches), weak wooded, susceptible to canker (disease), taps sewer and water lines but is beneficial in stormwater management.

### III. Other Unacceptable Plants and Trees

SCIENTIFIC NAME	COMMON NAME 'CULTIVAR'	COMMENTS
<i>Sorbus sp.</i>	Mountain Ash	These trees are susceptible to a host of diseases and pests that should temper its use. Not recommended as a street tree because it is not urban tolerant and it has fleshy seed pods. Best used in open lawn areas for private use.
<i>Aralia spinosa</i>	Devil's Walking Stick	Vigorous spreader which can be a maintenance problem.
<i>Eleagnus angustifolia</i>	Russian Olive	Short lived
<i>Euonymus kiautschovica</i>	Spreading Euonymus	Susceptible to severe winter damage or death.
<i>Ilex cornuta</i>	Chinese Holly	Some leaves bear sharp strong spines making this shrub unacceptable to meet the requirements of this ordinance.
<i>Laburnum x watereri</i>	Golden Chain Tree	Flowers (the main reason for growing plants) do not survive winters and seeds are poisonous.
<i>Prunus cerasifera (straight species)</i>	Cherry Plum (straight species)	These trees experience serious disease problems and are pollution sensitive.
<i>Prunus persica</i>	Peach	These trees experience serious disease problems and are pollution sensitive.
<i>Rhamnus catharica</i>	Common Buckthorn	Dieback on compacted, waterlogged, or heavy soils. Susceptible to winter dieback.
<i>Rhamnus frangula</i>	Glossy Buckthorn	This shrub experiences serious disease problems and tends to become weedy because birds drop seeds. It also has problems surviving in areas with heavy traffic because of soil compaction. On the watch list for invasive species.
<i>Staphylea trifolia</i>	American Bladdernut	This shrub suckers extensively. Unless it is maintained properly it tends to become very weedy.
<i>Vitex angus-castus</i>	Chastletree	The Chastletree is not hardy in this region.
<p>Information gathered from:</p> <p><a href="https://eec.ky.gov/Natural-Resources/Forestry/forest-health/Pages/Invasive-Plant-Threats.aspx">https://eec.ky.gov/Natural-Resources/Forestry/forest-health/Pages/Invasive-Plant-Threats.aspx</a></p> <p><a href="https://www.se-eppc.org/ky/KYEPPC_2013list.pdf">https://www.se-eppc.org/ky/KYEPPC_2013list.pdf</a></p> <p><a href="https://www.se-eppc.org/ky/list.htm">https://www.se-eppc.org/ky/list.htm</a></p> <p><a href="https://fw.ky.gov/More/Documents/KYTerrestrialNuisanceSpeciesPlan.pdf">https://fw.ky.gov/More/Documents/KYTerrestrialNuisanceSpeciesPlan.pdf</a></p>		