

In the continued effort to examine and modernize the Zoning Ordinance following the adoption of the 2018 Comprehensive Plan, Planning staff is currently bringing forward Zoning Ordinance Text Amendments to consolidate all parking regulations to one location (Article 16), incorporate parking design standards, eliminate minimum parking requirements, as well as to increase tree canopy and vehicular use area screening requirements for parking lots.

Lexington's existing parking regulations currently push developments further apart, requiring more short vehicle trips that create congestion and make the community less walkable. The land use patterns created by these regulations continue to have a substantial negative impact on air quality, stormwater runoff and urban heat islands. The proposed regulations address the long term land use patterns, while also improving near term development standards for buffering against adjacent land uses, and substantially enhancing our tree canopy in parking lots. Finally, high parking requirements add significant costs to all types of new development including housing, and in some cases make new development infeasible altogether. These proposed regulations will provide flexibility to support much needed new housing construction in Lexington.

The proposed text amendment is consistent with and supported by many of the Themes, Policies, Goals and Objectives of the 2018, as follows:

#### **Policies:**

**Theme A, Design Policy #5:** Provide pedestrian-friendly street patterns and walkable blocks to create inviting streetscapes.

**Theme A, Design Policy #7:** Provide car parking areas so as not to be the primary visual component of the neighborhood.

**Theme B, Sustainability Policy #3:** Encourage transit-oriented development, increase density along major corridors and in the Infill and Redevelopment Area to support transit ridership; thus reducing vehicle miles traveled.

**Theme B, Sustainability Policy #5:** Reduce/discourage vehicle-oriented development patterns, such as drive-through businesses within the Urban Service boundary, especially in the urban core areas. Reduce parking footprints.

**Theme B, Restoration Policy #4:** Improve air quality by reducing vehicle miles traveled (VMT).

**Theme C, Prosperity Policy #10:** Encourage flexible parking and shared parking arrangements.

**Theme D, Placemaking Policy #3:** Establish design standards for Placemaking.

**Theme E, Growth Policy #9:** Support the "Missing Middle Housing" types throughout Lexington.

#### **Goals and Objectives:**

**Theme A, Goal #1:** Expand housing choices.

**Theme A, Goal #1.a:** Pursue incentives and regulatory approaches that encourage creativity and sustainability in housing development.

**Theme A, Goal #1.b:** Accommodate the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types.

**Theme A, Goal #1.c:** Plan for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents.

**Theme A, Goal #1.d:** Create and implement housing incentives that strengthen the opportunities for higher-density and housing affordability.

**Theme A, Goal#2:** Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.

**Theme A, Goal #2.b:** Respect the context & design features of areas surrounding development projects & develop design standards & guidelines to ensure compatibility with existing urban form.

**Theme A, Goal #2.c:** Incorporate adequate greenspace and open space into all development projects, which serve the needs of the intended population.

**Theme A, Goal #3:** Provide well-designed neighborhoods & communities.

**Theme A, Goal #3.a:** Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing through Lexington-Fayette County.

**Theme A, Goal #3.b:** Strive for positive & safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians & various modes of transportation.

**Theme A, Goal #3.d:** Promote, maintain, and expand the urban forest throughout Lexington.

**Theme B, Goal #2:** Reduce Lexington-Fayette County's carbon footprint.

**Theme B, Goal #2.c:** Provide incentives for green building, sustainable development, and transit-oriented development with civic agencies leading by example through the use of green building standards.

**Theme B, Goal #2.d:** Prioritize multimodal options that de-emphasize single-occupancy vehicle dependence.

**Theme B, Goal #3:** Apply environmentally sustainable practices to protect, conserve & restore landscapes & natural resources.

**Theme B, Goal #3.c:** Incorporate green infrastructure principles in new plans and policies, including, but not limited to, land use and transportation.

**Theme D, Goal #1:** Work to achieve an effective & comprehensive transportation system.

**Theme D, Goal #1.a:** Support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles.

**Theme D, Goal #1.b:** Develop a viable network of accessible transportation alternatives for residents and commuters, which may include the use of mass transit, bicycles, walkways, ride-sharing, greenways and other strategies.

**Theme D, Goal #1.c:** Concentrate efforts to enhance mass transit along our corridors in order to facilitate better service for our growing population, as well as efficiencies in our transit system.

**Theme D, Goal #2:** Support a model of development that focuses on people-first to provide accessible community facilities and services to meet the health, safety & quality of life needs of Lexington-Fayette County's residents and visitors.

**Theme D, Goal #3:** Protect and enhance the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image.

**Theme D, Goal #3.b:** Incentivize the renovation, restoration, development and maintenance of historic residential and commercial structures.

**Theme D, Goal #3.c:** Develop incentives to retain, restore, preserve and continue use of historic site and structures, rural settlements and urban and rural neighborhoods.

**Theme E, Goal #1.b:** Ensure all types of development are environmentally, economically, and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land.

**Theme E, Goal #1.c:** Emphasize redevelopment of underutilized corridors.

**Theme E, Goal #1.d:** Maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features.

**Timeline:**

- July 13** Notice mailing
- August 4** Planning Commission Zoning Committee meeting
- August 25** Planning Commission public hearing
- September 9** Final report sent to Council



**STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT**

**PLN-ZOTA-22-00014: AMENDMENT TO UPDATE PARKING REQUIREMENTS AND REVISE ARTICLES 1, 3, 8, 9, 10, 11, 16, 18, 21, 23, AND 28 OF THE LFUCG ZONING ORDINANCE**

APPLICANT: Urban County Planning Commission

PROPOSED TEXT: See attached documentation  
(Note: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

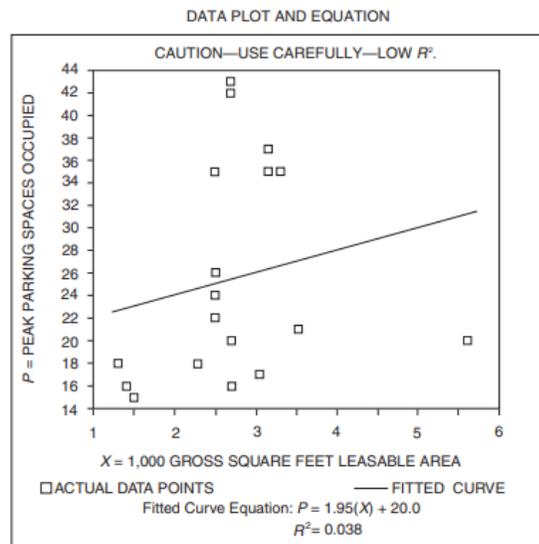
**STAFF REVIEW:**

Minimum parking requirements are as old as zoning. The first minimum parking requirement was established in 1923 in Columbus, Ohio; a year after they instituted zoning. The pattern was repeated time again as communities created their own zoning policies. By the 1950s, minimum parking requirements were a staple of urban planning. City after city adopted these practices and Lexington was no different. Lexington’s first minimum parking requirement that could be readily acknowledged was in the 1953 Zoning Ordinance.

Further entrenchment of minimum parking requirements took place over the following decades with the establishment and utilization of parking generation manuals from the Institute of Traffic Engineers (ITE). These ITE manuals, updated periodically, attempt to define for a range of over 100 land uses the number of parking spaces that are occupied at peak times. It further contrasts those counts against the leasable area, suggesting a connection between the size of a building and its parking utilization.

**FIGURE 2 Fast Food Restaurant with Drive-In Window (Land Use 836)**  
Peak Parking Spaces Occupied vs:  
1,000 Gross Square Feet Leasable Area  
On a: weekday

| PARKING GENERATION RATES |                |                    |                   |                                 |
|--------------------------|----------------|--------------------|-------------------|---------------------------------|
| Average Rate             | Range of Rates | Standard Deviation | Number of Studies | Average 1,000 GSF Leasable Area |
| 9.95                     | 3.55-15.92     | 3.41               | 18                | 3                               |



Institute of Transportation Engineers, *Parking Generation*, 2<sup>nd</sup> edition (Washington, DC: 1987), p. 146.



The figure above is from an early ITE Parking Generation manual for a very common Drive Through Fast Food Restaurant land use. This is a land use with hundreds of thousands of real world examples to draw on for guidance. However, the problems that this example presents when utilized as a strict application tool are numerous:

- The data only provides 18 surveys which according to their methodology could have been 6 locations monitored over 3 days. For context, over half of the land use parking generation rates are based on 4 or fewer surveys. 22% are based on a single survey data point<sup>1</sup>.
- Survey sites are almost exclusively suburban and in areas lacking transit and pedestrian infrastructure, which can impact parking demand.
- The data presented clearly states a caution in using this data due to a low R<sup>2</sup> coefficient. This correlation information is key to understanding that there is no discernable link between floor area and parking utilization.
- ITE acknowledges their high standard deviations by showing an extremely broad range of rates. However, that is followed up by establishing an extremely precise average that is ultimately what communities and planners adopted for decades.
- No acknowledgement that these requirements over time dictate automobile use and spread out uses.
- No analysis at all on the cost or price of parking.

To summarize the impact that these parking generation standards have had on decades of land use planning, and specifically in Lexington, Donald Shoup of UCLA published in 2003 in the *Journal of Transportation and Statistics* a very accurate and concise cycle:

**Step 1.** *Transportation engineers survey the peak parking demand at a few suburban sites with ample free parking but no transit service, and ITE publishes the results in Parking Generation with misleading precision.*

**Step 2.** *Urban planners consult Parking Generation to set minimum parking requirements. The maximum observed parking demand thus becomes the minimum required parking supply.*

**Step 3.** *Developers provide all the parking that planners require, and the ample supply of parking drives the price of most parking to zero, which increases vehicle travel.*

**Step 4.** *Transportation engineers survey vehicle trips to and from suburban sites with ample free parking but no transit service, and ITE publishes the results in Trip Generation with misleading precision.*

**Step 5.** *Transportation planners consult Trip Generation as a guide to design the transportation system with adequate capacity to bring cars to the free parking.*

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<sup>1</sup> Donald Shoup, "Truth in Transportation Planning", *Journal of Transportation and Statistics* (2003)  
<http://shoup.bol.ucla.edu/TruthInTransportationPlanning.pdf>



**Step 6.** *Urban planners limit density so that development with ample free parking will not generate more vehicle trips than nearby roads can carry. This lower density spreads activities farther apart, further increasing both vehicle travel and parking demand.*

This process is colloquially known as “The Cycle of Automobile Dependency” and it represents a regulatory regime intended to provide ample free parking and should not be mistaken as a representation of what the market wants or needs, as that option has never been afforded under the vast majority of local zoning ordinances.

By its own admission, ITE is working to provide considerably more nuance to their data but ordinances that have codified these historical errors must be updated. Newer versions of their manuals and online tools provide considerably more factors to consider in determining a more accurate estimate of parking demand, but that is all it is...an estimate. The ITE manuals are a perfectly acceptable tool in assisting decision makers in providing context on matters related to parking but cannot be the prescriptive definition of determining how we develop land in Fayette County. No matter how useful a tool exists in predicting parking demand, it cannot take into account the public policy preferences of a community or land use goals of a comprehensive plan.

It is the conclusion of Planning staff that there is no method under the control and purview of a local zoning ordinance that can accurately predict with any certainty a parking generation number that is applicable to a land use across the board. Further, any attempt to do so through the establishment of minimum parking requirements serves only to enable development that exceeds those standards while also eliminating any development that cannot meet those standards. When the only developments that are possible, are those that meet or exceed that threshold, Lexington is eliminating any chance of a future that is not entirely dominated by vehicle travel.

The proposed text amendment eliminates minimum parking requirements, but also seeks to improve regulations for vehicular use areas that will enhance public safety and mitigate the environmental impacts of automobiles and the parking lots they occupy. While a zoning ordinance is a poor tool for accurately predicting parking demand, it is an excellent tool at managing and offsetting the negative externalities of specific land uses. Parking lots and other vehicular use areas create public nuisances and health problems that can be improved through the proposed text.

The proposed text is supported by numerous goals, objectives, and policies from the 2018 Comprehensive Plan. The reduction in required parking is supported by Theme A, Goal #1; Theme A Goals #1.a-d; Theme A, Goal #2; Theme A, Goal #3.a; Theme B, Goal #2.d; Theme D, Goals #3.b-c.; Theme E, Goals #1.c-d as well as the following policies; Theme B, Sustainability Policies #3 and #5, Theme C Prosperity Policy #10, and Theme E Growth Policy #9.

The revised locational standards for parking lots in Article 16 are supported by various goals, objectives, and policies in the comprehensive plan as well. Theme A, Goal #2.b; Theme A, Goal #3; Theme A, Goal #3.b; Theme D, Goal #1; Theme D, Goals #1.a-c; Theme D, Goal #2; Theme D, Goal #3 as well as the following policies; Theme A, Design Policy #5 and Theme A, Design Policy #7.

The improved standards for vehicular use area landscaping and tree canopy in Article 18 are also supported by numerous goals, objectives, and policies from the comprehensive plan. Theme A, Goal #2.c; Theme A, Goal #3.d; Theme B, Goal #2; Theme B, Goal #2.c; Theme B, Goal #3; Theme B, Goal #3.c; Theme E, Goal #1.b; as well as Theme B, Restoration Policy #4



These goals, objectives and policies in many cases are not possible to achieve without the significant revision to parking requirements. While many do not explicitly state that parking is an obstacle, each one is impeded by our current standards. Improved parking flexibility will foster a new, more sustainable pattern of development called for by *Imagine Lexington*, which is reflective of the desires of the community as a whole.

Applicable Goals, Objectives, and Policies:

**Theme A, Design Policy #5:** Provide pedestrian-friendly street patterns and walkable blocks to create inviting streetscapes.

**Theme A, Design Policy #7:** Provide car parking areas so as not to be the primary visual component of the neighborhood.

**Theme B, Sustainability Policy #3:** Encourage transit-oriented development, increase density along major corridors and in the Infill and Redevelopment Area to support transit ridership; thus reducing vehicle miles traveled.

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**Goals and Objectives:**

**Theme A, Goal #1:** Expand housing choices.

**Theme A, Goal #1.a:** Pursue incentives and regulatory approaches that encourage creativity and sustainability in housing development.

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**Theme A, Goal #1.d:** Create and implement housing incentives that strengthen the opportunities for higher-density and housing affordability.



**Theme A, Goal#2:** Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.

**Theme A, Goal #2.b:** Respect the context & design features of areas surrounding development projects & develop design standards & guidelines to ensure compatibility with existing urban form.

**Theme A, Goal #2.c:** Incorporate adequate greenspace and open space into all development projects, which serve the needs of the intended population.

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**Theme A, Goal #3.d:** Promote, maintain, and expand the urban forest throughout Lexington.

**Theme B, Goal #2:** Reduce Lexington-Fayette County's carbon footprint.

**Theme B, Goal #2.c:** Provide incentives for green building, sustainable development, and transit-oriented development with civic agencies leading by example through the use of green building standards.

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**Theme B, Goal #3:** Apply environmentally sustainable practices to protect, conserve & restore landscapes & natural resources.

**Theme B, Goal #3.c:** Incorporate green infrastructure principles in new plans and policies, including, but not limited to, land use and transportation.

**Theme D, Goal #1:** Work to achieve an effective & comprehensive transportation system.

**Theme D, Goal #1.a:** Support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles.

**Theme D, Goal #1.b:** Develop a viable network of accessible transportation alternatives for residents and commuters, which may include the use of mass transit, bicycles, walkways, ride-sharing, greenways and other strategies.



**Theme D, Goal #1.c:** Concentrate efforts to enhance mass transit along our corridors in order to facilitate better service for our growing population, as well as efficiencies in our transit system.

**Theme D, Goal #2:** Support a model of development that focuses on people-first to provide accessible community facilities and services to meet the health, safety & quality of life needs of Lexington-Fayette County's residents and visitors.

**Theme D, Goal #3:** Protect and enhance the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image.

**Theme D, Goal #3.b:** Incentivize the renovation, restoration, development and maintenance of historic residential and commercial structures.

**Theme D, Goal #3.c:** Develop incentives to retain, restore, preserve and continue use of historic site and structures, rural settlements and urban and rural neighborhoods.

**Theme E, Goal #1.b:** Ensure all types of development are environmentally, economically, and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land.

**Theme E, Goal #1.c:** Emphasize redevelopment of underutilized corridors.

**Theme E, Goal #1.d:** Maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features.

**The Staff Recommends: Approval** of the proposed Text Amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, in the following ways:
  - a. The amendment expands housing choices (Theme A, Goal #1) by allowing more types of residential development to be constructed where they are currently precluded due to inflexible parking requirements. (Theme A, Goal #1, Objectives a through d)
  - b. The amendment supports infill and redevelopment throughout the Urban Service Area (Theme A, Goal #2) by providing more flexible parking regulations to facilitate the construction on smaller and more constrained parcels often found in infill and redevelopment locations.
  - c. The amendment promotes the development of green building, sustainable development, and transit-oriented development (Theme B, Goal #2.c) by allowing more pedestrian and transit focused development to occur and by raising the landscaping and tree canopy requirements for vehicular use areas.
  - d. The amendment reduces Lexington-Fayette County's carbon footprint (Theme B, Goal #2) by reducing the requirements for additional unnecessary vehicular use areas that contribute to dangerous heat islands.

CT/TLW  
8/2/22

Planning Services/Staff Reports/ZOTA/2022/PLN-ZOTA-22-00014 Parking Staff Report.doc



**Sec. 1-11. Definitions.**

*Driveway, ~~FOR RESIDENTIAL – A private paved vehicular access extending on the shortest reasonable path through the front yard or side street side yard to the off-street parking area. for single family and two-family dwellings, means a private paved vehicular access, a maximum of twenty-four (24) feet in width, or ten (10) feet in width when inside the infill and redevelopment area, extending on the shortest reasonable path through the front yard or side street side yard to the required off-street parking area. All other areas paved for vehicular use within any front or side street side yard shall be considered additional parking and shall be subject to the area limitations and landscaping requirements of this Zoning Ordinance.~~*

**Article 3 GENERAL ZONE REGULATIONS**

**Sec. 3-1. Application of zone regulations.**

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

- (a) No building, structure, or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the zone in which it is located unless otherwise specifically permitted in this Zoning Ordinance.
- (b) No building or other structure shall hereafter be erected or altered:
  - (1) To exceed the height, bulk or floor area ratio;
  - (2) To accommodate or house a greater number of families;
  - (3) To occupy a greater percentage of lot area;
  - (4) To have narrower or smaller rear yards, front yards, side yards, or other open spaces; or
  - (5) To have less perimeter and interior lot landscaping for vehicular use area and non-compatible land uses than herein required, or in any other manner be contrary to the provisions of this Zoning Ordinance.
- (c) No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land, for the purpose of complying with this Zoning Ordinance, shall be included as part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted in this Zoning Ordinance.
- (d) No yard or lot existing at the time of adoption of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.
- (e) There shall be no more than one (1) principal structure and its accessory structures on any lot or parcel of land in an agricultural zone or in any residential zone, unless otherwise specifically permitted as a Group Residential Project or a Planned Unit Development in this Zoning Ordinance. In all other zones, more than one (1) principal building shall be permitted only if a development plan is approved by the Commission, as provided by Article 21.

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

(Code 1983, 3-1; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 153-87 , § 1, 7-9-1987; Ord. No. 22-2017 , § 2(3-1), 3-2-2017; Ord. No. 166-2017 , § 2(3-1), 11-16-2017)

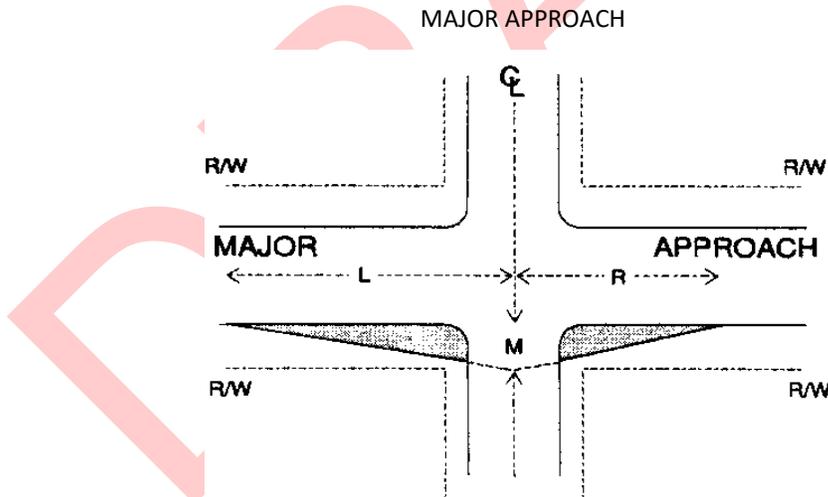
**Sec. 3-2. Conversion of structures.**

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

(Code 1983, § 3-2; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 109-87 , § 1, 6-11-1987; Ord. No. 307-2002 , § 1, 12-5-2002; Ord. No. 166-2017 , § 2(3-2), 11-16-2017)

**Sec. 3-3. Sight triangles for traffic visibility.**

Except as permitted herein, in any zone, at any street intersection, railroad crossing, or any driveway intersection, no fence, structure or planting, other than ground cover, shall be erected or installed within the sight distance triangle as shown in the table and the illustrations below.

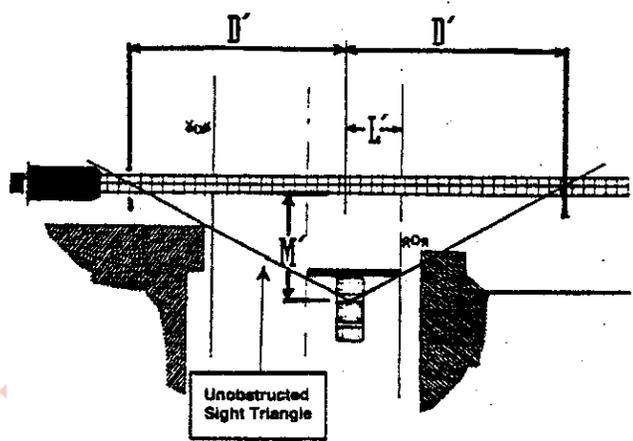


SIGHT TRIANGLES AT INTERSECTIONS<sup>1, 2, 3</sup>

|                |                | PUBLIC OR PRIVATE STREET | DRIVEWAY     |
|----------------|----------------|--------------------------|--------------|
| MAJOR APPROACH | Major Arterial | L = 325 feet             | L = 325 feet |
|                |                | R = 150 feet             | R = 150 feet |
|                |                | M = 15 feet              | M = 15 feet  |

|              |                |              |                |
|--------------|----------------|--------------|----------------|
|              | Minor Arterial | L = 325 feet | L = 275 feet   |
|              |                | R = 150 feet | R = 150 feet   |
|              |                | M = 15 feet  | M = 15 feet    |
|              | Collector      | L = 200 feet | Nonresidential |
|              |                | R = 150 feet | L = 200 feet   |
|              |                | M = 15 feet  | R = 150 feet   |
|              |                |              | M = 15 feet    |
|              |                | Residential  | L = 150 feet   |
|              |                | R = 120 feet | M = 15 feet    |
| Local Street | L = 175 feet   | L = 75 feet  |                |
| R = 130 feet | R = 55 feet    |              |                |
| M = 15 feet  | M = 10 feet    |              |                |

UNOBSTRUCTED SIGHT TRIANGLE



SIGHT TRIANGLES AT RAILROAD CROSSINGS<sup>1, 2, 3</sup>

APPROACH

|                   |   |                                |
|-------------------|---|--------------------------------|
|                   | PRIVATE OR PUBLIC STREET OR HIGHWAY   | ANY TYPE OF PRIVATE DRIVEWAY   |
| Railroad Approach | D = 725'<br>M = 35' or 9 feet behind stop bar, whichever is greater<br>L = 8' | D = 325'<br>M = 25'<br>L = 6'  |
| Where D' =        | Distance along rail   | Distance along rail            |
| Where M' =        | Distance from rail/stop bar   | Distance from rail             |
| Where L' =        | Distance from edge of pavement  | Distance from edge of pavement |

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

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

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

(Code 1983, § 3-3; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 158-88, § 1, 7-7-1988; Ord. No. 29-2006, §§ 1, 2, 2-9-2006; Ord. No. 166-2017, § 2(3-3), 11-16-2017)

### **Sec. 3-4. Agricultural land use exemptions.**

Notwithstanding any other provision of this Zoning Ordinance, land which is used solely for agricultural use, as defined herein, shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, or location requirements for agricultural buildings, except that a setback line of thirty (30) feet shall be required for agricultural buildings for the protection of existing and proposed streets and highways; and that all buildings or structures in a designated floodway or floodplain, or which tend to increase flood heights or obstruct the flow of floodwaters, may be fully regulated. Any parcel of land used for an urban agricultural use with the Urban Service Area, as defined herein, shall also be exempt from use restrictions listed in each zone, but buildings proposed for such uses shall be subject to building permit, zoning setback, floodplain setback and certificate of occupancy requirements contained herein.

(Code 1983, § 3-4; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 143-95, § 1, 6-29-1995; Ord. No. 211-99, § 1, 7-8-1999; Ord. No. 22-2017, § 2(3-4), 3-2-2017; Ord. No. 166-2017, § 2(3-4), 11-16-2017)

### **Sec. 3-5. Fallout shelters.**

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

(Code 1983, § 3-5; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 166-2017, § 2(3-5), 11-16-2017)

### **Sec. 3-6. Mixed-income housing bonuses.**

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

(Code 1983, § 3-6; Ord. No. 129-2009, § 6, 7-2-2009; Ord. No. 166-2017, § 2(3-6), 11-16-2017)

### **Sec. 3-7. General regulations for cemetery protection.**

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

- 
- (a) Disinterment and relocation of graves shall be accomplished in accordance with all applicable local and state requirements and with the knowledge and approval of the Kentucky Office of Vital Statistics.
  - (b) Preservation and protection of a cemetery, either left in place or once relocated, shall be subject to the following requirements:
    - (1) No construction or disturbance of any kind shall occur within fifty (50) feet of a cemetery boundary, regardless of property lines or ownership, except as provided herein (fence, wall, access easement or landscaping).
    - (2) Screening and landscaping shall be provided as stated in Section 18-3(a)(1). If a cemetery is located on a larger tract of property, then screening shall be located adjacent to the cemetery fence inside the 50-foot buffer area.
    - (3) When a cemetery is identified on land proposed for development, the cemetery boundary shall be established based on historic records, fence lines, gravesite locations or other criteria, as determined by a certified archeologist, prior to any construction or disturbance.
    - (4) A cemetery boundary study performed by a certified archeologist shall be submitted with any development plan, preliminary subdivision plan, and minor or major subdivision plat for land with identified cemeteries or burial grounds. Such study shall include a map that portrays the location and orientation of graves within the cemetery and the associated geographic coordinates, and a written description of field and archival methods used to document the cemetery.
    - (5) Any existing cemetery fence, wall and/or gate on the subject property shall be maintained and repaired prior to any site work or disturbance on any surrounding property. Where none exists, a new permanent fence shall be erected prior to any site work or disturbance on the subject property. Such fence shall be constructed of durable and weather-resistant materials (i.e., brick, stone, iron and/or steel).
    - (6) A statement of maintenance and permanent ownership shall be made on any development plan.
    - (7) Access shall be provided to the cemetery with a minimum ten-foot-wide access easement.

(Code 1983, § 3-7; Ord. No. 5-2010, § 1, 1-14-2010; Ord. No. 166-2017, § 2(3-7), 11-16-2017)

### **Sec. 3-8. General regulations for vehicle repairs accessory to a residential use.**

Shall be regulated as follows:

- (a) Vehicles being repaired shall be parked/stored on a paved surface or on a permitted or legally non-conforming gravel surface if a paved surface is not available.
- (b) Major repairs shall be confined to the interior of a garage or other enclosed building, and shall not include any finish painting or clear coating operations.
- (c) At outdoor locations, including any unenclosed structure such as a carport, only minor repairs are allowed. Only one (1) vehicle per dwelling at an outdoor location can be under repair at any given time, and repairs must be completed within three (3) days.
- (d) Repairs are only allowed on vehicles that are registered to an occupant of the dwelling on the subject property.
- (e) Repairs may not be conducted as a business or as part of a commercial operation of any kind.
- (f) All waste oil and fluids shall be recycled or disposed of at an approved off-site location in compliance with local, state and federal environmental regulations. Auto parts and tires shall be recycled or

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disposed of in accordance with current LFUCG Division of Waste Management guidelines and in compliance with local, state and federal environmental regulations.

(Code 1983, § 3-8; Ord. No. 103-2013 , § 2, 9-12-2013; Ord. No. 166-2017 , § 2(3-8), 11-16-2017)

### **Sec. 3-9. Parking and storage of business vehicles, trailers, equipment and materials in residential zones.**

Shall be regulated as follows:

- (a) One business vehicle per dwelling is permitted, provided it has no more than two (2) axles and a GVWR (gross vehicle weight rating) of no greater than fourteen thousand pounds (14,000 lbs.) and is used for daily transportation to and from work. Such a vehicle must be parked on a permitted paved surface or on a legal non-conforming (existed prior to December 5, 2002) gravel surface. Dump trucks, box trucks, cube vans, high-roof cargo vans (greater than eight-foot height, as measured from ground to top of roof), earth-moving machinery, tow trucks, transport wreckers, semi-trucks and tractor-trailers, concession trucks and vans, and flat-bed trucks are specifically prohibited, even if they technically comply with the above limits.
- (b) One business trailer per dwelling (open or closed), used in conjunction with an allowed business vehicle, may be parked or stored on a permitted paved surface or legal non-conforming gravel surface. Any such trailer is limited to a length of no greater than twelve (12) feet. Concession trailers are specifically excluded from this category of allowable trailers, even if they technically comply with axle and length limitations.
- (c) Trailers, equipment or materials shall not be parked or stored on any public or private street.
- (d) Construction materials (such as siding or brick) and salvaged items (such as used appliances or scrap metal) may not be stored.
- (e) Business activities (e.g., selling of merchandise or customer visits) shall not take place on the premises, except as allowed by home office provisions or as authorized by a conditional use approved by the Board of Adjustment. Corollary business activities, such as the storage of merchandise or having employees report to the property, are also prohibited.

(Code 1983, § 3-9; Ord. No. 104-2013 , § 2, 9-12-2013; Ord. No. 166-2017 , § 2(3-9), 11-16-2017)

### **Sec. 3-10. General regulations for operation of a home office or home occupation.**

Shall be as follows:

- (a) The use shall be clearly incidental and secondary to use of dwelling purposes with no more than three hundred (300) square feet of the dwelling devoted to each use;
- (b) The use shall be operated by and shall employ only residents of the dwelling;
- (c) No commodities or merchandise shall be stored on the property other than those produced and/or repaired by the residents on the premises; any firearms being modified or repaired on the premises as part of a home occupation shall be located in a locked safe and shall never be discharged on site;
- (d) The residence shall maintain its residential character and shall not be altered or remodeled so as to change the residential appearance of the building;
- (e) No outside signage shall be permitted on the premises;
- (f) The use shall be located in the dwelling unit and not in any accessory building;

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- (g) On-site sales or visits to the home by customers, clients, patrons and the general public are not allowed, excluding the pick-up or pre-ordered items or drop-off of items to be repaired;
  - (h) The use does not involve potentially disturbing equipment, materials or chemicals.

These provisions are not intended to restrict offices accessory to principal permitted agricultural uses located in homes on the same agricultural property.

A home office shall not include offices for escort services.

( Ord. No. 166-2017 , § 2(3-10), 11-16-2017; Ord. No. 086-2021 , § 2, 9-16-2021)

### **Sec. 3-11. General regulations for operation of a home-based business.**

Shall be as follows:

- (a) All activities shall comply with the provisions outlined in section 3-10(a) through (f) above;
- (b) Any conditions regarding the use of firearms or potentially disturbing equipment, materials or chemicals (e.g., soundproofing or other safety measures) shall be as determined to be appropriate by the Board of Adjustment;
- (c) Limitations on hours of operation and frequency of customer/client visits shall be as determined to be appropriate by the Board of Adjustment;
- (d) No additional paving for parking shall be permitted;
- (e) The use does not adversely affect surrounding properties by excessive traffic generation, noise or odors that might be associated with equipment, materials or chemicals used in the operation of the home-based business.

( Ord. No. 166-2017 , § 2(3-11), 11-16-2017)

### **Sec. 3-12. General regulations for accessory dwelling units (ADUs).**

- (a) **Pre-Application Conference.** Prior to filing an application for a building permit for an ADU, the applicant shall meet with appropriate staff members of the Division of Planning to discuss the proposed permit. The purpose of this conference is to discuss, at the earliest stages, the requirements, procedures and issues related to the proposed ADU, and to provide guidance for the property owner relative to the Homeowner's Guide to Accessory Dwelling Units (ADU Manual).

It is intended that this conference will help to alleviate possible conflicts by early recognition of existing conditions, necessary facilities, and the recommendations of the ADU Manual pertaining to design, layout, and other considerations. The applicant shall arrange the conference, which shall be held not less than five (5) working days nor more than three (3) months prior to submitting the application.

The staff shall keep a record of the conference date and include the information in the records of the building permit file. The Division of Planning shall not accept an application for a zoning compliance permit for an ADU for which a pre-application conference has not been held.

- (b) **Construction.** An ADU may be created through an alteration of an existing structure, addition to an existing structure, or conversion of an existing structure to an ADU while simultaneously constructing a new primary dwelling unit on the site, unless further restricted under 3-12(p).
- (c) **Number of Units.** One (1) ADU is permitted per single family dwelling per lot.
- (d) **Minimum Lot Size.** None.

- (e) Maximum ADU Size. Eight hundred (800) square feet, except, Conversion: There is no limit on the size for the conversion of an existing basement to an ADU, so long as the conversion remains within the footprint of the structure.
- (f) Maximum Floor Area (FAR) and Lot Coverage. For an attached ADU, the maximum FAR and lot coverage shall be that of the underlying zone.
- (g) Yard requirements. For an attached ADU, the yard requirements shall be those required for a principal structure in the underlying zone.
- (h) Maximum Height. For an attached ADU, the maximum height shall be that of the underlying zone
- (i) Off-Street Parking. For ADUs located in a zone with a maximum parking requirement, one (1) additional space may be permitted.
- (j) Short-Term Rentals (as defined in the Code of Ordinances).
  - (1) The use of an ADU as a short-term rental shall only be allowed as a conditional use.
  - (2) If either dwelling unit is used as a short-term rental, as defined in the Code of Ordinances, the property owner is required to occupy one of the dwelling units.
- (k) Design Standards.

Entrances: Only one (1) pedestrian entrance to the structure may be located on the primary wall plane of the dwelling unit.

Exterior Stairs: Any exterior stairs to serve as the primary entrance to an ADU within the principal structure shall be located on the side or rear of such the primary dwelling.
- (l) Alterations of existing structures: If a detached ADU is created from an existing detached accessory structure that does not meet one or more of the standards within Article 3-12, the structure is exempt from the standard(s) it does not meet as per Article 3-2.

However, as per Article 4-4, any alterations that would result in the structure becoming less conforming to those standards it does not meet is not allowed.
- (m) Maximum Occupancy Limit. A maximum of two (2) persons and any children related to either of them or under their care through a duly authorized custodial relationship may reside in the ADU.
- (n) Owner Occupancy. The owner of the property must occupy either the principal dwelling unit or the ADU as the owner's permanent residence.
- (o) Deed Restriction. A deed restriction shall be submitted prior to the issuance of a zoning compliance permit which states that the owner(s) agree to restrict use of the principal and ADU in compliance with the requirements of Article 3-12.

At the request of the property owner and after an inspection verifying that the ADU has been removed from the owner's property, LFUCG shall record a release of any previously recorded deed restriction for that ADU.
- (p) Special Provisions. Detached Accessory Dwelling Units are only permitted in detached structures which:
  - (1) Were constructed prior to October 31, 2021; or
  - (2) Had on file with the Lexington-Fayette Urban County Government, prior to October 31, 2021 an application for a building permit.

( Ord. No. 102-2021 , § 2, 10-28-2021)

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## Article 7 BOARD OF ADJUSTMENT

### Sec. 7-1. Establishment.

The Board of Adjustment, as constituted at the time of the readoption of this Zoning Ordinance, shall continue in power. There shall be seven members appointed by the Mayor with the approval of the Urban County Council, for four (4) year terms ending on July 1 of the designated year. The terms shall be staggered so that the terms of no more than two (2) members expire in any year. Vacancies on the Board of Adjustment shall be filled within sixty (60) days. If the vacancy is not filled within that time, the Planning Commission shall fill the vacancy.

(Code 1983, § 7-1; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 61-87 , § 1, 4-16-1987)

### Sec. 7-2. Staff.

The staff to the Board of Adjustment shall be the Division of Planning of the Lexington-Fayette Urban County Government.

(Code 1983, § 7-2; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 61-87 , § 1, 4-16-1987; Ord. No. 122-2011 , § 11, 9-29-2011)

### Sec. 7-3. General powers.

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

(Code 1983, § 7-3; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 61-87 , § 1, 4-16-1987)

### Sec. 7-4. Proceedings.

- (a) The Board of Adjustment shall conduct meetings at the call of the chairman, who shall give written or oral notice to all members of the Board at least seven (7) days prior to the meeting, which notice shall contain the date, time, and place of the meeting, and the subject or subjects which will be discussed. A simple majority of the total membership of the Board of Adjustment shall constitute a quorum.
- (b) The Board of Adjustment shall adopt by-laws for the transaction of business and shall keep minutes and records of all proceedings, including regulations, transactions, findings, determinations, the number of votes for and against each question, whether any member is absent or abstains from voting, all of which shall, immediately after adoption, be filed in the office of the Board. A transcript of the minutes of a Board of Adjustment meeting shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

(Code 1983, § 7-4; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 61-87 , § 1, 4-16-1987)

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## Sec. 7-5. Notice.

- (a) The Board shall fix a reasonable time for hearing an action or appeal and shall give public notice in accordance with KRS Chapter 424, as well as written notice as set forth more fully herein. Any person may appear at the hearing personally or by attorney. All applications shall be decided by the Board within sixty (60) days from the date of the application, unless postponement is granted pursuant to the Board's by-laws.
- (b) When an application is made for a variance, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, Division of Building Inspection, and to the owner of every parcel of property within two hundred (200) feet of the property to which the application applies. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 200-foot radius of the subject property, but to the next two (2) properties beyond those included in the 200-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property.
- (c) When an application is made for a conditional use permit, administrative review, non-conforming use or structure appeal, or any other appeal, written notice shall be given at least twenty-one (21) days in advance of the public hearing on the application to the applicant, Division of Building Inspection, and to owners of parcels of property within five hundred (500) feet of the property to which the application applies. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 500-foot radius of the subject property, but to the next two (2) properties beyond those included in the 500-foot radius; but in no event shall notice be required for property more than one (1) mile from the subject property. Notification shall also be given by first-class mail to any neighborhood or homeowner's association within the 500-foot radius of the subject property. Such association must be duly registered with the government through the Division of Planning and the Office of Geographic Information Systems (GIS). In addition, for any conditional use permit, notice of the public hearing shall be posted on the subject property for fourteen (14) consecutive days prior to the hearing.
- (d) All written notice shall be by first-class mail, with certification by the Board's Secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the Board the name and address of an owner of each parcel of property as described in this section and of any neighborhood or homeowner's association located within the required notice area. Records maintained by the Property Valuation Administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners.

(Code 1983, § 7-5; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 61-87 , § 1, 4-16-1987; Ord. No. 245-88 , § 1, 10-20-1988; Ord. No. 211-99 , § 1, 7-8-1999; Ord. No. 94-2012 , § 1, 7-10-2012)

## Sec. 7-6. Specific powers.

The Board of Adjustment shall have the following powers:

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

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- (1) The Board may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one (1) or more things be done before the request can be initiated, or conditions of a continuing nature and which would not have an adverse influence on existing or future development of the subject property or other property in the neighborhood. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with a reference to the specific section in the Zoning Ordinance listing the conditional use under consideration. Where the Zoning Ordinance establishes conditions for a conditional use, such conditions are the minimum requirements for the use and may not be waived or varied. The Board shall have power to revoke conditional use permits, for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.
  - (2) In approving a conditional use permit, the Board shall find that the public facilities and services, which will be needed, are or will soon be adequate to serve the proposed use. The Board shall give consideration to the road system, sewage disposal facilities, utilities, fire and police protection and other services and facilities as are relevant to the proposed use. The Board may establish conditions to ensure that the proposed conditional use will not have an adverse influence on the subject property or the surrounding neighborhood.
  - (3) In approving a conditional use permit, the Board shall provide for the continuation of existing or proposed collector streets, and whenever possible, provide for the continuation of local streets.
  - (4) When reviewing a conditional use application, the Board shall thoroughly address potential impacts to any identified environmentally sensitive area (ESA), geologic hazard area (GHA), as further regulated under the Subdivision Regulations, and/or Rural Service Area (RSA) prime soils as well as any other resources of special concern located on the property. The Board may require a more detailed site plan and more comprehensive associated information in order to assess and consider the future protection of such areas and resources. Such a site plan shall be prepared by a qualified professional well-suited to addressing a particular issue or concern of interest, including landscape architects, hydrologists, geologists, environmental engineers, naturalists, arborists, etc. The site plan shall show or describe protection measures, mitigation and enhancement of the ESA(s) and/or GHA(s) and their associated buffer areas, when they are, or could be, impacted by any alteration, use or activity within the ESA(s) and/or GHA(s) and their buffer areas pre-construction, during construction and post-construction. For any conditional use permit granted for a site containing any ESA(s) and/or GHA(s), the Board may impose intermediate certification and verification reviews during the pre-construction, active construction and/or post-construction phases of development in order to ensure protection of environmentally sensitive areas and environmental hazard areas during all phases of a project. Such certification or verification reviews may be conducted by either a public enforcement agency or a qualified private contractor, as deemed appropriate by the Board. In addition, when the proposed conditional use is located within the Rural Service Area (RSA), the Board may consider a requirement that alterations to the ESA(s) and/or GHA(s), such as non-habitable structures, non-habitable facilities, natural feature modification and paving installation associated with the conditional use permit be removed, and/or restored if the conditional use were to cease operation.
  - (5) The granting of a conditional use permit does not exempt the applicant from complying with all other requirements of the law.
  - (6) In any case where a conditional use permit has not been exercised within the time limit set by the Board, or within one (1) year, if no specific time limit has been set, the granting of such conditional use permit shall not revert to its original designation unless there has been a public

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hearing, with notice as required hereinbelow. The term "exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in absence of contracts, that the main building or other improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investment shall be under contract, in development or completed. When construction is not a part of the use, the term "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

- (7) The Division of Planning shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the Division of Planning shall report the fact in writing to the Chairman of the Board of Adjustment. The Board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearings shall be furnished to the landowner at least one (1) week prior to the hearing. If the Board of Adjustment finds that the facts alleged in the report of the Division of Planning are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board of Adjustment may authorize the Division of Planning to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.
  - (8) Once the Board of Adjustment has granted a conditional use permit, and all of the conditions required are of such type that they can be completely and permanently satisfied, the Division of Planning, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit, which is on file with the County Clerk. Thereafter, said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.
  - (9) The granting of a conditional use permit for a "functional family" shall be based upon application of the following considerations by the Board:
    - a. Members of the functional family will share a strong bond or commitment to a single purpose (e.g., religious orders);
    - b. Members of the functional family are not legally dependent on others not part of the functional family;
    - c. Members can establish a legal domicile as defined by Kentucky law;
    - d. Members share a single household budget;
    - e. Members prepare food and eat together regularly;
    - f. Members share in the work to maintain the premises;
    - g. Members legally share in the ownership or possession of the premises;
    - h. Members demonstrate stability in the arrangement as opposed to transient living arrangements.
- (b) *Variations*. The Board shall have the power to hear and decide on applications for variances that are defined as departures from dimensional terms of this Zoning Ordinance pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departures meet with the requirements of this section. The Board may grant a variance to vary the lot coverage or floor area ratio in the Single-Family Residential (R-1A, R-1B, R-1C, R-1D and R-1E) zones or in the Two-Family

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Residential (R-2) zone, as these factors do not increase the permitted number of dwelling units. The Board may grant a variance for dimensional requirements only and may not vary the number of permitted signs, minimum number of required parking spaces outside of the Infill and Redevelopment Area, or other numeric requirements or limits of the zone. However, the Board may grant a variance to the maximum number of parking spaces allowed in a zone, or reduce the minimum number of parking spaces by fifty percent (50%) of the otherwise required number in accordance with Section 16-10 for projects within the defined Infill and Redevelopment Area. Any reduction granted by the Board shall account for and include all other allowable parking reductions. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant, and may revoke a variance for noncompliance with the conditions thereof. The Board shall not have the authority to vary lot coverage, floor area ratio (except in the R-1A, R-1B, R-1C, R-1D, R-1E and R-2 zones, as permitted above), nor lot size; nor to vary the maximum height of a building containing residential units in the Neighborhood Business (B-1) zone, as these are methods of controlling population density used in this Zoning Ordinance.

- (1) Findings required for variance. Before any variance is granted, the Board must find the following, which shall be recorded along with any imposed conditions or restrictions in minutes and records and issued in written form to the applicant to constitute proof of the variance:
    - (a) The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:
      - (1) The requested variance arises from special circumstances that do not generally apply to land in the general vicinity, or in the same zone;
      - (2) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
      - (3) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
    - (b) The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.
  - (2) The Board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by this Zoning Ordinance in the zone in question.
  - (3) A variance applies to the property for which it is granted, and not the individual who applied for it. A variance also runs with the land and is transferable to any further owner of the land, but it cannot be transferred by the applicant to a different site.
- (c) *Non-conforming Use and Structure Appeals.* The Board of Adjustment shall have the authority to hear and decide appeals, as authorized in Article 4, concerning non-conforming uses and structures. If it approves the appeal, the Board must find, in addition to all requirements of Article 4, that the non-conformity of the use or the non-conformity of the structure would not be increased in scope or area of its operation, and that it would not have an adverse effect on existing or future development of the subject property or the surrounding area. In approving an appeal, the Board may require appropriate conditions be met to ensure the health, safety, and welfare of the community and to protect the essential character of the surrounding area.

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- (d) *Administrative Review.* The Board of Adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is an error in any order, requirement, decision, grant, or refusal made by the Division of Planning or the Division of Building Inspection in the enforcement of this Zoning Ordinance. Appeals under this section must be taken within thirty (30) days of the date of official action by the Division of Planning.
- (e) *All Other Appeals.* Appeals to the Board may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal or decision of the Division of Planning or the Division of Building Inspection in the enforcement of this Zoning Ordinance. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action appealed from, by filing with the Board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. The Division of Planning shall forthwith transmit to the Board papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the Board, any interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

(Code 1983, § 7-6; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 61-87, § 1, 4-16-1987; Ord. No. 152-87, § 1, 7-9-1987; Ord. No. 175-88, § 1, 7-14-1988; Ord. No. 25-94, § 1, 2-24-1994; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 129-2009, § 10, 7-2-2009; Ord. No. 96-2010, § 7, 6-10-2010; Ord. No. 122-2011, §§ 12—14, 9-29-2011; Ord. No. 133-2016, § 1, 7-7-2016)

### **Sec. 7-7. Authorization.**

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

(Code 1983, § 7-7; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 61-87, § 1, 4-16-1987; Ord. No. 122-2011, § 15, 9-29-2011)

### **Sec. 7-8. Recording.**

All variances and conditional use permits approved by the Board shall be recorded at the expense of the applicant at the office of the County Clerk.

(Code 1983, § 7-8; Ord. No. 176-86, § 1, 8-28-1986; Ord. No. 61-87, § 1, 4-16-1987)

## **Article 8 SCHEDULE OF ZONES<sup>1</sup>**

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

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<sup>1</sup>Editor's note(s)—Ord. No. 208-99, adopted July 8, 1999, set out provisions numbered as § 8-23. Said section has been included herein as § 8-2 at the direction of the county, and former §§ 8-2—8-22 have been renumbered as §§ 8-4—8-24. The historical notations have been retained with the amended provisions for reference purposes.

Article 3 GENERAL ZONE REGULATIONS

| Section | Zone | Zone Title                         |
|---------|------|------------------------------------|
| 8-1     | A-R  | Agricultural Rural                 |
| 8-2     | A-B  | Agricultural Buffer                |
| 8-3     | A-N  | Agricultural Natural Areas         |
| 8-4     | A-U  | Agricultural Urban                 |
| 8-5     | R-1A | Single-Family Residential          |
| 8-6     | R-1B | Single-Family Residential          |
| 8-7     | R-1C | Single-Family Residential          |
| 8-8     | R-1D | Single-Family Residential          |
| 8-9     | R-1E | Single-Family Residential          |
| 8-10    | R-1T | Townhouse Residential              |
| 8-11    | R-2  | Two-Family Residential             |
| 8-12    | R-3  | Planned Neighborhood Residential   |
| 8-13    | R-4  | High Density Apartment             |
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| 8-15    | P-1  | Professional Office                |
| 8-16    | B-1  | Neighborhood Business              |
| 8-17    | B-2  | Downtown Business                  |
| 8-18    | B-2A | Downtown Frame Business            |
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| 8-20    | B-3  | Highway Service Business           |
| 8-21    | B-4  | Wholesale and Warehouse Business   |
| 8-22    | I-1  | Light Industrial                   |
| 8-23    | I-2  | Heavy Industrial                   |
| 8-24    | P-2  | Office, Industry and Research Park |

( Ord. No. 137-2016 , § 2, 7-7-2016; Ord. No. 22-2017 , § 3, 3-2-2017; Ord. No. 166-2017 , § 3, 11-16-2017)

**Sec. 8-1. Agricultural Rural (A-R) Zone.**

- (a) *Intent.* This zone is established to preserve the rural character of the agricultural service area by promoting agriculture and related uses, and by discouraging all forms of urban development except for a limited amount of conditional uses.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  - 1. Land used solely for agricultural purposes, including small farm wineries and equine-related activities, as outlined in KRS 100.
  - 2. Single-family detached dwellings.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  - 1. Accessory uses in connection with agriculture, farming, dairying, stock raising or similar uses, such as agricultural structures; stables; farm tours; hayrides; petting zoos; and parking areas, provided all yard requirements for a principal residence are met.

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2. Those specific agricultural uses outlined in KRS 100 that are incidental only to a small farm winery licensed as such by the Commonwealth of Kentucky, such as the manufacture and bottling of wines; tasting rooms for the purpose of serving complimentary samples; sale by the drink or bottle, either on or off premises; and sale and shipment of wine, either wholesale or retail.
  3. Home offices and home occupations.
  4. Temporary roadside stands offering for sale only agricultural products grown on the premises, or value-added product sales primarily from agricultural resources grown or raised on the premises.
  5. Keeping of not more than two (2) roomers or boarders by a resident family.
  6. Non-commercial recreational facilities, such as baseball fields; soccer fields; polo fields; swimming pools; tennis courts; bicycling and hiking trails and the like.
  7. Private garages, storage sheds, parking lots, and private farm vehicle fueling facilities.
  8. Living quarters, without kitchen facilities and not used for rental purposes, for guests and employees of the premises.
  9. Satellite dish antennas, as regulated in Section 15-8.
  10. Family childcare for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
  11. Mobile homes, as provided in Article 10.
  12. Dwelling units, farm employee, provided all yard requirements for a principal residence are met.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Horse race tracks with allotted race meets, including accessory simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages, and horse riding and training facilities.
  2. Horse sales establishments.
  3. Hospitals for large animals, including equine hospitals.
  4. Plant nurseries.
  5. Commercial greenhouses, but only when all the following conditions are met:
    - a. A 20-foot-wide landscape easement shall be provided around all buildings and parking areas or at the perimeter of the tract of land, containing one (1) tree per thirty (30) feet of length or fraction thereof, plus a continuous six-foot-high planting, hedge, fence, wall or earth mound. Plantings shall be both deciduous and non-deciduous. A detailed site plan showing proposed screening shall be provided, and a performance bond or letter of credit shall be posted with the Division of Building Inspection to ensure completion of screening. New screening shall not be required to be planted when existing screening is substantially similar to the screening mentioned above.
    - b. No structure shall be built within three hundred (300) feet of any existing residential structure on another lot under different ownership, and driveways shall be one hundred (100) feet from property lines.
    - c. There shall be no outdoor display or sale of fungicides, insecticides, chemicals, peat moss, humus, mulches or fertilizer.
    - d. No commercial greenhouse shall be located within a floodplain.

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- e. The commercial greenhouse shall be located where easily accessible by arterial roads. All roads to the site should be of sufficient width and constructed to safely handle all sizes of trucks. The Board shall review the location of access points to ensure that no traffic hazards are created.
  - f. All driveways and parking areas shall be paved or sealed to prevent dust.
6. Commercial composting, but only when the following conditions are met:
    - a. That only the open windrow or static pile method of aerobic processing using plant material, soils and animal manure, be permitted.
    - b. That a permit-by-rule or letter of intent from the Division of Waste Management of the Kentucky Natural Resources and Environmental Protection Cabinet be obtained prior to submission of any application to the Board of Adjustment for a conditional use permit.
    - c. That no commercial composting operation be conducted closer than one thousand (1,000) feet to any existing residence.
    - d. That a development plan indicating access points and circulation routes, proposed signage, screening and landscaping, fencing and other significant geological or physical features of the property be submitted as part of any application.
    - e. That the Board specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic or dust.
  7. Agricultural market, but only when the following conditions are met:
    - a. The minimum lot size shall be forty (40) acres and shall not be located in A-R zoned land within the Urban Service Area of Lexington-Fayette County.
    - b. The property shall be within one (1) mile of an interstate interchange with a state or federal highway, excluding the two (2) interchanges of Interstate 64 with Interstate 75. The property must also have frontage on a state or federal highway, and access is also to be within one (1) mile of the point of intersection of the centerlines of the interchange, and subject to approval by the Kentucky Transportation Cabinet.
    - c. All roads to the property shall be of sufficient width, and constructed to safely handle all sizes of trucks when fully loaded during all weather conditions.
    - d. The facility shall be at least one thousand (1,000) feet from any property in a residential zone, any property designated as a Rural Settlement (RS) or as an Existing Rural Residential (ERR) land use under the adopted Comprehensive Plan, and any property designated on the National Register of Historic Places. Unless otherwise noted as used herein, the term "facility" shall mean all improvements. Including parking and loading areas, but not including driveways for ingress and egress to the property.
    - e. Improvements such as buildings; barns; and other structures, including stormwater detention basins, truck parking and loading areas: above-ground and underground storage tanks and septic sewage disposal systems shall be located outside of any environmentally sensitive area, including any wellhead protection area.
    - f. All sales and marketing of livestock shall take place in a completely enclosed building, and such building may not be located closer than one thousand (1,000) feet from a residence on a lot under different ownership; provided, however, that all pre-sale and post-sale handling of livestock shall take place under roof in an area enclosed by a combination of fences and gates in order to secure the livestock while allowing adequate ventilation and air circulation. Agricultural uses, accessory structures, parking lots and driveways shall not be subject to the setback from a residence, as established herein.

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- g. There shall be provision for the treatment and/or disposal of waste generated on the site, subject to all applicable local, state and federal requirements. Muck piles or the spreading of animal waste upon any part of the site shall be prohibited.
  - h. All parking areas and driveways shall be paved.
  - i. Any outdoor lighting proposed must be directed away from, and shielded from, adjacent agricultural and/or residential areas.
  - j. The facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations, including those pertaining to noise, air and water quality.
  - k. Stormwater management shall be provided pursuant to the requirements of the LFUCG Engineering Manuals, and stormwater shall be treated appropriately prior to its discharge.
  - l. Screening shall be provided if the facility is visible from adjoining properties. Such screening and buffering shall be designed so as to minimize the impact of air, noise, odor and/or light generated by the facility upon adjoining properties to the greatest extent practicable. Article 18 of this Zoning Ordinance shall be used to guide the planting of the screening of loading docks and vehicular use areas, but the Board of Adjustment may impose additional screening requirements and landscape buffers, as necessary.
  - m. There shall be a minimum of forty-five percent (45%) of the lot, regardless of size, provided as open space, which may not be varied by the Board of Adjustment.
  - n. The following accessory uses may also be permitted in conjunction with the operation of an agricultural market, provided that they are operated for uses related to agriculture or services. Supplies and/or equipment used in agriculture, provided that the aggregate of all of these accessory uses may not exceed fifty percent (50%) of the total square footage of all buildings on the property and provided that all such uses are clearly identified on the site plan submitted to the Board of Adjustment:
    - 1) Offices and meeting rooms for the following: banking, insurance and financial institutions; state and federal government entities related to agriculture: livestock and grain commodity trading; or agricultural education; the combined total floor area of which is not to exceed sixty thousand (60,000) square feet:
    - 2) One (1) coffee shop or restaurant, not to exceed five thousand (5,000) square feet and shall be located within the facility and not in an independent structure;
    - 3) Loading docks;
    - 4) Veterinary clinic, including the sale of livestock pharmaceutical supplies;
    - 5) One (1) dwelling unit for owners, operators or employees; and one (1) dwelling unit for watchmen or caretakers, which dwelling units may be separate structures:
    - 6) Retail sale of agricultural products, supplies and related items produced on- or off-premises, including bulk agricultural supplies, with no outdoor storage of such supplies, not to exceed twenty-five thousand (25,000) square feet;
    - 7) Establishments and lots for the display, sale, service, and repair of farm machinery and equipment. Any building for such purpose is not to exceed twenty thousand (20,000) square feet; areas for indoor service and repair of products sold may not exceed twenty-five percent (25%) of the square footage of the building;
    - 8) Covered arena for agricultural and/or agritourism events, not to exceed seventy-five thousand (75,000) square feet; and

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- 9) Agriculture-related museums, not to exceed twenty thousand (20,000) square feet.
  - o. A detailed development plan, indicating access points, including construction and circulation routes; parking areas; lighting; screening and landscaping; proposed improvements; accessory uses; detention areas; signage; fencing and other significant physical or geological features of the property shall be submitted as part of any application.
  - p. One (1) free-standing sign per street frontage may be permitted, with a maximum of two (2) signs, not exceeding fifty (50) square feet in area and twenty (20) feet in height. In addition to any free-standing sign, wall-mounted signs may also be permitted, not to exceed a total of five percent (5%) of the wall area to which they are attached. Signs may only be non-illuminated or indirectly illuminated.
  - q. An operational plan shall also be submitted that outlines:
    - 1) Provisions for animal and/or product waste disposal, including grease, subject to all applicable local, state and federal requirements.
    - 2) Provisions for sewage disposal, maintaining air and water quality, and odor management.
    - 3) Hours of operation, and anticipated hours for truck deliveries and truck shipments.
    - 4) Routing of trucks on the site, including truck stacking, parking and loading areas.
    - 5) Protection measures proposed for any environmentally sensitive area located on the site, including any wellhead protection area.
    - 6) Existing and proposed utilities.
    - 7) Where appropriate, a Kentucky No Discharge Operational Permit (KNDOP), or other appropriate permit from the Kentucky Division of Water may be required as part of the approval of an Operational Plan.
    - 8) Any other pertinent information to indicate clearly the orderly operation proposed.
  - r. The Board of Adjustment shall specifically consider and be able to find that the proposed use will not constitute a nuisance by creating excessive noise, water pollution, traffic, dust or other public health hazards.
  - s. The Board of Adjustment shall review all accessory uses approved as part of an application, on an annual basis, to ensure that such uses are operating in compliance with the restrictions set forth herein, and with any additional restrictions and/or conditions imposed by the Board. The Board may modify or revoke its approval of an accessory use if it finds, based upon the evidence, that such accessory use has been operated in violation of this Ordinance or any conditions or restrictions imposed by the Board.
8. Home-based businesses.

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

9. Cemeteries, crematories, columbariums, mausoleums, including animal burial grounds.
10. Rehabilitation homes.
11. Non-service facilities of public utilities and common carriers by rail, including office, garage, and warehouse space when not incidental to a service facility as provided in KRS 100.324.
12. Commercial and non-commercial outdoor recreational facilities (without outdoor lighting, loudspeakers, retail sales of merchandise, restaurants or food service, and the like), including

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- zoological gardens, sportsmen's farms (including outdoor rifle and other firearm ranges), native animal game preserves, outdoor rodeos, hunting and trapping, and fishing lakes, including private clubs for only these uses.
13. Commercial and non-commercial outdoor recreational facilities (excluding golf courses), with outdoor lighting; but without loudspeakers, retail sales of merchandise, restaurants or food service, and the like; but only when located immediately adjacent to the Blue Sky Rural Activity Center defined in the adopted Comprehensive Plan.
  14. Extraction of crude petroleum or natural gas and mining of metal, anthracite, lignite or bituminous coal.
  15. Mining and/or quarrying of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  16. Airports, including accessory restaurants and/or the serving of alcoholic beverages.
  17. Radio, telephone or television transmitting or relay facilities, including line-of-sight relays and towers, except as permitted by KRS 100.324, and only under the following conditions:
    - a. Such facilities shall be operated at all times in compliance with applicable federal, state and local laws and regulations, including all standards of the Federal Aviation Administration and the Federal Communications Commission.
    - b. No transmitting or relay tower shall be located closer than the height of the tower from another lot under different ownership, or any public or private street or highway, unless the tower is constructed to withstand a minimum wind speed of one hundred (100) miles per hour.
    - c. The plans of tower construction shall be certified by an engineer registered in the State of Kentucky.
    - d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.
  18. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, only when accessory to a residential use. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  19. Family childcare for seven (7) and not more than twelve (12) children, provided that the total number of children living or being cared for on the premises shall not exceed twelve (12). A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  20. Places of religious assembly, which may be allowed an additional ten thousand (10,000) square feet of building over and above their existing square footage, provided that the structure(s) existed or the religious entity had approval of the Board of Adjustment and owned twenty (20) or more contiguous acres prior to the adoption of the Rural Land Management Plan on April 8, 1999.

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Places of religious assembly may erect accessory structures, such as outdoor shelters, pavilions, picnic shelters, pergolas, or substantially similar structures, without permanent walls, provided that the size of the accessory structures shall not exceed thirty-five percent (35%) of the floor area of the principal structure or three thousand, five hundred (3,500) square feet, whichever is less. These accessory structures shall not count against the otherwise allowed ten thousand (10,000) square feet for a principal structure.

21. Schools for academic instruction, including accessory dormitories.
22. Kindergartens, nursery schools and childcare centers for four (4) or more children when accessory to a place of religious assembly or school, as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
23. Concrete mixing, but only when associated with mining or quarrying operations which comply with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein, and only under the following conditions:
  - a. That no concrete mixing and/or asphalt plant operation be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
  - b. Noise, Air and Water Quality. The facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Section 6-7, Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.
  - c. Development Plan. The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, stormwater and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
  - d. Drainage and Erosion Control. The facility shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
  - e. Roads. All access roads that intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from state highway or street to the active loading point. Internal roads may be unpaved, provided dust is adequately controlled.
  - f. Screening. Screening shall be provided as defined in accordance with LFUCG Article 18 of this Zoning Ordinance.
  - g. Transportation Plan. A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
    - 1) Product shipping and deliveries;
    - 2) Mode of transportation;
    - 3) Route(s) to and from site;
    - 4) Schedule and frequency of shipments;
    - 5) Delivery and shipping spillage control methods;
    - 6) Employee parking.

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- h. Storage. Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three (3) sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of eighteen (18) inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of this Zoning Ordinance.
  - i. Excess Product and Waste. Excess product and waste, when disposed of on-site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of eighteen (18) inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of this Zoning Ordinance.
24. Asphalt plant, but only when associated with mining and/or quarrying which comply with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein, and only under the following conditions:
- a. That no asphalt plant operation be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
  - b. Noise, Air and Water Quality. The facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Section 6-7, Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.
  - c. Development Plan. The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, stormwater and sediment basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
  - d. Drainage and Erosion Control. The facility shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
  - e. Roads. All access roads that intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point. Internal roads may be unpaved, provided dust is adequately controlled.
  - f. Screening. Screening shall be provided as defined in accordance with LFUCG Article 18 of this Zoning Ordinance.
  - g. Transportation Plan. A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
    - 1) Product shipping and deliveries;
    - 2) Mode of transportation;
    - 3) Route(s) to and from the site;
    - 4) Schedule and frequency of shipments;
    - 5) Delivery and shipping spillage control methods;
    - 6) Employee parking.

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- h. Storage. Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three (3) sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of eighteen (18) inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of this Zoning Ordinance.
  - i. Excess Product and Waste. Excess product and waste, when disposed of on-site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of eighteen (18) inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of this Zoning Ordinance.
25. Commercial woodlots, but only when the following conditions are met:
- a. A 50-foot open space area shall be required from the perimeter of the tract of land.
  - b. No commercial woodlot shall be located within four hundred (400) feet of any residential structure on another lot under different ownership, and driveways shall be a minimum of one hundred (100) feet from property lines.
  - c. A 20-foot-wide landscape buffer area shall be provided around all commercial woodlots or at the perimeter of the tract of land, containing one (1) tree per thirty (30) feet of length or fraction thereof, plus a continuous six-foot-high planting hedge, fence, wall or earth mound. New screening shall not be required to be planted when existing screening is substantially similar to the screening mentioned above.
  - d. There shall be no storage or sale of wood chips, peat moss, humus, mulches or fertilizer, nor sale to the public of firewood at the site.
  - e. No commercial woodlot shall be located within a floodplain or sinkhole.
  - f. Commercial woodlots shall be located where easily accessible by Federal or State highways. All roads to site should be of sufficient width and constructed to safely handle all sizes of trucks. The Board shall review the location of access points to ensure that no traffic hazards are created.
  - g. All driveways and parking areas shall be paved or sealed to prevent dust.
  - h. Wood shall be stored in rows no greater than ten (10) feet in height, no greater than twenty (20) feet in width, and spaced no less than fifteen (15) feet apart.
  - i. Cutting and splitting of timber shall not occur in the 50-foot open space area of the site, and only between the hours of 8:00 a.m. to 5:00 p.m.
  - j. The Board of Adjustment shall specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, water pollution, traffic, dust or other public health hazards.
  - k. No signage shall be permitted on the premises.
  - l. Woodlots shall comply with all applicable Federal and State laws.
26. Bed and breakfast facilities, limited to the rental of not more than five (5) rooms per property, provided that no use permitted under this section shall be located less than one (1) mile, as measured from the facility, from another use permitted under this section. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering

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such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.

27. Expansion of golf courses in existence or approved as of January 26, 1995 (including private clubs) with or without driving ranges, including the accessory retail sale of golf-related merchandise, and including an accessory restaurant and/or food service with or without the serving of alcoholic beverages. This use shall not be conducted in conjunction with more than one (1) single-family detached dwelling.
  28. Any uses that are clearly incidental and subordinate to a small farm winery operation licensed as such by the Commonwealth of Kentucky, other than those specifically outlined in KRS 100, and permitted by Subsection (c)2 of this section, which may include special events with or without live entertainment or a small bistro/restaurant of up to two (2) seats per one thousand (1,000) gallons of wine, brandies and cordials produced or compounded on-site per year. For special events, documentation shall be provided that arrangements have been made with the LFUCG Division of Fire and Emergency Services for approval of fire suppression and control; that Fayette County Health Department approval has been obtained for the septic system and/or portable toilets; that Fayette County Health Department approval has been obtained for any food services offered, whether it is provided on-site or catered for each event; and that approval be obtained from the Division of Building Inspection for any temporary structures used (i.e., tents).
  29. Historic House Museum operated by a governmental entity or by a private, non-profit entity that has Internal Revenue Code Section 501(c)(3) status and that is a member of a recognized museum association such as the Kentucky Museum and Heritage Alliance, the American Association for State and Local History, the American Association of Museums, the Association of Living History, Farm and Agricultural Museums and/or Southeastern Museum Conference; provided, however, that the house shall not be expanded beyond its current or documented historic footprint, and all activities and events shall relate to the educational mission of the governmental or non-profit entity.
  30. Agritourism activities to include corn mazes; farm gift shops (limited to five hundred (500) square feet); educational classes related to agricultural products or skills; horse shows involving more than seventy (70) participants; and seasonal activities.
  31. Ecotourism activities to include equine trails; botanical gardens; and nature preserves.
  32. Youth camps.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. Establishments for the processing of crude petroleum, natural gas, or oil shale.
  2. Disposal of garbage and refuse, transfer stations.
  3. Multifamily, two-family or townhouse dwelling units.
  4. Retail sales or services, wholesale, or warehouse uses, except as provided herein.
  5. Offices, museums and institutional uses, except as provided herein.
  6. Commercial recreational facilities, such as amusement parks; bowling alleys; skating rinks; pool or billiard halls; establishments with coin-operated pool or billiard tables, or outdoor theaters.
  7. Hotels, motels, boarding or lodging houses, and campgrounds.
  8. Manufacturing, compounding, assembling, processing and packaging and other industrial uses.

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9. Automobile, truck, ATV, motorcycle, bicycle motocross, or other vehicle or bicycle race tracks.
  10. Garden centers or market gardens, except those activities specifically allowed under the definition of commercial greenhouses and plant nurseries.
  11. Major or minor automobile and truck repair, except as provided herein.
  12. Automobile service stations.
  13. Storage, except as permitted herein.
  14. Junk yards.
  15. Sale of new or used merchandise, except as provided herein.
  16. Slaughterhouses.
  17. Penal or correctional institutions.
  18. Sawmills.
  19. Commercial kennels.
  20. Hospitals, nursing homes, rest homes, orphanages, community residences.
  21. Sewage disposal plants.
  22. Fraternity and sorority houses.
  23. Private clubs, including accessory restaurants and/or the serving of alcoholic beverages, except as permitted herein.
  24. Adult entertainment establishments or other similar adult uses.
  25. Special events, parties, festivals, concerts, and children's rides related to a commercial purpose.
  26. Commercial hiking, bicycling and zip line trails; tree canopy tours; canoeing and kayaking launch sites; or recreational outfitters.
  27. Commercial farm markets.

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

- (f) *Minimum Lot Size.* Forty (40) acres, except as noted in subsection (o)(1) of this section below.
- (g) *Minimum Lot Frontage.* Seven hundred fifty (750) feet, except as noted in subsection (o)(1) of this section below.
- (h) *Minimum Front Yard.* Three hundred (300) feet from the right-of-way line, except for the following:
  - (1) Lots which have principal permitted residential structures less than three hundred (300) feet from the right-of-way line; then the minimum front yard shall be coincident with the existing front yard, or fifty (50) feet, whichever is greater;
  - (2) Lots which were created by subdivision plats recorded prior to January 26, 1995 shall have the minimum front yard coincident with the platted building line, or fifty (50) feet, whichever is greater;
  - (3) Existing lots less than three hundred fifty (350) feet in lot depth shall have the minimum front yard coincident with the platted building line, or fifty (50) feet, whichever is greater.
- (i) *Minimum Each Side Yard.* Twenty-five (25) feet.
- (j) *Minimum Rear Yard.* Twenty-five (25) feet.
- (k) *Minimum Useable Open Space.* No limitation.

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- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Thirty-five (35) feet, except for buildings devoted solely to agricultural uses, then no limitation.
- (n) *Off-Street Parking.* (See Article 16 and 18 for additional parking regulations.)

No minimum requirements.

~~Bed and Breakfast Facilities: One (1) space per room rented other than the first room.~~

~~Places of Religious Assembly: One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.~~

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

~~Non-commercial Outdoor Athletic Facilities, including Baseball Fields; Soccer Fields; Outdoor Rodeos: One (1) space for every five (5) spectator seats, or one (1) for every three (3) active participants in the sport, whichever is greater.~~

~~Commercial and Non-commercial Riding Stables, Fishing Lakes, Sportsmen's Farms, Zoological Gardens, and Other Recreational Facilities, Ecotourism and Agritourism activities not otherwise stated herein: Five (5) spaces, plus one (1) space for each employee for each separate use.~~

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

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

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

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

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

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

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

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

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

~~Kindergartens, Nursery Schools, Childcare Centers and Family Childcare for seven (7) or more children: Three (3) spaces for the first twelve (12) children, plus one (1) space for every ten (10) (or fraction thereof) additional children.~~

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

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

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

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

(o) *Special Provisions.*

1. Existing single-family residential structures containing, at a minimum, running water; indoor plumbing; and electricity; and which have been legally occupied at any time within six (6) months of the date of the adoption of this section, may be subdivided from its parent tract on a ten-acre minimum lot with a minimum of two hundred fifty (250) feet of lot frontage, provided that the remaining parent tract has a minimum of forty (40) acres, and at least two hundred fifty (250) feet of frontage on an existing road; or approved access as provided for in Section 6-8(1) of the Land Subdivision Regulations. The provisions of this section shall expire three (3) years from the date of its adoption.

(Code 1983, § 8-1; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 60-84, § 1, 5-3-1984; Ord. No. 89-86, § 6, 5-29-1986; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 154-89, § 1, 8-31-1989; Ord. No. 30-92, §§ 2—4, 3-3-1992; Ord. No. 56-92, § 2, 5-14-1992; Ord. No. 86-92, §§ 2—4, 5-28-1992; Ord. No. 55-94, §§ 2, 3, 4-14-1994; Ord. No. 42-95, § 1, 2-23-1995; Ord. No. 292-95, § 1, 12-7-1995; Ord. No. 98-96, § 1, 6-27-1996; Ord. No. 207-99, § 1, 7-8-1999; Ord. No. 50-2004, § 1, 3-18-2004; Ord. No. 202-2004, § 1, 8-26-2004; Ord. No. 258-2005, § 1, 9-22-2005; Ord. No. 341-2006, §§ 2—7, 12-7-2006; Ord. No. 1-2011, §§ 6, 7, 1-13-2011; Ord. No. 156-2011, § 1, 12-6-2011; Ord. No. 103-2013, § 3, 9-12-2013; Ord. No. 104-2013, § 3, 9-12-2013; Ord. No. 137-2016, § 2(8-1), 7-7-2016; Ord. No. 22-2017, § 3(8-1), 3-2-2017; Ord. No. 124-2017, § 2, 8-31-2017; Ord. No. 166-2017, § 3(8-1), 11-16-2017; Ord. No. 22-2018, § 1, 4-12-2018; Ord. No. 74-2018, § 1, 10-11-2018; Ord. No. 102-2020, § 3, 10-22-2020)

## **Sec. 8-2. Agricultural Buffer (A-B) Zone.**

- (a) *Intent.* This zone is established to preserve the rural character of the agricultural service area by establishing agricultural land that can serve as buffer areas between urban uses and agricultural land, and between land outside Fayette County and agricultural uses. It is the intent of this zone to provide separation between conflicting uses by requiring appropriate landscaping, fencing, and compatible uses. The Land Use Element of the Comprehensive Plan shall be used to determine the appropriate location for the Agricultural Buffer (A-B) zone.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Land used solely for agricultural purposes, including small farm wineries and equine-related activities, as outlined in KRS 100.
  2. Single-family detached dwellings.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Accessory uses in connection with agriculture, farming, dairying, stock raising or similar uses, such as agricultural structures; stables; farm tours; hayrides; petting zoos; and parking areas, provided all yard requirements for a principal residence are met.
  2. Those specific agricultural uses outlined in KRS 100 that are incidental only to a small farm winery licensed as such by the Commonwealth of Kentucky, such as the manufacture and bottling of wines; tasting rooms for the purpose of serving complimentary samples; sale by the drink or bottle, either on or off premises; and sale and shipment of wine, either wholesale or retail.
  3. Home offices and home occupations.
  4. Temporary roadside stands offering for sale only agricultural products grown on the premises, or value-added product sales primarily from agricultural resources grown or raised on the premises.
  5. Keeping of not more than two (2) roomers or boarders by a resident family.

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6. Non-commercial recreational facilities, such as baseball fields; soccer fields; polo fields; swimming pools; tennis courts; bicycling and hiking trails and the like.
  7. Private garages, storage sheds, parking lots, and private farm vehicle fueling facilities.
  8. Living quarters, without kitchen facilities and not used for rental purposes, for guests and employees of the premises.
  9. Satellite dish antennas, as regulated in Section 15-8.
  10. Family childcare for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
  11. Mobile homes, as provided in Article 10.
  12. Dwelling units, farm employee, provided all yard requirements for a principal residence are met.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Hospitals for large animals, including equine hospitals.
  2. Plant nurseries.
  3. Home-based businesses.

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

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

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10. Radio, telephone or television transmitting or relay facilities, including line-of-sight relays and towers, except as permitted by KRS 100.324, and only under the following conditions:
    - a. Such facilities shall be operated at all times in compliance with applicable federal, state and local laws and regulations, including all standards of the Federal Aviation Administration and the Federal Communications Commission.
    - b. No transmitting or relay tower shall be located closer than the height of the tower from another lot under different ownership, or any public or private street or highway, unless the tower is constructed to withstand a minimum wind speed of one hundred (100) miles per hour.
    - c. The plans of tower construction shall be certified by an engineer registered in the State of Kentucky.
    - d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.
  11. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, only when accessory to a residential use. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  12. Family childcare for seven (7) and not more than twelve (12) children, provided that the total number of children living or being cared for on the premises shall not exceed twelve (12). A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  13. Places of religious assembly.
  14. Schools for academic instruction, including accessory dormitories.
  15. Kindergartens, nursery schools and childcare centers for four (4) or more children when accessory to a place of religious assembly or school, as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  16. Bed and breakfast facilities, limited to the rental of not more than five (5) rooms per property, provided that no use permitted under this section shall be located less than one (1) mile, as measured from the facility, from another use permitted under this section. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.
  17. Any uses that are clearly incidental and subordinate to a small farm winery operation licensed as such by the Commonwealth of Kentucky, other than those specifically outlined in KRS 100, and permitted by Section 8-1(c)2, which may include special events with or without live entertainment or a small bistro/restaurant of up to two (2) seats per one thousand (1,000) gallons of wine, brandies and cordials produced or compounded on-site per year. For special events, documentation shall be provided that arrangements have been made with the LFUCG Division of Fire and Emergency Services for approval of fire suppression and control; that Fayette County Health Department approval has been obtained for the septic system and/or portable toilets; that Fayette County Health Department approval has been obtained for any food services offered, whether it be provided on-site or catered for each event; and that approval be obtained from the Division of Building Inspection for any temporary structures used (i.e., tents).
  18. Agritourism activities to include corn mazes; children's rides; farm gift shops (limited to five hundred (500) square feet); educational classes related to agricultural products or skills; horse shows involving more than seventy (70) participants; and seasonal activities.

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19. Ecotourism activities to include commercial hiking, bicycling trails; equine trails; zip line trails; tree canopy tours; canoeing and kayaking launch sites; botanical gardens; and nature preserves.
  20. Youth camps.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. Establishments for the processing of crude petroleum, natural gas, or oil shale.
  2. Disposal of garbage and refuse, transfer stations.
  3. Multifamily, two-family or townhouse dwelling units.
  4. Retail sales or services, wholesale, or warehouse uses, except as provided herein.
  5. Offices, museums, and institutional uses.
  6. Commercial recreational facilities, such as amusement parks; bowling alleys; skating rinks; pool or billiard halls; establishments with coin-operated pool or billiard tables, or outdoor theaters.
  7. Hotels, motels, boarding or lodging houses, except bed and breakfast facilities permitted herein.
  8. Manufacturing, compounding, assembling, processing and packaging and other industrial uses.
  9. Automobile, truck, ATV, motorcycle, bicycle moto-cross, or other vehicle or bicycle race tracks.
  10. Garden centers, market gardens, commercial greenhouses and plant nurseries.
  11. Major or minor automobile and truck repair.
  12. Automobile service stations.
  13. Storage, except as permitted herein.
  14. Junk yards.
  15. Sale of new or used merchandise, except as provided herein.
  16. Stockyards and slaughtering of animals.
  17. Penal or correctional institutions.
  18. Sawmills.
  19. Commercial kennels.
  20. Hospitals, nursing homes, rest homes, orphanages, community residences.
  21. Sewage disposal plants.
  22. Fraternity and sorority houses.
  23. Private clubs, including accessory restaurants and/or the serving of alcoholic beverages, except as permitted herein.
  24. Horse race tracks.
  25. Veterinarian offices.
  26. Commercial composting.
  27. Airports.

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28. Concrete mixing and asphalt plants.
  29. Commercial woodlots.
  30. Golf courses.
  31. Adult entertainment establishments or other similar adult uses.
  32. Special events, parties, festivals, and concerts related to a commercial purpose.
  33. Commercial farm markets.
  34. Recreation vehicle and trailer campgrounds; and recreational outfitters.

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

- (f) *Minimum Lot Size.* Ten (10) acres.
- (g) *Minimum Lot Frontage.* Two hundred fifty (250) feet.
- (h) *Minimum Front Yard.* Three hundred (300) feet from the right-of-way line, except for the following:
  - (1) Lots which have principal permitted residential structures less than three hundred (300) feet from the right-of-way line; then the minimum front yard shall be coincident with the existing front yard, or fifty (50) feet, whichever is greater;
  - (2) Lots which were created by subdivision plats recorded prior to January 26, 1995 shall have the minimum front yard coincident with the platted building line, or fifty (50) feet, whichever is greater;
  - (3) Existing lots less than three hundred fifty (350) feet in lot depth shall have the minimum front yard coincident with the platted building line, or fifty (50) feet, whichever is greater.
- (i) *Minimum Each Side Yard.* Fifty (50) feet.
- (j) *Minimum Rear Yard.* One hundred (100) feet.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Thirty-five (35) feet, except for buildings devoted solely to agricultural uses, then no limitation.
- (n) *Off-Street Parking.* (See Article 16 and 18 for additional parking regulations.)

~~No minimum requirements.~~

~~Bed and Breakfast Facilities: One (1) space per room rented other than the first room.~~

~~Places of Religious Assembly: One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.~~

~~Non-commercial Outdoor Athletic Facilities, including Baseball Fields; Soccer Fields; Outdoor Rodeos: One (1) space for every five (5) spectator seats, or one (1) for every three (3) active participants in the sport, whichever is greater.~~

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

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

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

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

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

~~Kindergartens, Nursery Schools, Childcare Centers and Family Childcare for seven (7) or more children: Three (3) spaces for the first twelve (12) children, plus one (1) space for every ten (10) (or fraction thereof) additional children.~~

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

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

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

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

- (o) *Special Provisions.* For any development in an Agricultural Buffer Area (A-B) zone, the following provisions shall apply:
1. All Agricultural-Buffer Area (A-B) zone developments shall provide a fenced buffer yard along the boundary of the development with land recommended for Natural Areas and Core Agricultural and Rural Land in the Comprehensive Plan. In order to prevent the growth of plants that may be toxic to animals, the buffer yard shall be kept mowed and free of trees, shrubs and plants other than grasses. Existing vegetation may remain as specified under Section 6-3(b) of the Land Subdivision Regulations. Buffer yards may, however, be used for utility installation and easements. Such buffer yard shall be the responsibility of the property owner in the A-B zone to install and to maintain, and shall consist of the following:
    - a. A double row of standard gauge diamond-mesh wire fences, of durable construction, at least eight (8) feet apart, with one (1) fence to be not less than fifty-two (52) inches high, set on seven and one-half (7½)-foot posts, with a required six-inch top board, to be placed closest to the A-B development; and the second fence to be not less than fifty-eight (58) inches high, set on eight-foot posts, with a required six-inch top board, placed nearest the adjoining agricultural property; or
    - b. A single, standard gauge, diamond mesh wire fence, of durable construction, not less than seventy-two (72) inches high, set on nine-foot posts, with a required six-inch top board, with the mowed buffer yard to be eight (8) feet adjoining the fence; or
    - c. Other buffer yard and fencing which achieves the intent of this section and which is agreed upon by the developer of the Agricultural Buffer Area and the adjoining agricultural property.

(Code 1983, § 8-2; Ord. No. 208-99, § 1, 7-8-1999; Ord. No. 197-2006, § 1, 7-6-2006; Ord. No. 341-2006, §§ 8—10, 12-7-2006; Ord. No. 103-2013, § 3, 9-12-2013; Ord. No. 137-2016, § 2(8-2), 7-7-2016; Ord. No. 22-2017, § 3(8-2), 3-2-2017; Ord. No. 166-2017, § 3(8-2), 11-16-2017; Ord. No. 102-2020, § 3, 10-22-2020)

### **Sec. 8-3. Agricultural-Natural Areas (A-N) Zone.**

- (a) *Intent.* This zone is established to preserve areas within the Rural Service Area that are physically unique, primarily due to their association with the Kentucky River and its tributaries. This area is characterized by steeper slopes, forested areas, and thinner/poorer soils, and is known as a habitat for rare and unusual flora and fauna. Because these lands are environmentally sensitive, special care is needed to ensure that the uses

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that are permitted are compatible with the goal of conservation and preservation of these lands. The Land Use Element of the Comprehensive Plan shall be used to determine the appropriate locations for the Agricultural Natural Areas (A-N) Zone.

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

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

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

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

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.) For any of the following conditional uses established after January 26, 1995, a total of ten thousand (10,000) square feet shall be the maximum allowable for all structures proposed for such uses. Prior to the approval of any conditional use containing environmentally sensitive land, such as flood hazard areas; areas of significant tree stands; sinkhole and karst areas; slopes exceeding fifteen percent (15%); "special natural protection" areas, as designated in the Comprehensive Plan; and stone fences, the applicant must prove, and the Board of Adjustment must find, that adequate safeguards will be in place to ensure the least negative impact on the land. This proof and finding shall extend to uses accessory to permitted conditional uses.

In making its determination, the Board of Adjustment shall:

- (1) Require the submission of an environmental assessment prepared by a qualified professional.
- (2) Consider mitigation of environmental impacts over time.

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- (3) Consider the operational plan of any proposed agritourism or ecotourism activities.
  - (4) Consider requiring certification for any proposed ecotourism activities.
  1. Cemeteries, crematories, columbariums, mausoleums, including animal burial grounds.
  2. Places of religious assembly.
  3. Non-service facilities of public utilities and common carriers by rail, including office, garage, and warehouse space when not incidental to a service facility as provided in KRS 100.324.
  4. Commercial and non-commercial outdoor recreational facilities (without outdoor lighting, loudspeakers, retail sales of merchandise, restaurants or food service, and the like), including zoological gardens; sportsmen's farms (including outdoor rifle and other firearm ranges); native animal game preserves; outdoor rodeos; hunting and trapping; primitive campgrounds; and fishing lakes, including private clubs for only these uses.
  5. Mining and/or quarrying of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  6. Radio, telephone or television transmitting or relay facilities, including line-of-sight relays and towers, except as permitted by KRS 100.324, and only under the following conditions:
    - a. Such facilities shall be operated at all times in compliance with applicable federal, state and local laws and regulations, including all standards of the Federal Aviation Administration and the Federal Communications Commission.
    - b. No transmitting or relay tower shall be located closer than the height of the tower from another lot under different ownership, or any public or private street or highway, unless the tower is constructed to withstand a minimum wind speed of one hundred (100) miles per hour.
    - c. The plans of tower construction shall be certified by an engineer registered in the State of Kentucky.
    - d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.
  7. Bed and breakfast facilities, limited to the rental of not more than five (5) rooms per property, provided that no use permitted under this section shall be located less than one (1) mile, as measured from the facility, from another use permitted under this section. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.
  8. Any uses that are clearly incidental and subordinate to a small farm winery operation licensed as such by the Commonwealth of Kentucky, other than those specifically outlined in KRS 100, and permitted by

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Section 8-1(c)2, which may include special events with or without live entertainment or a small bistro/restaurant of up to two (2) seats per one thousand (1,000) gallons of wine, brandies and cordials produced or compounded on-site per year. For special events, documentation shall be provided that arrangements have been made with the LFUCG Division of Fire and Emergency Services for approval for fire suppression and control; that Fayette County Health Department approval has been obtained for the septic system and/or portable toilets; that Fayette County Health Department approval has been obtained for any food services offered, whether it be provided on-site or catered for each event; and that approval be obtained from the Division of Building Inspection for any temporary structures used (i.e., tents).

9. Agritourism activities, to include corn mazes; farm gift shops (limited to five hundred (500) square feet); educational classes related to agricultural products and skills; horse shows involving more than seventy (70) participants; and seasonal activities.
  10. Ecotourism activities, to include commercial hiking and bicycling trails; equine trails; tree canopy tours; canoeing and kayaking launch sites; botanical gardens; nature preserves and recreational outfitters, limited to equipment rental only.
  11. Youth camps.
  12. Home-based businesses.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. Establishments for the processing of crude petroleum, natural gas, or oil shale.
  2. Disposal of garbage and refuse, transfer stations.
  3. Multifamily, two-family or townhouse dwelling units.
  4. Retail sales or services, wholesale, or warehouse uses, except as provided herein.
  5. Offices, museums, and institutional uses.
  6. Commercial recreational facilities, such as amusement parks; bowling alleys; skating rinks; pool or billiard halls; establishments with coin-operated pool or billiard tables, or outdoor theaters.
  7. Hotels, motels, boarding or lodging houses, except bed and breakfast facilities permitted herein.
  8. Manufacturing, compounding, assembling, processing and packaging, and other industrial uses.
  9. Automobile, truck, ATV, motorcycle, bicycle moto-cross, or other vehicle or bicycle race tracks.
  10. Garden centers, market gardens, commercial greenhouses and plant nurseries.
  11. Major or minor automobile and truck repair.
  12. Automobile service stations.
  13. Storage, except as permitted herein.
  14. Junk yards.
  15. Sale of new or used merchandise, except as provided herein.
  16. Stockyards and slaughtering of animals.
  17. Penal or correctional institutions.

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18. Sawmills.
  19. Commercial kennels.
  20. Hospitals, nursing homes, rest homes, orphanages, community residences.
  21. Sewage disposal plants.
  22. Fraternity and sorority houses.
  23. Private clubs, including accessory restaurants and/or the serving of alcoholic beverages, except as permitted herein.
  24. Horse race tracks.
  25. Veterinarian offices. Including equine and large animal hospitals.
  26. Commercial composting.
  27. Airports.
  28. Concrete mixing and asphalt plants.
  29. Commercial wood lots.
  30. Golf courses.
  31. Adult entertainment establishments or other similar adult uses.
  32. Special events, parties, festivals, concerts, and children's rides related to a commercial purpose.
  33. Commercial farm markets.
  34. Zip line trials.
  35. Recreation vehicle and trailer campgrounds.

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

- (f) *Minimum Lot Size.* Forty (40) acres.
- (g) *Minimum Lot Frontage.* Seven hundred fifty (750) feet.
- (h) *Minimum Front Yard.* Three hundred (300) feet from the right-of-way line, except for the following:
  - (1) Lots which have principal permitted residential structures less than three hundred (300) feet from the right-of-way line; then the minimum front yard shall be coincident with the existing front yard, or fifty (50) feet, whichever is greater;
  - (2) Lots which were created by subdivision plats recorded prior to January 26, 1995 shall have the minimum front yard coincident with the platted building line, or fifty (50) feet, whichever is greater;
  - (3) Existing lots less than three hundred fifty (350) feet in lot depth shall have the minimum front yard coincident with the platted building line, or fifty (50) feet, whichever is greater.
- (i) *Minimum Each Side Yard.* Fifty (50) feet.
- (j) *Minimum Rear Yard.* One hundred (100) feet.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Thirty-five (35) feet, except for buildings devoted solely to agricultural uses, then no limitation.

(n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

~~No minimum requirements.~~

~~Bed and Breakfast Facilities: One (1) space per room rented other than the first room.~~

~~Places of Religious Assembly: One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.~~

~~Non-commercial Outdoor Athletic Facilities, including Baseball Fields; Soccer Fields; Outdoor Rodeos: One (1) space for every five (5) spectator seats, or one (1) for every three (3) active participants in the sport, whichever is greater.~~

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

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

~~Kindergartens, Nursery Schools, Childcare Centers and Family Childcare for seven (7) or more children: Three (3) spaces for the first twelve (12) children, plus one (1) space for every ten (10) (or fraction thereof) additional children.~~

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

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

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

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

(Code 1983, § 8-3; Ord. No. 209-99, § 1, 7-8-1999; Ord. No. 341-2006, §§ 11—13, 12-7-2006; Ord. No. 103-2013, § 3, 9-12-2013; Ord. No. 137-2016, § 2(8-3), 7-7-2016; Ord. No. 22-2017, § 3(8-3), 3-2-2017; Ord. No. 166-2017, § 3(8-3), 11-16-2017; Ord. No. 102-2020, § 3, 10-22-2020)

#### **Sec. 8-4. Agricultural Urban (A-U) Zone.**

- (a) *Intent.* This zone is intended to control the development of rural land within the Urban Service Area over a period of time so as to manage the growth of the community. In order to avoid premature or improper development, land should remain in this zone until public facilities and services are or will be adequate to serve urban uses.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. The principal permitted uses in the A-R zone.
  2. Farm tours and hayrides.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. The permitted accessory uses in the A-R zone.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Sections 8-1(d)1 through 5, 8, 10 through 12 (but excluding outdoor rifle and other firearm ranges), and 18 through 22 of the permitted conditional uses in the A-R zone, provided the square footage limitations shall not apply unless required by the Board of Adjustment.

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2. Cemeteries, crematories, columbariums, and mausoleums for human burial; but only when adjacent to, or extensions of, existing cemeteries.
  3. Garden centers, only when operated in conjunction with a commercial greenhouse or plant nursery on the same premises, and only when all conditions required of commercial greenhouses in Section 8-1(d)5 above are met.
  4. Offices of veterinarians, and animal hospitals and clinics.
  5. Radio or television studios, offices and associated equipment used in conjunction with an existing transmitting or relay tower, provided that such studios, offices and associated equipment are entirely enclosed within a building any part of which is located within five hundred (500) feet of such existing tower.
  6. Funeral homes.
  7. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  8. Commercial and non-commercial outdoor recreational facilities, including golf courses; golf driving ranges; and outdoor athletic facilities, such as baseball fields; soccer fields; or polo fields.
  9. Sewage disposal plants.
  10. Private clubs, including accessory restaurants and/or the serving of alcoholic beverages.
  11. Hospitals, nursing homes, rest homes, assisted living facilities, orphanages, community residences.
  12. Schools for academic instruction, including dormitories, fraternity and sorority houses.
  13. Any uses that are clearly incidental and subordinate to a small farm winery operation licensed as such by the Commonwealth of Kentucky, other than those specifically outlined in KRS 100, and permitted by Section 8-1(c)2, which may include special events with or without live entertainment or a small bistro/restaurant of up to two (2) seats per one thousand (1,000) gallons of wine, brandies and cordials produced or compounded on-site per year. For special events, documentation shall be provided that arrangements have been made with the LFUCG Division of Fire and Emergency Services for approval for fire suppression and control; that Fayette County Health Department approval has been obtained for the septic system and/or portable toilets; that Fayette County Health Department approval has been obtained for any food services offered, whether it be provided on-site or catered for each event; and that approval be obtained from the Division of Building Inspection for any temporary structures used (i.e., tents).
  14. Agritourism activities, to include corn mazes; special events, parties and festivals; concerts; children's rides; farm gift shops (limited to five hundred (500) square feet); educational classes related to agricultural products or skills; horse shows involving more than seventy (70) participants; and seasonal activities.

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15. Ecotourism activities, to include commercial hiking, bicycling trails; equine trails; zip line trails; tree canopy tours; canoeing and kayaking launch sites; primitive and vehicular or trailer campgrounds; fishing and hunting clubs; botanical gardens; nature preserves; and recreational outfitters.
  16. Youth camps.
- (e) *Prohibited Uses.* (All uses, other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses, shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. The prohibited uses in the A-R zone, except as permitted herein.
  2. Extraction of crude petroleum or natural gas.
  3. Quarrying of non-metallic minerals.
  4. Airports.
  5. Radio, telephone or television transmitting towers, antennas and line-of-sight relays, except as permitted herein.
  6. Penal or correctional institutions.
  7. Outdoor rifle and other firearm ranges.
  8. Concrete mixing.
  9. Asphalt plants.
  10. Adult entertainment establishments or other similar adult uses.
  11. Museums.
  12. Commercial farm markets.
- Lot, Yard, and Height Requirements. (See Articles 3 and 15 for additional regulations.)
- (f) *Minimum Lot Size.* No limitation, except for single-family detached residences as a principal permitted use; commercial greenhouses, garden centers and equine hospitals as conditional uses, then ten (10) acres minimum.
- (g) *Minimum Lot Frontage.* Two hundred fifty (250) feet.
- (h) *Minimum Front Yard.* Fifty (50) feet from the right-of-way.
- (i) *Minimum Each Side Yard.* Twenty-five (25) feet.
- (j) *Minimum Rear Yard.* Twenty-five (25) feet.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* No limitation.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

As for A-R.

~~Commercial and Non-commercial Outdoor Athletic Facilities, including Baseball Fields; Soccer Fields; or Polo Fields: One (1) space for every five (5) spectator seats, or one (1) for every three (3) active participants in the sport, whichever is greater.~~

~~Dormitories, Sorority and Fraternity Houses: Five (5) spaces, plus one (1) space for every five (5) beds.~~

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

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

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

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

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

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

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

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

~~Conditional Uses: The Board of Adjustment may establish additional requirements as needed.~~

(Code 1983, § 8-4; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 244-86, § 1, 11-20-1986; Ord. No. 183-89, § 1, 9-21-1989; Ord. No. 30-92, §§ 5, 6, 3-3-1992; Ord. No. 86-92, § 5, 5-28-1992; Ord. No. 42-95, § 1, 2-23-1995; Ord. No. 226-98, § 1, 8-27-1998; Ord. No. 50-2004, § 1, 3-18-2004; Ord. No. 341-2006, §§ 14—16, 12-7-2006; Ord. No. 137-2016, § 2(8-4), 7-7-2016; Ord. No. 22-2017, § 3(8-4), 3-2-2017; Ord. No. 166-2017, § 3(8-4), 11-16-2017)

## **Sec. 8-5. Single-Family Residential (R-1A) Zone.**

- (a) *Intent.* These zones are established to provide for single-family detached residences and supporting uses. The zones should be located in areas of the community where services and facilities will be adequate to serve the anticipated population. The Comprehensive Plan should be used to determine the location and density (units/acre) of each single-family zone.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Single-family detached residences.
  2. Parks and playgrounds operated by government.
  3. Temporary real estate sales offices for the sale of lots, located only within the subdivision in which said lots are located; to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Private garages, storage sheds, and parking areas.
  2. Living quarters, without cooking facilities and not rented, for guests and employees of the premises.
  3. Swimming pools and tennis courts, including accessory structures and temporary structures associated with those uses.

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4. Agricultural uses, excluding commercial stock raising.
  5. Private, non-commercial parks and open space.
  6. Home offices and home occupations.
  7. A ground, roof or pole-mounted satellite dish antenna, as regulated by Section 15-8.
  8. Family childcare for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
  9. Hiking and bicycling trails.
  10. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.

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

1. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, when accessory to and located in the same structure with the single-family residence occupied by the owner or operator. All kindergartens and nursery schools shall provide a fenced and screened play area, which shall contain not less than twenty-five (25) square feet per child.
2. Kindergartens, nursery schools and childcare centers for four (4) or more children, when accessory to a place of religious assembly, school or private club as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
3. Home-based businesses.
4. Cemeteries, columbariums, and mausoleums.
5. Outdoor commercial and non-commercial recreational facilities, such as golf courses; sportsmen's farms; riding stables and equine trails; fishing lakes and non-commercial swimming pool; tennis courts; campgrounds; and private clubs.
6. Places of religious assembly.
7. Schools for academic instruction.
8. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
  - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
  - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
  - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
9. Family childcare for seven (7) and not more than twelve (12) children, provided that the total number of children living or being cared for on the premises shall not exceed twelve (12). A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
10. Bed and breakfast facilities, limited to the rental of not more than one (1) room. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.

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11. Historic house museums.
  12. Seasonal activities.
  13. Market gardens.
  14. The short-term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short-term rental facilities, if any, within the general neighborhood of the property being considered for such use.
- (e) *Prohibited Uses.* (All uses, other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses, shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. Those uses prohibited in the A-U zone, except as permitted herein.
  2. Commercial kennels, equine hospitals, and offices of veterinarians.
  3. Any use dependent upon septic tanks or pit privies.
  4. The above-ground or below-ground storage of any flammable material in gaseous form, including compressed natural gas, and the above- or below-ground storage of more than five (5) gallons of gasoline.
  5. Ecotourism activities, except as permitted herein.
  6. Zoological gardens.
- Lot, Yard, and Height Requirements. (See Articles 3 and 15 for additional regulations.)
- (f) *Minimum Lot Size.* One acre; or twenty-five thousand (25,000) square feet for property rezoned to R-1A after July 14, 1994.
- (g) *Minimum Lot Frontage.* One hundred fifty (150) feet; or one hundred twenty-five (125) feet for property rezoned to R-1A after July 14, 1994.
- (h) *Minimum Front Yard.* Fifty (50) feet; or forty (40) feet for property rezoned to R-1A after July 14, 1994.
- (i) *Minimum Each Side Yard.* Twenty-five (25) feet; or ten (10) feet for property rezoned to R-1A after July 14, 1994.
- (j) *Minimum Rear Yard.* Twenty-five (25) feet.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Thirty-five (35) feet.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

~~No minimum requirements.~~

~~Places of Religious Assembly: One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.~~

~~Dwelling Units: One (1) space per dwelling unit.~~

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

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

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

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

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

~~Family Childcare for between seven (7) and twelve (12) children: One (1) space in addition to that required for the dwelling.~~

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

~~Non-commercial Outdoor Recreational Facilities, including Playgrounds; Sportsmen's Farms; and Riding Stables: One (1) space for every four (4) members, with a minimum of five (5) spaces.~~

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

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

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

(Code 1983, § 8-5; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 89-86, §§ 7, 8, 5-29-1986; Ord. No. 198-86, § 1, 9-18-1986; Ord. No. 151-87, § 1, 7-9-1987; Ord. No. 30-92, § 7, 3-3-1992; Ord. No. 86-92, §§ 6—8, 5-28-1992; Ord. No. 55-94, § 3, 4-14-1994; Ord. No. 145-94, § 1, 7-14-1994; Ord. No. 84-2001, § 1, 4-5-2001; Ord. No. 207-2003, § 1, 8-28-2003; Ord. No. 298-2005, § 1, 11-3-2005; Ord. No. 96-2010, § 8, 6-10-2010; Ord. No. 191-2010, § 1, 11-11-2010; Ord. No. 99-2011, § 3, 8-25-2011; Ord. No. 137-2016, § 2(8-5), 7-7-2016; Ord. No. 22-2017, § 3(8-5), 3-2-2017; Ord. No. 166-2017, § 3(8-5), 11-16-2017; Ord. No. 102-2021, §§ 4, 5, 10-28-2021)

## **Sec. 8-6. Single-Family Residential (R-1B) Zone.**

- (a) *Intent.* As for R-1A.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  - 1. The principal permitted uses in the R-1A zone.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  - 1. The permitted accessory uses in the R-1A zone.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
  - 1. The permitted conditional uses in the R-1A zone.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
  - 1. The uses prohibited in the R-1A zone.

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

- (f) *Minimum Lot Size.* Fifteen thousand (15,000) square feet.
- (g) *Minimum Lot Frontage.* One hundred (100) feet.
- (h) *Minimum Front Yard.* Forty (40) feet.
- (i) *Minimum Each Side Yard.* Ten (10) feet.
- (j) *Minimum Rear Yard.* Ten (10) feet.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Thirty-five (35) feet.
- (n) *Off-Street Parking.* (See Article 16 and 18 for additional parking regulations.)

No minimum requirements.

As for R-1A, Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(Code 1983, § 8-6; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 3(8-6), 11-16-2017)

### **Sec. 8-7. Single-Family Residential (R-1C) Zone.**

- (a) *Intent.* As for R-1A.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  - 1. The principal permitted uses in the R-1A zone.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  - 1. The permitted accessory uses in the R-1A zone.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
  - 1. The permitted conditional uses in the R-1A zone.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
  - 1. The prohibited uses in the R-1A zone.

Lot, Yard, and Height Requirements. (See Article 3, Subsection (o) of this section, below, and Article 15 for additional regulations.)

- (f) *Minimum Lot Size.* Eight thousand (8,000) square feet.
- (g) *Minimum Lot Frontage.* Sixty (60) feet.
- (h) *Minimum Front Yard.* Thirty (30) feet.
- (i) *Minimum Each Side Yard.* Eight (8) feet.
- (j) *Minimum Rear Yard.* Ten (10) feet.

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- (k) *Minimum Useable Open Space.* No limitation.
  - (l) *Maximum Lot Coverage.* No limitation.
  - (m) *Maximum Height of Building.* Thirty-five (35) feet.
  - (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

As for R-1A, Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(o) *Special Provisions.*

1. Lot frontage, yard and height requirements for single-family detached dwellings in defined Infill and Redevelopment areas are for existing lots as of December 5, 2002, and shall be as follows:
  - a. Where existing lot frontage is twenty-four (24) feet but less than thirty-five (35) feet, the provisions of Section 15-7 and the following shall apply:
    1. Minimum lot frontage: Twenty-four (24) feet.
    2. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
    3. Maximum front yard: Fifty (50) feet, unless the average depth of the existing front yards on each side of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
    4. Minimum side yard: Three (3) feet. No wall, air-conditioning unit, structure or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.
    5. Minimum rear yard: Twenty percent (20%) of the lot depth.
    6. Minimum usable open space: No limitation.
    7. Minimum lot coverage: No limitation.
    8. Maximum height of building: Twenty-eight (28) feet and two and one-half (2½) stories.
    9. Maximum lot coverage: No limitation.
    10. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.
  - b. Where existing lot frontage is thirty-five (35) feet but less than fifty (50) feet, the provisions of Section 15-7 and the following shall apply:
    1. Minimum lot frontage: Thirty-five (35) feet.
    2. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
    3. Maximum front yard: Fifty (50) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
    4. Minimum side yard: Five (5) feet.

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5. Minimum rear yard: Twenty percent (20%) of the lot depth.
  6. Minimum usable open space: No limitation.
  7. Minimum lot coverage: No limitation.
  8. Maximum height of building: Twenty-eight (28) feet and two and one-half (2½) stories.
  9. Maximum lot coverage: No limitation.
  10. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.
- c. Where existing lot frontage is fifty (50) feet or greater, the provisions of Section 15-7 and the following shall apply:
1. Minimum lot frontage: Fifty (50) feet.
  2. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less, then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
  3. Maximum front yard: Fifty (50) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
  4. Minimum side yard: As per Subsection (i) of this section.
  5. Minimum rear yard: Twenty percent (20%) of the lot depth.
  6. Minimum usable open space: No limitation.
  7. Minimum lot coverage: No limitation.
  8. Maximum height of building: As per Subsection (m) of this section.
  9. Maximum lot coverage: No limitation.
  10. Maximum floor area ratio: 0.7.

(Code 1983, § 8-7; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 307-2002 , § 1, 12-5-2002; Ord. No. 133-2004 , § 1, 6-24-2004; Ord. No. 166-2017 , § 3(8-7), 11-16-2017)

### **Sec. 8-8. Single-Family Residential (R-1D) Zone.**

- (a) *Intent.* As for R-1A.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. The principal permitted uses in the R-1A zone.
  2. Existing two-family dwellings that were granted principal use status in the 1969 Zoning Ordinance. No building permits shall be issued for new two-family dwellings subsequent to the date of adoption of this Zoning Ordinance.
- (c) *Accessory Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. The permitted accessory uses in the R-1A zone.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
  1. The permitted conditional uses in the R-1A zone.

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

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

Lot, Yard, and Height Requirements. (See Article 3, Subsection 8-8(o) of this section below, and Article 15 for additional regulations.)

(f) *Minimum Lot Size.* Six thousand (6,000) square feet.

(g) *Minimum Lot Frontage.* Sixty (60) feet.

(h) *Minimum Front Yard.* Thirty (30) feet.

(i) *Minimum Each Side Yard.* Six (6) feet.

(j) *Minimum Rear Yard.* Ten (10) feet.

(k) *Minimum Useable Open Space.* No limitation.

(l) *Maximum Lot Coverage.* No limitation.

(m) *Maximum Height of Building.* Thirty-five (35) feet.

(n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

As for R-1A-Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(o) *Special Provisions.*

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

a. Where existing lot frontage is twenty-four (24) feet but less than thirty-five (35) feet, the provisions of Section 15-7 and the following shall apply:

1. Minimum lot frontage: Twenty-four (24) feet.

2. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.

3. Maximum front yard: Fifty (50) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.

4. Minimum side yard: Three (3) feet. No wall, air-conditioning unit, structure or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.

5. Minimum rear yard: Twenty percent (20%) of the lot depth.

6. Minimum usable open space: No limitation.

7. Minimum lot coverage: No limitation.

8. Maximum height of building: Twenty-eight (28) feet and two and one-half (2½) stories.

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9. Maximum lot coverage: No limitation.
  10. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.
- b. Where existing lot frontage is thirty-five (35) feet but less than fifty (50) feet, the provisions of Section 15-7 and the following shall apply:
1. Minimum lot frontage: Thirty-five (35) feet.
  2. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
  3. Maximum front yard: Fifty (50) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
  4. Minimum side yard: Five (5) feet.
  5. Minimum rear yard: Twenty percent (20%) of the lot depth.
  6. Minimum usable open space: No limitation.
  7. Minimum lot coverage: No limitation.
  8. Maximum height of building: Twenty-eight (28) feet and two and one-half (2½) stories.
  9. Maximum lot coverage: No limitation.
  10. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.
- c. Where existing lot frontage is fifty (50) feet or greater, the provisions of Section 15-7 and the following shall apply:
1. Minimum lot frontage: Fifty (50) feet.
  2. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
  3. Maximum front yard: Fifty (50) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
  4. Minimum side yard: As per Subsection (i) of this section.
  5. Minimum rear yard: Twenty percent (20%) of the lot depth.
  6. Minimum usable open space: No limitation.
  7. Minimum lot coverage: No limitation.
  8. Maximum height of building: As per Subsection (m) of this section.
  9. Maximum lot coverage: No limitation.
  10. Maximum floor area ratio: 0.7.

(Code 1983, § 8-8; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 133-2004, § 1, 6-24-2004; Ord. No. 166-2017, § 3(8-8), 11-16-2017)

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## Sec. 8-9. Single-Family Residential (R-1E) Zone.

- (a) *Intent.* This zone is intended to provide for single-family detached residences on small lots, and at a higher density than would be possible in other detached single-family zones. It may be used for zero-lot-line houses and for patio houses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Single-family detached residences.
  2. Parks and playgrounds operated by government.
  3. Temporary real estate sales offices for the sale of lots, located only within the subdivision in which said lots are located; to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Private garages, storage sheds and parking areas.
  2. Swimming pools and tennis courts.
  3. Agricultural uses, excluding commercial stock raising.
  4. Private, non-commercial parks and open space.
  5. Home offices and home occupations.
  6. A ground, roof or pole-mounted satellite dish antenna, as regulated by Section 15-8.
  7. Family childcare for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
  8. Hiking and bicycling trails.
  9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. As for R-1A.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. As for R-1A.
- Lot, Yard, and Height Requirements. (See Article 3, Subsection (o) of this section, below, and Article 15 for additional regulations.)
- (f) *Lot Size.* four thousand (4,000) square feet minimum, with a maximum of seven thousand, five hundred (7,500) square feet for single-family detached uses on lots not fronting upon a cul-de-sac or more than one (1) public street; for all other uses and lots, there shall be no maximum lot size.
- (g) *Minimum Lot Frontage.* Forty (40) feet.
- (h) *Minimum Front Yard.* Twenty (20) feet.

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- (i) *Minimum Each Side Yard.* Three (3) feet. No wall, air-conditioning unit, structure or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot. (See Subsection (o)1 of this section, below.)
  - (j) *Minimum Rear Yard.* Ten (10) feet.
  - (k) *Minimum Useable Open Space.* No limitation.
  - (l) *Maximum Lot Coverage.* No limitation.
  - (m) *Maximum Height of Building.* Thirty-five (35) feet.
  - (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

~~One space per dwelling unit.~~ Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(o) *Special Provisions.*

1. There shall be not less than six (6) feet at any point between the walls of each single-family residence.
2. Lot, yard and height requirements for single-family detached dwellings in defined Infill and Redevelopment areas are for existing lots as of December 5, 2002, and shall be as follows:
  - a. Where existing lot frontage is twenty-four (24) feet but less than forty (40) feet, the provisions of Section 15-7 and the following shall apply:
    1. Minimum lot frontage: Twenty-four (24) feet.
    2. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
    3. Maximum front yard: Forty (40) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
    4. Minimum side yard: As per Subsection (i) of this section.
    5. Minimum rear yard: Twenty percent (20%) of the lot depth.
    6. Minimum usable open space: No limitation.
    7. Minimum lot coverage: No limitation.
    8. Maximum height of building: Twenty-eight (28) feet and two and one-half (2½) stories.
    9. Maximum lot coverage: No limitation.
    10. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.
  - b. Where existing lot frontage is forty (40) feet or greater, the provisions of Section 15-7 and the following shall apply:
    1. Minimum lot frontage: Forty (40) feet.
    2. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.

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3. Maximum front yard: Forty (40) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
  4. Minimum side yard: As per Section 8-12(i).
  5. Minimum rear yard: Twenty percent (20%) of the lot depth.
  6. Minimum usable open space: No limitation.
  7. Minimum lot coverage: No limitation.
  8. Maximum height of building: Twenty-eight (28) feet and two and one-half (2½) stories.
  9. Maximum lot coverage: No limitation.
  10. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.

(Code 1983, § 8-9; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 89-86, §§ 9, 10, 5-29-1986; Ord. No. 111-88, § 1, 6-2-1988; Ord. No. 86-92, § 9, 5-28-1992; Ord. No. 51-98, § 1, 2-19-1998; Ord. No. 121-2002, § 1, 5-30-2002; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 133-2004, § 1, 6-24-2004; Ord. No. 137-2016, § 2(8-9), 7-7-2016; Ord. No. 166-2017, § 3(8-9), 11-16-2017; Ord. No. 102-2021, § 7, 10-28-2021)

### **Sec. 8-10. Townhouse Residential (R-1T) Zone.**

- (a) *Intent.* This zone is intended to provide for attached single-family dwellings and supporting uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. Single-Family attached residences, except that not more than twelve (12) units shall be attached.
  2. Group Residential Projects, as provided in Article 9.
  3. Existing single-family detached residences and single-family detached residences for which a building permit was issued or a plan approved prior to the adoption of this Zoning Ordinance.
  4. Parks and playgrounds operated by government.
  5. Temporary real estate sales offices for the sale of lots, located only within the subdivision in which said lots are located; to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.
  6. Shared parking court, as regulated by Article 16-5(b)(4), where depicted on a certified development plan.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  1. Private garages, storage sheds and parking areas.
  2. Swimming pools and tennis courts.
  3. Agricultural uses, excluding commercial stock raising.
  4. Private, non-commercial parks and open space.
  5. Home offices and home occupations.

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6. A ground, roof or pole-mounted satellite dish antenna, as regulated in Section 15-8.
  7. Family childcare for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
  8. Hiking and bicycling trails.
  9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. As for R-1A.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. As for R-1A, except for townhouses.
- Lot, Yard, and Height Requirements. (See Article 3, Subsection (o) of this section, below, and Article 15 for additional regulations.)
- (f) *Minimum Lot Size.* One thousand, five hundred (1,500) square feet.
- (g) *Minimum Lot Frontage.* Fifteen (15) feet.
- (h) *Minimum Front Yard.* Ten (10) feet (See Subsection (o) of this section, below).
- (i) *Minimum Each Side Yard.* (See Subsection (o) of this section, below).
- (j) *Minimum Rear Yard.* Ten (10) feet.
- (k) *Minimum Useable Open Space.* (See Subsection (o) of this section, below).
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Thirty-five (35) feet.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)
- No minimum requirements.
- As for R-1A, Conditional Uses: The Board of Adjustment may establish additional requirements as needed.
- (o) *Special Provisions.*
1. No more than three (3) contiguous townhouse units may be established at the same setback. A variation of at least three (3) feet shall be required where a break in setback occurs. Buildings may penetrate up to eighteen (18) inches over the building line into the required front yard, but the average setback of the contiguous units shall be at least as great as the required front yard.
  2. Required side yard shall be six (6) feet for each side yard of townhouses when no units or only one (1) unit fronts on a side yard; and a side yard of twenty (20) feet when more than one (1) unit fronts on that side yard.
  3. Not less than ten percent (10%) of the total lot area for any townhouse shall be devoted to private usable open space either on each lot or on land adjacent and directly accessible to each lot. Such open space shall be for the private use of the residents of each individual townhouse and shall be physically separated from other private open space or common open space by plantings, fences, or walls. The least dimension of the private open space shall be eight (8) feet.

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4. In addition to the special provisions listed above, the lot, yard and height requirements for attached single-family dwellings that are approved by the Planning Commission on a final development plan, in defined Infill and Redevelopment areas, shall be as follows:
    - a. Minimum lot size: As per Subsection (f) of this section.
    - b. Minimum lot frontage: As per Subsection (g) of this section.
    - c. Minimum front yard: Five (5) feet.
    - d. Maximum front yard: Fifteen (15) feet.
    - e. Minimum yard along an alley: Three (3) feet.
    - f. Minimum side yard for the end of unattached units: Three (3) feet. No wall, air-conditioning unit, structure, or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be located behind the front wall plane of the principal structure on the lot.
    - g. Minimum rear yard: Twenty percent (20%) of the lot depth.
    - h. Minimum usable open space: As per Subsection (o)(3) of this section, above.
    - i. Minimum lot coverage: No limitation.
    - j. Maximum height of building: As per Subsection (m) of this section, above.
    - k. Maximum lot coverage: No limitation.

(Code 1983, § 8-10; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 89-86, § 11, 5-29-1986; Ord. No. 86-92, § 9, 5-28-1992; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 133-2004, § 1, 6-24-2004; Ord. No. 129-2009, § 11, 7-2-2009; Ord. No. 137-2016, § 2(8-10), 7-7-2016; Ord. No. 166-2017, § 3(8-10), 11-16-2017; Ord. No. 102-2021, § 7, 10-28-2021)

### **Sec. 8-11. Two-Family Residential (R-2) Zone.**

- (a) *Intent.* This zone is primarily for two-family dwellings (duplexes). This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. As for R-1A.
  2. Two-Family dwellings.
  3. Two-Family dwellings, having a common vertical wall on the property line of two (2) separate lots. Only one (1) dwelling for one-family shall be permitted on each lot, and no more than two (2) dwelling units shall be attached.
    4. Shared parking court, as regulated by Article 16-5(b)(4), where depicted on a certified development plan.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  1. The permitted accessory uses in the R-1A zone.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
  1. The permitted conditional uses in the R-1A zone.

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

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

Lot, Yard, and Height Requirements. (See Article 3, Subsection (o) of this section, below, and Article 15 for additional regulations).

(f) *Minimum Lot Size.* Seven thousand, five hundred (7,500) square feet (See Subsection (o) of this section, below).

(g) *Minimum Lot Frontage.* Sixty (60) feet (See Subsection (o) of this section, below).

(h) *Minimum Front Yard.* Thirty (30) feet.

(i) *Minimum Each Side Yard.* Six (6) feet (See Subsection (o) of this section, below).

(j) *Minimum Rear Yard.* Ten (10) feet or twenty (20) percent of the lot depth, whichever is greater.

(k) *Minimum Usable Open Space.* No limitation.

(l) *Maximum Lot Coverage.* No limitation (See Subsection (o) of this section, below).

(m) *Maximum Height of Building.* Thirty-five (35) feet.

(n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

As for R-1A-

Duplexes: Two (2) spaces per dwelling unit. Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(o) *Special Provisions.*

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

2. The minimum side yard may be eliminated on one (1) side of a lot, for future or existing adjacent lots, if a common vertical wall dividing a two-family structure is located, or is to be located, on the common property line. The side yard that is not eliminated shall be a minimum of six (6) feet.

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

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

a. Minimum lot size: As per Subsection (f) and (o)(1) of this section above.

b. Minimum lot frontage: As per Subsection (g) and (o)(2) of this section above.

c. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lots are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.

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- d. Maximum front yard: Fifty (50) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
  - e. Minimum side yard: As per Subsections (i) and (o)(3) of this section, above.
  - f. Minimum rear yard: As per Subsection (j) of this section.
  - g. Minimum usable open space: No limitation.
  - h. Minimum lot coverage: No limitation.
  - i. Maximum height of building: As per Subsection (m) of this section, above.
  - j. Maximum lot coverage: No limitation, except for a floor area ratio of 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.
5. Habitable additions to two-family dwellings must have a common wall that shall be at least fifteen (15) feet or twenty-five (25) percent of the length of the common wall on the existing structure, whichever is greater.

(Code 1983, § 8-11; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 17-98, § 1, 1-22-1998; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 133-2004, § 1, 6-24-2004; Ord. No. 129-2009, §§ 12, 13, 7-2-2009; Ord. No. 166-2017, § 3(8-11), 11-16-2017)

### **Sec. 8-12. Planned Neighborhood Residential (R-3) Zone.**

- (a) *Intent.* This zone is primarily for multi-family dwellings and other residential uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. The principal permitted uses in the R-2 zone.
  2. Multi-family dwellings.
  3. Dormitories.
  4. Boarding or lodging houses, assisted living facilities, and hospitality houses for up to eight (8) persons.
  5. Community residences.
  6. Group Residential Projects, as provided by Article 9.
  7. Townhouses, except that no less than three (3) and no more than twelve (12) units shall be attached.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  1. Items 1 through 3 and 6 through 10 of the permitted accessory uses in the R-1A zone.
  2. The keeping of not more than four (4) roomers or boarders per dwelling unit by a resident family for single family or two-family dwellings, except where a bed and breakfast facility is provided; then no roomers or boarders shall be permitted.
  3. Non-commercial athletic club facilities, when accessory to another permitted or conditional use.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
  1. The permitted conditional uses in the R-1A zone.

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2. Hospitals, nursing homes, personal care facilities, and orphanages.
  3. Community centers (such as YMCA, YWCA, etc.)
  4. Community garages.
  5. Kindergartens, nursery schools, and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  6. Parking, as permitted in Article 16-3.
  7. Sorority and fraternity houses.
  8. Boarding or lodging houses, assisted living facilities, and hospitality houses for more than eight (8) persons and rehabilitation homes, provided that no use permitted under this section shall be located less than five hundred (500) feet, as measured from the nearest property line, from another use permitted under this section. However, the Board may reduce the 500-foot spacing requirement if it can determine that a reduction will not have an adverse influence on existing or future development of the subject property or its surrounding neighborhood.
  9. Bed and breakfast facilities, limited to the rental of not more than five (5) rooms. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.
  10. Day Shelters.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. The prohibited uses in the R-1A zone, except for multi-family, two-family and townhouse dwellings; boarding or lodging houses; dormitories; and sorority and fraternity houses.

Lot, Yard, and Height Requirements. (See Article 3, Subsection (o) of this section below, and Article 15 for additional regulations.)

- (f) *Minimum Lot Size.* Six thousand (6,000) square feet.
- (g) *Minimum Lot Frontage.* Fifty (50) feet.
- (h) *Minimum Front Yard.* Twenty (20) feet.
- (i) *Minimum Each Side Yard.* Five (5) feet, unless required to be a minimum of thirty (30) feet by Section 15-2(b)(3).
- (j) *Minimum Rear Yard.* Ten (10) feet.
- (k) *Minimum Usable Open Space.* Twenty percent (20%).
- (l) *Maximum Lot Coverage.* Twenty-five percent (25%) and a floor area ratio of 0.75.
- (m) *Maximum Height of Building.* Three (3) stories up to forty (40) feet.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No Minimum requirements.

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

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

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

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

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

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

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

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

~~Duplexes — Two (2) spaces per dwelling unit. Conditional Uses: The Board of Adjustment may establish additional requirements as needed.~~

(o) *Special Provisions.*

1. Lot, yard, and height requirements for town houses shall be as required for R-1T.
2. Lot, yard, and height requirements for two-family dwellings shall be as required by R-2.
3. Lot, yard, and height requirements for Group Residential Projects shall be as required in Article 9.
4. Lot, yard, and height requirements for single family detached dwellings in defined Infill & Redevelopment areas are for existing lots as of December 5, 2002, and shall be as listed below. (Minimum lot sizes are listed below for the purpose of establishing minimum configurations that may be the result of consolidation among adjacent parcels.)
  - a. Where existing lot frontage is less than twenty-four (24) feet, the provisions of Section 15-7 and the following shall apply:
    1. Minimum lot size: Two thousand (2,000) square feet.
    2. Minimum lot frontage: Twenty (20) feet.
    3. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
    4. Maximum front yard: Forty (40) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
    5. Minimum side yard: Three (3) feet. No wall, air-conditioning unit, structure, or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.
    6. Minimum rear yard: Twenty (20) feet.
    7. Minimum usable open space: No limitation.
    8. Minimum lot coverage: No limitation.

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9. Maximum height of building: Twenty-four (24) feet.
  10. Maximum lot coverage: No limitation.
  11. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.

~~12. Minimum off street parking: None required.~~

- b. Where existing lot frontage is twenty-four (24) feet but less than thirty-five (35) feet, the provisions of Section 15-7 and the following shall apply:
  1. Minimum lot size: Two thousand, five hundred (2,500) square feet.
  2. Minimum lot frontage: Twenty-four (24) feet.
  3. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
  4. Maximum front yard: Forty (40) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
  5. Minimum side yard: Three (3) feet. No wall, air-conditioning unit, structure, or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.
  6. Minimum rear yard: Twenty percent (20%) of the lot depth.
  7. Minimum usable open space: No limitation.
  8. Minimum lot coverage: No limitation.
  9. Maximum height of building: Twenty-eight (28) feet and two and one-half (2½) stories.
  10. Maximum lot coverage: No limitation.
  11. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.
- c. Where existing lot frontage is thirty-five (35) feet but less than fifty (50) feet, the provisions of Section 15-7 and the following shall apply:
  1. Minimum lot size: Three thousand, seven hundred fifty (3,750) square feet.
  2. Minimum lot frontage: Thirty-five (35) feet.
  3. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
  4. Maximum front yard: Forty (40) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
  5. Minimum side yard: As per Subsection (i) of this section.
  6. Minimum rear yard: Twenty percent (20%) of the lot depth.
  7. Minimum usable open space: No limitation.
  8. Minimum lot coverage: No limitation.

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9. Maximum height of building: Twenty-eight (28) feet and two and one-half (2½) stories.
  10. Maximum lot coverage: No limitation.
  11. Maximum floor area ratio: 0.35, or that which allows two thousand, six hundred (2,600) square feet, whichever is greater.
- d. Where existing lot frontage is fifty (50) feet or greater, the provisions of Section 15-7 and the following shall apply:
1. Minimum lot size: Eight thousand (8,000) square feet.
  2. Minimum lot frontage: Fifty (50) feet.
  3. Minimum front yard: As per Subsection (h) of this section, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are less; then the minimum shall be no less than this average, or eight (8) feet, whichever is greater.
  4. Maximum front yard: Forty (40) feet, unless the average depth of the existing front yards on each of the adjacent lots on either side of the lot are greater; then the maximum shall be no greater than this average.
  5. Minimum side yard: Eight (8) feet.
  6. Minimum rear yard: Twenty percent (20%) of the lot depth.
  7. Minimum usable open space: No limitation.
  8. Minimum lot coverage: No limitation.
  9. Maximum height of building: As per Subsection (m) of this section.
  10. Maximum lot coverage: No limitation.
  11. Maximum floor area ratio: 0.7.
5. Lot, yard and height requirements for all other single-family detached dwellings in the R-3 zone shall be as follows:
- (1) Minimum lot size: Two thousand, five hundred (2,500) square feet.
  - (2) Minimum lot frontage: Twenty-five (25) feet.
  - (3) Minimum front yard: Twenty (20) feet, as per Subsection (h) of this section.
  - (4) Minimum side yard: Three (3) feet. No wall, air-conditioning unit, structure, or other obstruction shall be located within the required side yard. Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.
  - (5) Minimum rear yard: Ten (10) feet.
  - (6) Minimum usable open space: No limitation.
  - (7) Maximum lot coverage: No limitation.
  - (8) Maximum height of building: Thirty-five (35) feet.

(Code 1983, § 8-12; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 28-84, § 2, 3-8-1984; Ord. No. 89-86, §§ 12, 13, 5-29-1986; Ord. No. 152-87, § 1, 7-9-1987; Ord. No. 86-92, § 10, 5-28-1992; Ord. No. 55-94, §§ 2, 3, 4-14-1994; Ord. No. 213-94, § 2, 1-20-1994; Ord. No. 48-97, § 1, 4-3-1997; Ord. No. 154-97, § 1, 7-10-1997; Ord. No. 51-98, § 1, 2-19-1998; Ord. No. 226-98, § 1, 8-27-1998; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 133-2004, § 1, 6-24-2004; Ord. No. 129-2009, § 14, 7-2-2009; Ord. No. 68-2015, § 1(8-12), 6-18-2015; Ord. No. 137-2016, § 2(8-12), 7-

**Sec. 8-13. High Density Apartment (R-4) Zone.**

- (a) *Intent.* This zone is primarily for multi-family dwellings, but at a higher density than the R-3 zone. The R-4 zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  - 1. The principal permitted uses in the R-3 zone.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  - 1. The permitted accessory uses in the R-3 zone.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
  - 1. The permitted conditional uses in the R-3 zone.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
  - 1. The prohibited uses in the R-3 zone.
  - 2. Equine trails.

Lot, Yard, and Height Requirements. (See Article 3, Subsection (o) of this section below, and Article 15 for additional regulations.)

- (f) *Minimum Lot Size.* Six thousand (6,000) square feet.
- (g) *Minimum Lot Frontage.* Fifty (50) feet.
- (h) *Minimum Front Yard.* Twenty (20) feet.
- (i) *Minimum Each Side Yard.* Five (5) feet.
- (j) *Minimum Rear Yard.* Ten (10) feet.
- (k) *Minimum Useable Open Space.* Twenty percent (20%).
- (l) *Maximum Lot Coverage.* Forty percent (40%) and a floor area ratio of 1.6.
- (m) *Maximum Height of Building.* 2:1 height-to-yard ratio, except that buildings under forty (40) feet may have side and rear yards as required in the R-3 zone.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)
  - No minimum requirements.
  - As for R-3-Conditional Uses: The Board of Adjustment may establish additional requirements as needed.
- (o) *Special Provisions.*
  - 1. Lot, yard, and height requirements for townhouses shall be as required for R-1T.

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

(Code 1983, § 8-13; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 137-2016, § 2(8-13), 7-7-2016; Ord. No. 166-2017, § 3(8-13), 11-16-2017; Ord. No. 94-2020, § 2, 9-21-2020)

### **Sec. 8-14. High Rise Apartment (R-5) Zone.**

- (a) *Intent.* This zone is primarily for multi-family dwellings and particularly for high rise apartments. The R-5 zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. Multifamily dwellings.
  2. Dormitories.
  3. Offices, limited to multifamily structures with six (6) or more stories, provided offices are limited to no more than the first two (2) stories with no mixing of offices and apartments on the same floor.
  4. Shared parking court, as regulated by Article 16-5(b)(4), where depicted on a certified development plan.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  1. The permitted accessory uses in the R-1A zone, items 1 through 3 and 6 through 9.
  2. Athletic club facilities, when accessory to another permitted or conditional use.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
  1. The permitted conditional uses in the R-3 zone.
  2. Incidental retail uses to any permitted use, but having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of five thousand (5,000) square feet.
  3. Extended-stay hotels.
  4. Restaurants, without a cocktail lounge, live entertainment and/or dancing, provided it meets the following conditions:
    - a. It shall be located in a building containing a minimum of one hundred (100) dwelling units.
    - b. It shall occupy no more than ten percent (10%) of the gross floor area of the building it occupies.
    - c. It shall have no primary access to the exterior; however, one service entrance directly to the outside of the building may be permitted.
    - d. It shall have no drive-in or drive-through food service.
    - e. There shall be no more than two restaurants within a building, provided that the ten percent (10%) limitation is not exceeded.

- f. None of its public floor area may be devoted exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.
  - g. Signs permitted per multi-family residential building may be used to identify the restaurant.
  - h. This shall not apply to extended-stay hotels.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. The prohibited uses in the R-4 zone, except for offices, as permitted herein, extended-stay hotels, and incidental retail uses.
  2. Outdoor commercial and non-commercial recreational facilities, such as zoological gardens, sportsmen's farms, riding stables and equine trails.

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

- (f) *Minimum Lot Size.* Six thousand (6,000) square feet.
- (g) *Minimum Lot Frontage.* Fifty (50) feet.
- (h) *Minimum Front Yard.* Twenty (20) feet.
- (i) *Minimum Each Side Yard.* Ten (10) feet.
- (j) *Minimum Rear Yard.* Ten (10) feet.
- (k) *Minimum Usable Open Space.* Twenty percent (20%).
- (l) *Maximum Lot Coverage.* Forty-five percent (45%) and a floor area ratio of 2.25.
- (m) *Maximum Height of Building.* 4:1 height-to-yard ratio.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

As for R-3:

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

~~Extended Stay Hotels: One (1) space for every dwelling unit, plus one (1) space for each employee on the maximum shift.~~ Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(Code 1983, § 8-14; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 207-84, §§ 1—3, 11-15-1984; Ord. No. 89-86, § 14, 5-29-1986; Ord. No. 213-94, § 3, 1-20-1994; Ord. No. 187-98, § 1, 7-2-1998; Ord. No. 115-2003, §§ 1, 2, 5-29-2003; Ord. No. 49-2012, § 7, 4-26-2012; Ord. No. 137-2016, § 2(8-14), 7-7-2016; Ord. No. 166-2017, § 3(8-14), 11-16-2017; Ord. No. 94-2020, § 3, 9-21-2020)

### **Sec. 8-15. Professional Office (P-1) Zone.**

- (a) *Intent.* This zone is primarily for offices and related uses. Retail sales are prohibited, except where directly related to office functions. This zone should be located as recommended in the Comprehensive Plan.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

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1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
  2. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including, but not limited to, real estate sales offices.
  3. Research development and testing laboratories or centers.
  4. Schools for academic instruction.
  5. Libraries, museums, art galleries, and reading rooms.
  6. Funeral parlors.
  7. Medical and dental offices, clinics, and laboratories.
  8. Telephone exchanges, radio and television studios.
  9. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
  10. Community centers and private clubs.
  11. Hospitals, nursing homes, personal care facilities and assisted living facilities.
  12. Computer and data processing centers.
  13. Ticket and travel agencies.
  14. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  15. Cable television system signal distribution centers and studios.
  16. Dwelling units, provided the units are not located on the first floor of a structure and provided that at least the first floor is occupied by another permitted use or uses in the P-1 zone, with no mixing of other permitted uses and dwelling units on any floor.
  17. Business colleges, technical or trade schools or institutions.
  18. Athletic club facilities, when located at least one hundred fifty (150) feet from a residential zone.
  19. Beauty shops and barber shops not exceeding two thousand (2,000) square feet in floor area, which employ not more than five (5) licensed cosmetologists, with all service provided only by licensed cosmetologists and/or barbers.
  20. Rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.
  21. Adult day care centers.
  22. Day shelters.
  23. Places of religious assembly.
  24. Offices of veterinarians, animal hospitals or clinics, provided that:
    - (a) All exterior walls are completely soundproofed;
    - (b) Animal pens are located completely within the principal building; and
    - (c) Boarding is limited to only animals receiving medical treatment.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

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1. Establishments limited to the filling of prescriptions and retail sale of pharmaceutical and medical supplies.
  2. Parking areas or structures.
  3. Incidental retail sales or personal services, including facilities for serving food, only for employees, residents or visitors to any permitted use, and having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of five thousand (5,000) square feet.
  4. Sales offices for the display of merchandise and the acceptance of orders.
  5. Swimming pools, tennis courts, putting greens, hiking and bicycling trails, botanical gardens, nature preserves and other similar non-commercial recreational uses.
  6. Satellite dish antennas, as further regulated by Section 15-8.
  7. One dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be part of the building and located above, to the side, or to the rear of such permitted use.
  8. Retail sales and storage areas accessory to internet-based businesses, for which Certificates of Occupancy are issued after November 15, 2001, provided that the retail sales and storage area occupies no more than twenty-five percent (25%) of the business area, nor more than two thousand, five hundred (2,500) square feet, whichever is less; and having no display space, storage space or signs visible from the exterior of the building.
  9. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Drive-through facilities for sale of goods or products or the provision of services otherwise permitted herein.
  2. Parking lots and structures.
  3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  4. Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.
  5. Extended-stay hotels, except as permitted in a Professional Office Project.
  6. Mail service facilities, except as permitted in a Professional Office Project.
  7. Ecotourism activities to include equine or zip line trails; tree canopy tours; canoeing and kayaking launch sites; fishing clubs; and seasonal activities.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for

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illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

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

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

- (f) *Minimum Lot Size.* Seven thousand, five hundred (7,500) square feet.
- (g) *Minimum Lot Frontage.* Sixty (60) feet.
- (h) *Minimum Front Yard.* Twenty (20) feet.
- (i) *Minimum Each Side Yard.* Twelve (12) feet.
- (j) *Minimum Rear Yard.* Twelve (12) feet.
- (k) *Minimum Usable Open Space.* No limitation, except where residences are provided, then ten percent (10%).
- (l) *Maximum Lot Coverage.* Thirty-five percent (35%) and a floor area ratio of 1.3.
- (m) *Maximum Height of Building.* 3:1 height-to-yard ratio.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

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

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

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

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

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

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

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

~~Places of Religious Assembly: One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.~~

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

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

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

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

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

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

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

~~Hotels: One (1) space per suite with a minimum of five (5) spaces.~~

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

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

~~Adult Day Care Center: One (1) space for every ten (10) persons being provided care, plus one (1) space per caregiver on the maximum shift.~~

~~Day Shelter: One (1) space for every ten (10) persons being provided services, plus one (1) space per staff member on the maximum shift.~~

~~Beauty Shops or Barber Shops: One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.~~

~~Mail Service Facilities: One (1) space for each two hundred (200) square feet of floor area.~~

~~Other Recreational Facilities or Ecotourism activities not otherwise stated herein: Five (5) spaces, plus one (1) space for each employee for each separate use.~~

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

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

(o) *Special Provisions.*

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

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

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- a. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
  - b. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

In addition to the uses otherwise permitted in the Professional Office zone, the following uses shall be permitted in the Professional Office Project:

As a principal permitted use:

1. Hotels, but only when located more than two hundred (200) feet from a residential zone; and the total number of hotels shall not exceed one (1) hotel for every twenty (20) acres of the Professional Office Project.
2. Extended-Stay Hotels.
3. Mail Service Facilities.

As accessory uses:

1. Receiving, shipping, and storage of new fixtures, equipment and other non-perishable materials for distribution to corporate or affiliated units subsidiary to the tenant(s) of a principal structure. Such activity, including loading and unloading, shall be conducted entirely within the walls of the principal structure and shall be limited to a maximum of twenty percent (20%) of the total floor area of said principal structure.
2. Shoe repair, clothing alteration or tailoring services.

As conditional uses:

1. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.
2. Beauty shops and barber shops, with no restrictions.

In addition to the uses otherwise permitted in the Professional Office zone, the following accessory use shall be permitted in a P-1 area of at least twenty (20) contiguous acres:

Restaurant(s), with or without a cocktail lounge, entertainment, dancing, and sale of alcoholic beverages, provided it meets the following conditions:

- a. It shall be located in an office building containing a minimum of 40,000 square feet of floor area.
- b. It shall occupy not more than twenty-five percent (25%) of the building in which it is located.
- c. It shall have no more than one public entrance and one service entrance directly to the outside of the building, and that this use shall be at least one hundred fifty (150) feet from any residential zone.
- d. It shall have no drive-in or drive-through food service.
- e. There shall be no more than two restaurants within an office building, provided that the 25% limitation is not exceeded.
- f. Signs permitted per office building may be used to identify the restaurant and/or the office use.

~~2. Where dwelling units are provided and the Planning Commission has approved a final development plan, the required parking spaces may be reduced, when specific permission is given by the Commission to reduce said required parking by not more than one percent (1%) for each one percent (1%) of additional useable open space that is provided over the minimum. In any case, the maximum parking reduction shall not exceed the minimum parking otherwise required in the zone by more than ten percent (10%) by only providing additional open space.~~

(Code 1983, 8-15; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 89-86, § 15, 5-29-1986; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 84-91, § 1, 5-2-1991; Ord. No. 30-92, § 8, 3-3-1992; Ord. No. 174-93, § 1, 9-23-1993; Ord. No. 213-94, § 4, 1-20-1994; Ord. No. 85-96, § 3, 5-30-1996; Ord. No. 153-96, § 1, 8-29-1996; Ord. No. 245-97, § 1, 11-20-1997; Ord. No. 226-98, § 1, 8-27-1998; Ord. No. 302-2001, § 1, 12-6-2001; Ord. No. 62-2003, § 1, 3-20-2003; Ord. No. 115-2003, § 3, 5-29-2003; Ord. No. 143-2003, § 1, 6-26-2003; Ord. No. 203-2004, § 1, 8-26-2004; Ord. No. 61-2008, §§ 2—4, 4-10-2008; Ord. No. 129-2009, §§ 15—17, 7-2-2009; Ord. No. 129-2013, § 2, 10-24-2013; Ord. No. 155-2013, § 2, 12-10-2013; Ord. No. 16-2015, § 1, 3-17-2015; Ord. No. 68-2015, § 1(8-15), 6-18-2015; Ord. No. 137-2016, § 2(8-15), 7-7-2016; Ord. No. 22-2017, § 3(8-15), 3-2-2017; Ord. No. 166-2017, § 3(8-15), 11-16-2017; Ord. No. 2-2018, § 1, 1-30-2018; Ord. No. 84-2020, § 1, 9-3-2020)

## **Sec. 8-16. Neighborhood Business (B-1) Zone.**

- (a) *Intent.* This zone is intended to accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area. Generally, they should be planned facilities and should be located as recommended in the Comprehensive Plan. This zone should be oriented to the residential neighborhood, and should have a roadway system which will be adequate to accommodate the anticipated vehicular traffic.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
  2. Offices for business, professional, governmental, civic, social, fraternal, political, religious and charitable organizations, including, but not limited to, real estate sales offices.
  3. Research development and testing laboratories or centers.
  4. Schools for academic instruction.
  5. Libraries, museums, art galleries and reading rooms.
  6. Funeral parlors.
  7. Medical and dental offices, clinics and laboratories.
  8. Telephone exchanges, radio and television studios.
  9. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
  10. Community centers and private clubs.
  11. Nursing homes, personal care facilities and assisted living facilities.
  12. Computer and data processing centers.
  13. Ticket and travel agencies.
  14. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  15. Business colleges, technical or trade schools or institutions.

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16. Rehabilitation homes; but only when more than five hundred (500) feet from a residential zone, school for academic instruction or a childcare center.
  17. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
  18. Restaurants, and brew-pubs, except as prohibited under Subsection (e)(14) and (15) of this section, which offer no live entertainment or dancing.
  19. Establishments for the retail sale of merchandise, including: clothing, shoes, fabrics, yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products, paint and other interior or exterior care products, hobby items, toys, gifts, antiques, newspapers and magazines, stationery and books, flowers, music, cameras, jewelry and luggage, business supplies and machines; sporting goods and recreational equipment; prescription and non-prescription medicines and medical supplies.
  20. Beauty shops and barber shops.
  21. Shoe repair, clothing alterations and tailoring services.
  22. Self-service laundry or laundry pick-up stations, including clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
  23. Automobile service stations, provided such use conforms to all requirements of Article 16.
  24. Parking structures; provided such use conforms to the conditions of Article 16, and provided that at least twenty-five percent (25%) of the first floor is occupied by another permitted use or uses in the B-1 zone.
  25. Repair of household appliances.
  26. Retail sale of plant nursery or greenhouse products, except as prohibited herein.
  27. Miniature golf or putting courses.
  28. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
  29. Carnivals, special events, festivals, or concerts on a temporary basis; and upon issuance of a permit by the Divisions of Planning and Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect public health, safety, or welfare; or deny such if public health, safety, or welfare is adversely affected. A carnival, special events, festivals, or concerts may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  30. Indoor theaters, limited to three (3) screens or stages.
  31. Rental of equipment whose retail sale would be permitted in the B-1 zone.
  32. Dwelling units, provided the units are not located on the first floor of a structure; and provided that at least the first floor is occupied by another permitted use or uses in the B-1 zone, with no mixing of other permitted uses and dwelling units on any floor.
  33. Arcades, including pinball and electronic games.
  34. Pawnshops, which:
    - (1) Were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or

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- (2) Had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
35. Athletic club facilities.
  36. Banquet facilities.
  37. Adult day care centers.
  38. Animal grooming facilities.
  39. Mail service facilities.
  40. Tattoo parlors.
  41. Form-based neighborhood business project, as per Subsection (o)(3) of this section.
  42. Day shelters.
  43. Commercial farm markets and market gardens.
  44. Establishments primarily engaged in agricultural sales and services, but only when located within five hundred (500) feet of an Agricultural Rural (A-R) zone.
  45. Ecotourism activities to include hiking, bicycling and equine trails; recreational outfitters, and canoeing and kayaking launch sites.
  46. Places of religious assembly.
  47. Offices of veterinarians, animal hospitals or clinics, provided that:
    - (a) All exterior walls are completely soundproofed;
    - (b) Animal pens are located completely within the principal building; and
    - (c) Boarding is limited to only animals receiving medical treatment.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Parking areas or structures.
  2. One (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted uses.
  3. Warehousing, wholesaling, and storage, excluding outdoor storage; and provided that no building for such accessory use shall have openings other than stationary windows or solid pedestrian doors within one hundred (100) feet of any residential zone.
  4. The sale of malt beverages, wine or alcoholic beverages, when accessory to a restaurant permitted under Subsection (b)3. Such accessory use shall not devote more than twenty-five percent (25%) of its public floor area primarily to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.
  5. Satellite dish antennas, as further regulated by Section 15-8.
  6. One or two (2) pool or billiard tables within an establishment.
  7. Sidewalk cafes, when accessory to any permitted restaurant.
  8. Retail sale of liquid propane (limited to twenty pound (20 lb.) containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Subsection (b) of this section.

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9. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility; but only when located more than one hundred (100) feet from a residential zone.
  10. Drive-through facilities for the sale of goods or products, or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Self-service car washes, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
  2. The rental of trucks (single rear axle: Twenty-eight (28) feet maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided that the service station abuts a state or federal highway. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs, parking and location of the proposed storage area.
  3. A restaurant or brew-pub, without live entertainment or dancing, which devotes more than twenty-five percent (25%) of its public floor area primarily to the preparation and service of malt beverages, wine or alcoholic beverages.
  4. Outdoor live entertainment and/or dancing, cocktail lounges or nightclubs, unless prohibited under Subsections (e)(14) and (15) of this section. Such uses shall be located at least one hundred (100) feet from any residential zone; and indoor uses shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood. The Board may also impose time restrictions to minimize nuisance to the surrounding neighborhood.
  5. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility; but only when located closer than one hundred (100) feet from a residential zone.
  6. Upholstery shop.
  7. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  8. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
    - a. To check all operating equipment;
    - b. To check fire suppression system(s);
    - c. To check the condition of the fire alarm(s);
    - d. To check for indications of fuel leaks and spillage;
    - e. To remove trash from the site;

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- f. To monitor the general condition of the site.
  9. Rehabilitation homes, but only when located closer than five hundred (500) feet from a residential zone, school for academic instruction or a childcare center.
  10. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  11. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  12. Automobile and vehicle refueling stations, provided such uses conform to all requirements of Article 16.
  13. Extended-stay hotels.
  14. Parking lots, provided such use conforms to the conditions of Article 16.
  15. Drive-through facilities for the sale of goods or products, or the provision of services otherwise permitted herein, except as accessory uses herein.
  16. Ecotourism activities to include zip line trails; tree canopy tours; fishing clubs; botanical gardens; nature preserves; and seasonal activities.
  17. Recreation vehicle and trailer campgrounds, but only when located within five hundred (500) feet of an interstate interchange.
  18. Hunting clubs, but only when located more than five hundred (500) feet from a residential zone.
  19. Country inns, but only when located within five hundred (500) feet of an Agricultural Rural (A-R) zone.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. Establishments primarily engaged in agricultural sales and services, except as permitted herein.
  2. Warehouses, as well as storage uses, except as accessory uses herein.
  3. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; printing; electrical; sign painting; tile, mosaic and terrazzo work; electroplating; drilling; excavating; wrecking; construction; and paving. This is not intended to prohibit the administrative offices of such.
  4. Manufacturing, compounding, assembling, bottling, processing and packaging and other industrial uses for sale or distribution other than as retail on the premises.
  5. Truck terminals and freight yards; transfer stations.
  6. Amusement enterprises, such as outdoor theaters; automobile racing; horse racing.
  7. Kennels, outdoor runways, or pens for animals.
  8. Establishments engaged in the display, rental, sales, service and major repair of automobiles, repair of motorcycles, boats, trucks, travel trailers, farm implements, contractors' equipment, mobile homes, and establishments primarily engaged in the sale of supplies and parts for any of the above-mentioned vehicles or equipment, except as permitted herein.

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9. Establishments for cleaning, dyeing, laundering and the like, other than self-service and pickup stations, except for clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
  10. Dwellings, except as permitted herein.
  11. Hotel or motel, boardinghouse.
  12. Wholesale establishments.
  13. Greenhouses, nurseries, hatcheries.
  14. Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
  15. Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
  16. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display: pictures, books, periodicals, magazines, appliances and similar material, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as:
    - (a) Depiction of human genitals in a state of sexual stimulation or arousal;
    - (b) Acts of human masturbation, sexual intercourse or sodomy; or
    - (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
  17. Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as:
    - (a) Depiction of human genitals in a state of sexual stimulation or arousal;
    - (b) Acts of human masturbation, sexual intercourse or sodomy; or
    - (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
  18. Above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas.
  19. Pawnshops, except as permitted herein.
  20. Pool or billiard halls.
  21. Hospitals.
  22. Ecotourism activities, except as permitted herein.

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

- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum and Maximum Front Yard.*
  - a. Minimum: Ten (10) feet.
  - b. Maximum: Twenty (20) feet.

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- (i) *Minimum Each Side Yard.* No limitation.
  - (j) *Minimum Rear Yard.* No limitation.
  - (k) *Minimum Usable Open Space.* No limitation, except where dwelling units are provided as principal uses; then ten percent (10%).
  - (l) *Maximum Lot Coverage.* No limitation.
  - (m) *Maximum Height of Building.* Thirty-five (35) feet, except as permitted in Subsection (o)(3) of this section.
  - (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

As for P-1:

~~Accessory Warehousing, Wholesaling, Storage and the like: One (1) space for every six hundred (600) square feet of floor area.~~

~~Accessory Dwellings: One (1) space per dwelling unit.~~

~~Shoe Repair Shops, Clothing Alterations, Tailoring Services and Tattoo Parlors: One space for every two hundred (200) square feet, with a minimum of three (3) spaces.~~

~~Restaurants and Brew Pubs with no live entertainment or dancing: One (1) space for every two hundred (200) square feet of floor area; or one (1) space for every four (4) indoor seats, plus one (1) for every eight (8) outdoor seats, whichever is greater.~~

~~Cocktail Lounges, Night Clubs, Banquet Facilities or Restaurants and Brew Pubs with live entertainment or dancing: One (1) space for every one hundred fifty (150) square feet; or one (1) space for every three (3) indoor seats plus one (1) for every six (6) outdoor seats, whichever is greater.~~

~~Retail Uses: For the first ten thousand (10,000) square feet, one (1) space for every four hundred (400) square feet of floor area, with a minimum of three (3) spaces; for all floor area exceeding the first ten thousand (10,000) square feet, one (1) space for every two hundred (200) square feet. Combined uses located in a single building shall calculate required parking on the total square footage of the building and not the individual retail uses therein.~~

~~Self-Service Laundry: One (1) space for every six (6) machines (washers, dryers, and the like.)~~

~~Indoor Theaters: One (1) space for every five (5) seats.~~

~~Miniature Golf or Putting Course: One and one-half (1½) spaces per hole.~~

~~Arcades, with or without accessory billiard or pool tables: One (1) space for every two hundred fifty (250) square feet of floor area.~~

~~Animal Grooming Facilities: One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.~~

~~Country Inns: One (1) space per room or suite rented.~~

~~Combined Uses: Combined uses shall provide parking equal to the sum of the individual uses.~~

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(o) *Special Provisions.*

1. No building to be used principally as a single use or establishment shall exceed 40,000 square feet in floor area unless approved by the Planning Commission prior to December 10, 2013 for at least 40,000 square feet in size. No such structure may exceed 60,000 square feet in size, in any event.

~~2. Where dwelling units are provided and the Planning Commission has approved a final development plan, the required parking spaces may be reduced when specific permission is given by the Commission to reduce said required parking by not more than one percent (1%) for each one percent (1%) of additional useable open space that is provided over the minimum. In any case, the maximum parking reduction shall not exceed the minimum parking otherwise required in the zone by more than ten percent (10%) by only providing additional open space.~~

23. The study will document the architectural and urban design character of the area. It shall demonstrate, through the use of renderings, elevations and similar graphic materials, how the proposed project will enhance and complement the area's character. It will also show its integration with the surrounding neighborhood by using positive design features, such as supplemental landscaping; provision of public space and open space buffers; and improved pedestrian accommodations. These drawings shall be made a part of the Commission's approval, and building permits shall comply with the approved drawings. A form-based neighborhood business project shall not be subject to the square footage limitation of 8-16(o)(1) above.

(Code 1983, 8-16; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 207-84, §§ 1—3, 11-15-1984; Ord. No. 241-85, §§ 1, 2, 11-21-1985; Ord. No. 89-86, § 16, 5-29-1986; Ord. No. 73-87, § 1, 4-30-1987; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 123-90, § 1, 6-14-1990; Ord. No. 152-91, §§ 2, 4, 7-18-1991; Ord. No. 30-92, § 9, 3-3-1992; Ord. No. 213-94, § 5, 1-20-1994; Ord. No. 30-95, § 1, 2-9-1995; Ord. No. 292-95, § 1, 12-7-1995; Ord. No. 85-96, § 3, 5-30-1996; Ord. No. 222-98, § 1, 8-27-1998; Ord. No. 226-98, § 1, 8-27-1998; Ord. No. 147-2000, § 1, 6-1-2000; Ord. No. 62-2003, § 1, 3-20-2003; Ord. No. 43-2004, § 1, 3-4-2004; Ord. No. 203-2004, § 1, 8-26-2004; Ord. No. 240-2007, §§ 2, 3, 11-1-2007; Ord. No. 129-2009, §§ 18—20, 7-2-2009; Ord. No. 99-2011, § 4, 8-25-2011; Ord. No. 100-2011, §§ 2, 3, 8-25-2011; Ord. No. 122-2011, § 16, 9-29-2011; Ord. No. 138-2012, § 2, 11-15-2012; Ord. No. 3-2013, § 1, 1-17-2013; Ord. No. 5-2013, § 2, 1-31-2013; Ord. No. 129-2013, § 2, 10-24-2013; Ord. No. 155-2013, § 2, 12-10-2013; Ord. No. 68-2015, § 1(8-16), 6-18-2015; Ord. No. 137-2016, § 2(8-16), 7-7-2016; Ord. No. 22-2017, § 3(8-16), 3-2-2017; Ord. No. 166-2017, § 3(8-16), 11-16-2017; Ord. No. 84-2020, § 2, 9-3-2020)

### **Sec. 8-17. Downtown Business (B-2) Zone.**

- (a) *Intent.* This zone is intended to accommodate existing and future development in the Central Business District.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. The principal permitted uses in the B-1 zone.
  2. Amusement enterprises, such as indoor billiard or pool halls; indoor theaters; bowling alleys; dance halls; skating rinks.
  3. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing or the sale of alcoholic beverages.
  4. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats, provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
  5. Establishments engaged in blueprinting, printing, publishing and lithographing; interior decorating; upholstering; laundering, clothes cleaning and dyeing; clothing alterations and tailoring services.
  6. Hotels and motels.
  7. Passenger transportation terminals.
  8. Any type of dwelling unit.

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9. Wholesale establishments.
  10. Minor automobile and truck repair.
  11. Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
  12. Pawnshops.
  13. Stadium and exhibition halls.
  14. Telephone exchanges; radio and television studios.
  15. Cable television system signal distribution centers and studios.
  16. Athletic club facilities.
  17. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under eighteen (18) years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
  18. Parking lots and structures, provided such use conforms to the conditions of Article 16.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Storage, wholesaling, and warehousing.
  2. Storage yards for delivery vehicles of a permitted use.
  3. Sidewalk cafe, when accessory to any permitted restaurant.
  4. Major automobile and truck repair, when accessory to an establishment primarily engaged in the sale of automobiles and trucks.
  5. Satellite dish antennas, as further regulated in Section 15-8.
  6. Micro-brewery, when accessory to a restaurant permitted herein; shall be located at least one hundred (100) feet from a residential zone, and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
  7. Parking areas or structures.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Helistops, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.
  2. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
  3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and

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- c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  4. Adult arcades, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, except as permitted herein; provided none shall be located within a 500-foot radius of any elementary or secondary school, any park attended by persons under eighteen (18) years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
  5. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
    - a. To check all operating equipment;
    - b. To check fire suppression system(s);
    - c. To check the condition of the fire alarm(s);
    - d. To check for indications of fuel leaks and spillage;
    - e. To remove trash from the site;
    - f. To monitor the general condition of the site.
  6. Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone, school for academic instruction or a childcare center.
  7. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  8. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  9. Automobile and vehicle refueling stations, provided such use conforms to all requirements of Article 16.
  10. Ecotourism activities to include commercial hiking, bicycling, equine and zip line trails; tree canopy tours; canoeing and kayaking launch sites; fishing clubs; botanical gardens; nature preserves; and seasonal activities.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. The prohibited uses in the B-1 zone, items 1 through 7 (Section 8-16(e)1 through 7), except as permitted herein.
  2. Outdoor kennels or outdoor animal runs.
  3. Establishments engaged in the display, rental, or repair of farm equipment, trucks exceeding one and one-half (1½) tons, and contractor's equipment.
  4. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas.

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5. Hospitals.
  6. Campgrounds and hunting clubs.
  7. Farm tours, hayrides, corm mazes, outdoor rodeos, riding stables, horse shows, fishing lakes, hunting or trapping, sportsmen's farms, zoological gardens and classes related to agricultural products or skills.

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

- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum Front Yard.* No limitation.
- (i) *Minimum Each Side Yard.* No limitation.
- (j) *Minimum Rear Yard.* No limitation.
- (k) *Minimum Usable Open Space.* No limitation (except that residential uses shall provide useable open space equal to not less than ten percent (10%) of only those floors occupied by dwelling units).
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* No limitation.
- (n) *Off-Street Parking.* (See Article 16 and 18 for additional parking regulations.)

No minimum requirements.

~~Dwelling Units: No requirements, except for buildings with twenty five (25) or more dwelling units; then one (1) space for every two thousand (2,000) square feet of residential floor area.~~

All Other Permitted Uses: Off-street parking not required.

Off-street loading shall be as required in Article 16. Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

- (o) *Special Provisions.*
  1. For any development that is located adjacent to, connects to, or interacts directly with the Town Branch Commons corridor, such development of the site shall comply with the Town Branch Commons Masterplan and Design standards; taking precedent over the Downtown Streetscape Master Plan where conflicts occur.
  2. For those floors of buildings containing dwelling units with windows for habitable rooms, there shall be provided a height-to-yard ratio of 3:1 for light and air. Public street right-of-way width may be used as part of this setback requirement, except that a minimum setback of five (5) feet from the property line, other than property lines adjoining street right-of-way, shall be required in any case. No setback shall be required for those floors containing non-residential uses or dwelling unit walls without windows.
  3. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.

(Code 1983, § 8-17; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 89-86, § 17, 5-29-1986; Ord. No. 30-92, § 10, 3-3-1992; Ord. No. 213-94, § 5, 1-20-1994; Ord. No. 30-95, § 1, 2-9-1995; Ord. No. 71-96, § 2, 5-16-1996; Ord. No. 85-96, § 3, 5-30-1996; Ord. No. 155-97, § 1, 7-10-1997; Ord. No. 222-98, § 1, 8-27-1998; Ord. No. 261-98, § 1, 10-1-1998; Ord. No. 325-2000, § 1, 11-9-2000; Ord. No. 62-2003, § 1, 3-20-2003; Ord. No. 203-2004, § 1, 8-26-2004; Ord. No. 129-2009, § 21, 7-2-2009; Ord. No. 99-2011, § 5, 8-25-2011; Ord. No. 100-2011, § 4, 8-25-2011; Ord. No. 5-2013, § 2, 1-31-2013; Ord. No. 129-2013, § 2, 10-24-2013; Ord. No. 155-2013, § 2, 12-10-2013; Ord. No. 68-

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2015 , § 1(8-17), 6-18-2015; Ord. No. 137-2016 , § 2(8-17), 7-7-2016; Ord. No. 166-2017 , § 3(8-17), 11-16-2017; Ord. No. 77-2019 , § 1, 10-10-2019; Ord. No. 031-2020 , § 1, 3-17-2020)

### **Sec. 8-18. Downtown Frame Business (B-2A) Zone.**

- (a) *Intent.* This zone is intended to accommodate existing and proposed development in the transitional "frame," which surrounds the downtown core area, by providing for comparable and compatible uses while anticipating the future expansion of the downtown core area.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  - 1. The principal permitted uses in the B-2 zone.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
  - 1. The permitted accessory uses in the B-2 zone.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
  - 1. The permitted conditional uses in the B-2 zone.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
  - 1. The prohibited uses in the B-2 zone.  
Lot, Yard, and Height Requirements. (See Articles 3 and 15 for additional regulations.)
- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum Front Yard.* Ten (10) feet.
- (i) *Minimum Each Side Yard.* No limitation, except that side street side yard shall be ten (10) feet.
- (j) *Minimum Rear Yard.* No limitation.
- (k) *Minimum Usable Open Space.* No limitation, except that residential uses shall provide useable open space equal to not less than ten percent (10%) of only those floors occupied by dwelling units.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Three (3) stories, or thirty-five (35) feet, except that buildings up to ten (10) stories shall be permitted if the Planning Commission approves a development plan; and for every story in excess of three (3) stories, one percent (1%) of the total lot area shall be added to the otherwise required front yard, or such area shall be provided as ground level open space on land adjoining the right-of-way.
- (n) *Off-Street Parking.* (See Article 16 and 18 for additional parking regulations.) ~~Twenty five percent (25%) of the least parking area required in any zone, other than the B-2 or B-2B zones which permit the principal or a similar use. Off-street loading and unloading areas shall be as required in Article 16.~~  
No minimum requirements.  
Conditional Uses: The Board of Adjustment may establish additional requirements as needed.
- (o) *Special Provisions.*

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1. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
  2. For any development that is located adjacent to, connects to, or interacts directly with the Town Branch Commons corridor, such development of the site shall comply with the Town Branch Commons Masterplan and Design standards; taking precedent over the Downtown Streetscape Master Plan where conflicts occur.

(Code 1983, § 8-18; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 261-98, § 1, 10-1-1998; Ord. No. 129-2009, § 22, 7-2-2009; Ord. No. 5-2013, § 2, 1-31-2013; Ord. No. 166-2017, § 3(8-18), 11-16-2017; Ord. No. 77-2019, § 2, 10-10-2019)

### **Sec. 8-19. Lexington Center Business (B-2B) Zone.**

- (a) *Intent.* This zone is intended to ensure compatible land uses, the preservation of existing attractions compatible with the Lexington Center, and the encouragement of new uses necessary to the proper development of the Downtown Area. The permitted land uses in the zone should have some logical relation to the Lexington Center and to the downtown core, should promote tourism, should promote the economic health of the community, should provide for an aesthetically pleasing environment, and should prevent the creation of influences adverse to the prospering of the Lexington Center and the Downtown Area.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. Civic Center and convention facilities.
  2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions; savings and loan companies, holding and investment companies.
  3. Offices and clinics.
  4. Schools for academic instruction.
  5. Libraries, museums, art galleries, and reading rooms.
  6. Studios for work or teaching of fine arts, such as photography, music, drama, dance or theater.
  7. Places of religious assembly.
  8. Ticket and travel agencies.
  9. Restaurants, cocktail lounges and nightclubs, including those serving alcoholic beverages and/or offering live entertainment, except as prohibited under Subsection (e) of this section.
  10. Establishments for the retail sale of primarily new merchandise.
  11. Beauty shops and barber shops.
  12. Shoe repair, clothing alterations or tailoring services.
  13. Retail sale of plant, nursery or greenhouse products, or agricultural produce.
  14. Commercial farm markets and market gardens.
  15. Hotels or motels.
  16. Any type of residential use.
  17. Antique shops.

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18. Establishments for the display, rental or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats, provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
  19. Amusement enterprises, such as circuses; carnivals; horse racing or automobile racing, special events, festivals, and concerts provided such activity is operated on a temporary basis of a duration not exceeding two (2) weeks.
  20. Establishments engaged in blueprinting, printing, publishing, and lithography; interior decoration and upholstery; repair of household appliances.
  21. Bookstores, except as prohibited under Subsection (e) of this section.
  22. Indoor amusement enterprises, such as motion picture theaters, except as prohibited under Subsection (e) of this section; billiard or pool halls; bowling alleys; dance halls, skating rinks; and arcades.
  23. Computer and data processing centers.
  24. Telephone exchanges, radio and television studios.
  25. Cable television system signal distribution centers and studios.
  26. Private clubs, except as prohibited under Subsections (e)7, 8 and 9 of this section.
  27. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  28. Pawnshops which:
    - (1) Were in operation prior to August 31, 1990, and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or
    - (2) Had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
  29. Historic house museums.
  30. Health clubs, athletic clubs and spas.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Storage area for delivery vehicles of a permitted use.
  2. Sidewalk cafe, when accessory to any permitted restaurant.
  3. Major automobile and truck repair, when accessory to an establishment primarily engaged in the sale of automobiles and trucks.
  4. Parking lots and parking structures, when accessory to principal permitted uses.
  5. Satellite dish antennas, as further regulated by Section 15-8.
  6. Micro-brewery, when accessory to a restaurant permitted herein; shall be located at least one hundred (100) feet from a residential zone, and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

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1. Automobile service stations at which only minor automobile and truck repair is performed, and provided such use conforms to all requirements of Article 16.
  2. Automobile rental facilities; parking lots and parking structures, when not accessory to a principal permitted use, provided such uses conform to all requirements of Article 16.
  3. Secondhand shops.
  4. Self-service laundry or laundry pick-up stations, including clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
  5. Helistops, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.
  6. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
  7. Recycling drop-off centers for aluminum; steel; plastic; glass; newspapers; cardboard and other paper products; oil and other household recyclable waste, provided that such an establishment shall be located at least two hundred (200) feet from any residential zone. Any appeal for a conditional use permit to operate a recycling drop-off center shall include as part of the application: Reasons for the location of the proposed use at a specific site, description of equipment to be used, physical arrangement, and operation of the proposed center. The Board of Adjustment shall consider the necessity of screening, if needed.
  8. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  9. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
    - a. To check all operating equipment;
    - b. To check fire suppression system(s);
    - c. To check the condition of the fire alarm(s);
    - d. To check for indications of fuel leaks and spillage;
    - e. To remove trash from the site;
    - f. To monitor the general condition of the site.
  10. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  11. Tattoo parlors.

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12. Ecotourism activities to include commercial hiking, bicycling, equine and zip line trails; tree canopy tours; canoeing and kayaking launch sites; fishing clubs; botanical gardens; nature preserves, and seasonal activities.

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

1. Establishments primarily engaged in agricultural equipment sales and services.
2. Warehouse, as well as storage uses, except as accessory uses herein.
3. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; electrical; sign painting; tile, mosaic and terrazzo work; electroplating; drilling; excavating; wrecking, construction and paving. This is not intended to prohibit administrative offices of such.
4. Manufacturing, compounding, assembling, bottling, processing and packaging, and other industrial uses for sale or distribution other than as retail on the premises.
5. Truck terminals and freight yards.
6. Drive-in restaurants or drive-in theaters.
7. Establishments offering live entertainment in which a person is unclothed, or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
8. Establishments at which any employee is unclothed or in the attire, costume, or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
9. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities, as:
  - (a) Depiction of human genitals in a state of sexual stimulation or arousal;
  - (b) Acts of human masturbation, sexual intercourse or sodomy; or
  - (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
10. Animal kennels, hospitals, clinics, outdoor runways or pens, and animal grooming facilities.
11. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas.
12. Pawnshops, except as permitted herein.
13. Campgrounds and hunting clubs.
14. Farm tours, hayrides, corm mazes, outdoor rodeos, riding stables, horse shows, fishing lakes, hunting or trapping, sportsmen's farms, zoological gardens and classes related to agricultural products or skills.

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

- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum Front Yard.* No limitation.

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- (i) *Minimum Each Side Yard.* No limitation.
  - (j) *Minimum Rear Yard.* No limitation.
  - (k) *Minimum Usable Open Space.* No limitation, except that ten percent (10%) shall be required for any residential area.
  - (l) *Maximum Lot Coverage.* No limitation.
  - (m) *Maximum Height of Building.* No limitation.
  - (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

~~Dwelling Units: No requirements, except for buildings with twenty five (25) or more dwelling units: then one (1) space for every two thousand (2,000) square feet of residential floor area.~~

~~Hotels or Motels: One (1) space per suite, with a minimum of five (5) spaces.~~

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

- (o) *Special Provisions.*
  1. For any development that is located adjacent to, connects to, or interacts directly with the Town Branch Commons corridor, such development of the site shall comply with the Town Branch Commons Masterplan and Design standards; taking precedent over the Downtown Streetscape Master Plan where conflicts occur.
  2. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.

(Code 1983, § 8-19; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 234-85, §§ 1, 2, 11-12-1985; Ord. No. 89-86, § 18, 5-29-1986; Ord. No. 152-91, §§ 2, 4, 7-18-1991; Ord. No. 30-92, § 11, 3-3-1992; Ord. No. 30-95, § 1, 2-9-1995; Ord. No. 85-96, § 3, 5-30-1996; Ord. No. 222-98, § 1, 8-27-1998; Ord. No. 261-98, § 1, 10-1-1998; Ord. No. 325-2000, § 1, 11-9-2000; Ord. No. 217-2006, § 1, 7-11-2006; Ord. No. 129-2009, § 23, 7-2-2009; Ord. No. 99-2011, § 6, 8-25-2011; Ord. No. 155-2013, § 2, 12-10-2013; Ord. No. 137-2016, § 2(8-19), 7-7-2016; Ord. No. 22-2017, § 3(8-19), 3-2-2017; Ord. No. 166-2017, § 3(8-19), 11-16-2017; Ord. No. 77-2019, § 3, 10-10-2019; Ord. No. 031-2020, § 1, 3-17-2020)

### **Sec. 8-20. Highway Service Business (B-3) Zone.**

- (a) *Intent.* This zone is intended to provide for retail and other uses, which are necessary to the economic vitality of the community but may be inappropriate in other zones. The Comprehensive Plan should be used to determine the locations for this zone. Special consideration should be given to the relationship of the uses in the zone to the surrounding land uses and to the adequacy of the street system to serve the traffic needs.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
  2. Automobile service stations, subject to the conditions of Article 16.
  3. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of alcoholic beverages.

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4. Car washing establishments, provided that surface water from such use shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
  5. Motel or hotel.
  6. Indoor amusements, such as billiard or pool halls; dancing halls; skating rinks; miniature golf or putting courses; theaters or bowling alleys.
  7. Self-service laundry, laundry pick-up station, or clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
  8. Garden centers.
  9. Kennels, animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
  10. Drive-in restaurants, provided that all outside food service areas shall be at least one hundred (100) feet from any residential zone.
  11. Establishments for the retail sale of merchandise as permitted in the B-1 zone, unless prohibited by Subsection (e) of this section.
  12. Minor automobile and truck repair.
  13. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
  14. Beauty shops and barber shops.
  15. Shoe repair, clothing alteration, tailoring services and tattoo parlors.
  16. Carnivals, special events, festivals and concerts on a temporary basis, and upon issuance of a permit by the Divisions of Planning and of Building Inspection, which may restrict the permit in terms of time, parking, access or in other ways to protect public health, safety, or welfare; or deny such if public health, safety or welfare are adversely affected. A carnival, special event, festival, or concert may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  17. Offices and medical clinics.
  18. Taxidermy establishments.
  19. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
  20. Business colleges, technical or trade schools or institutions.
  21. Schools for academic instruction.
  22. Kindergartens, nursery schools and childcare centers, where enrollment of children is sponsored and licensed by established places of religious assembly and non-profit community-based groups, and/or where enrollment may be limited to children of employees and staff of an office, business or commercial establishment which is located on or abutting the same lot as the proposed childcare facility. A fenced and screened play area shall be provided in an area, located a minimum of ten (10) feet from a collector or arterial street, and shall contain not less than twenty-five (25) square feet per child.
  23. Pawnshops which:
    - (1) Were in operation prior to August 31, 1990, and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or

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- (2) Had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
24. Indoor athletic clubs and recreational facilities.
  25. Parking lots and structures.
  26. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under eighteen (18) years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
  27. Commissaries for preparation of food for restaurant use.
  28. Retail sale of automotive parts with storage and distribution of inventory to other local establishments under the same ownership, when such use is at least two hundred (200) feet from a residential zone.
  29. Automobile and vehicle refueling stations, provided such uses conform to all requirements of Article 16.
  30. Commercial farm markets and market gardens.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Wholesale, warehouse, and storage facilities.
  2. Parking areas and structures.
  3. Swimming pools.
  4. Newsstands and retail shops when accessory to a motel or hotel, provided there are no exterior entrances or signs visible from outside the structure in which they are located.
  5. Not more than one (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of and located above or to the rear of such permitted use.
  6. Major automobile and truck repair, when accessory to an establishment primarily engaged in the sale of automobiles and trucks.
  7. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
  8. Satellite dish antennas, as further regulated by Section 15-8.
  9. Pawnshops which are accessory to an establishment primarily engaged in the retail sale of jewelry. Not less than fifty percent (50%) of the gross revenue of such establishments shall come from the retail sale of jewelry.
  10. Micro-brewery, when accessory to a restaurant permitted herein; and shall be located at least one hundred (100) feet from a residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
  11. Retail sale of liquid propane (limited to twenty-pound (20 lb.) containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Subsection (b) of this section.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.) Required conditions for any conditional use permitted herein shall be as follows:

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- (1) Any conditional use shall be located, in relationship to the arterial roadway system, so that the conditional use has a minimal effect on the adjoining streets and the surrounding uses.
  - (2) Any outdoor theater screen or illuminated scoreboard or other similar surface shall not be visible from any street for a distance of one thousand (1,000) feet from said structure.
  - (3) Entrances of ingress or egress, acceleration lanes, and deceleration lanes shall be provided in conformance with requirements as established by the Urban County Traffic Engineer.
1. Outdoor athletic facilities that would be compatible in a Highway Service Business (B-3) zone, such as a football stadium; tennis courts; a soccer or polo field, and a baseball field.
  2. Amusement parks, fairgrounds, or horse racing tracks, if all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any residential zone, residence, school, place of religious assembly, hospital, nursing home, or personal care facility.
  3. Outdoor theaters, provided that all facilities, other than highway access drives, are not less than one thousand (1,000) feet from any residential zone, residence, school, place of religious assembly hospital, nursing home, or personal care facility; and further provided that a vehicle storage area equal to thirty percent (30%) of the capacity of the theater be provided between the highway and theater ticket gate.
  4. Outdoor recreational facilities, including go-cart tracks; archery courts; skate-board and roller skating tracks; trampoline centers; rifle and other fire-arm ranges; swimming pools; water slides and other water-related recreational facilities, and other similar uses.
  5. Passenger transportation terminals.
  6. Pawnshops, except as permitted herein.
  7. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  8. Adult arcades, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, except as permitted herein, provided none shall be located within a 500-foot radius of any elementary or secondary school, any park attended by persons under eighteen (18) years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
  9. Places of religious assembly and Sunday schools.
  10. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas; except as permitted herein, or except in conformance with the Kentucky Building Code and all applicable fire safety codes. Except in association with an automobile and vehicle refueling station, total above-ground storage of gas is limited to six hundred (600) square feet. There may be no filling or re-filling of gas containers in this zone.

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11. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  12. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  13. Ecotourism activities to include campgrounds; commercial hiking, bicycling, equine and zip line trails; tree canopy trails; canoeing and kayaking launch sites; fishing and hunting clubs; botanical gardens; nature preserves; and seasonal activities.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. The prohibited uses in the B-1 zone, items 1 through 5 (Sections 8-16(e)1 through 5).
  2. Automobile, truck, ATV, motorcycle, bicycle motocross, or other vehicle or bicycle race tracks.
  3. Establishments for cleaning, dyeing, and the like, except as permitted herein.
  4. Dwellings, except as accessory uses herein.
  5. Major automobile and truck repair, except as permitted herein.
  6. Boardinghouses.
  7. Outdoor retail sale of merchandise, unless accessory to a permanent retail sales establishment that conducts most of its activities within a completely enclosed building or group of buildings.
  8. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas, except as permitted herein.
  9. Hospitals.
  10. Museums, including historic house museums.
  11. Farm tours, hayrides, corn mazes, outdoor rodeos, riding stables, horse shows, fishing lakes, hunting or trapping, sportsmen's farms, and zoological gardens.
- Lot, Yard, and Height Requirements. (See Articles 3 and 15 for additional regulations.)
- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* Forty (40) feet.
- (h) *Minimum Front Yard.* Twenty (20) feet.
- (i) *Minimum Each Side Yard.* No limitation, except as provided in Subsection (o) of this section.
- (j) *Minimum Rear Yard.* No limitation, except as provided in Subsection (o) of this section.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Seventy-five (75) feet, except where a side or rear yard abuts a Professional Office or a Residential zone, then a 3:1 height to yard ratio.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

No minimum requirements.

~~As for B-1.~~

~~Establishments for display, rental, sale, service or repair of farm implements, contractor equipment, automobiles, motorcycles, boats, travel trailers, mobile homes, or supplies for such items: One (1) space for every six hundred (600) square feet of floor area, with a minimum of five (5) spaces.~~

~~Car Washing Establishments: Two (2) spaces for each stall, plus one (1) space for each vacuum unit.~~

~~Motels and Hotels: One (1) space per suite with a minimum of five (5) spaces.~~

~~Bowling Alleys: Four (4) spaces per alley; however, snack bars and food service provided primarily to patrons shall not require additional parking.~~

~~Offices of Veterinarians, Animal Hospitals or Clinics, and Kennels: One (1) space for every two hundred (200) square feet of floor area.~~

~~Billiard or Pool Halls, Arcades, Dance Halls, Indoor Athletic Facilities, and other amusement places without fixed seats: One (1) space for every one hundred (100) square feet of floor area, plus one (1) space for every three (3) employees.~~

~~Skating Rinks: One (1) space for each four hundred (400) square feet of floor area, plus one (1) space for every employee.~~

~~Theaters: One (1) space for every five (5) seats.~~

~~Indoor and Outdoor Athletic Facilities, Horse Race Tracks, and other amusement places with fixed seats: One (1) space for every five (5) seats, plus one (1) space for every three (3) employees.~~

~~Miniature Golf or Putting Courses: One and one half (1½) spaces per hole.~~

~~Garden Centers: One (1) space for every four hundred (400) square feet of floor area; plus one (1) space for each employee, with a minimum of five (5) spaces.~~

~~Adult Arcades and Massage Parlors: As for retail uses in the B-1 zone (with a minimum of three (3) spaces) or one (1) space for every five (5) seats, whichever is greater.~~

~~Adult Bookstores or Adult Video Stores: As for retail uses in the B-1 zone (with a minimum of three (3) spaces.)~~

~~Adult Cabarets, Adult Dancing Establishments, Adult Entertainment Establishments, and Sexual Entertainment Centers: As for retail uses in the B-1 zone (with a minimum of three (3) spaces), or one (1) space for every three (3) seats, whichever is greater.~~

~~Other Recreational Facilities or Ecotourism activities not otherwise stated herein: Five (5) spaces, plus one (1) space for each employee for each separate use.~~

~~Conditional Uses: Parking requirements for conditional uses shall be minimum requirements; tThe Board of Adjustment may require establish additional requirementsadditional parking, as needed.~~

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

(o) *Special Provisions.*

1. Landscape buffer areas shall be required as set forth in Article 18.
2. No building to be used principally as a single store selling food, produce, grocery items or general merchandise shall exceed eighty thousand (80,000) square feet in floor area unless:
  - a) Approved by the Planning Commission prior to April 27, 2000 for a larger area; or

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- b) The building is designed to meet the design guidelines for "big-box" retail establishments (Section 12-8), unless specific guidelines are waived by the Planning Commission through its approval of a final development plan.

(Code 1983, § 8-19; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 234-85, §§ 1, 2, 11-12-1985; Ord. No. 89-86, § 18, 5-29-1986; Ord. No. 152-91, §§ 2, 4, 7-18-1991; Ord. No. 30-92, § 11, 3-3-1992; Ord. No. 30-95, § 1, 2-9-1995; Ord. No. 85-96, § 3, 5-30-1996; Ord. No. 222-98, § 1, 8-27-1998; Ord. No. 261-98, § 1, 10-1-1998; Ord. No. 325-2000, § 1, 11-9-2000; Ord. No. 217-2006, § 1, 7-11-2006; Ord. No. 129-2009, § 23, 7-2-2009; Ord. No. 99-2011, § 6, 8-25-2011; Ord. No. 155-2013, § 2, 12-10-2013; Ord. No. 137-2016, § 2(8-19), 7-7-2016; Ord. No. 22-2017, § 3(8-19), 3-2-2017; Ord. No. 166-2017, § 3(8-19), 11-16-2017)

### **Sec. 8-21. Wholesale and Warehouse Business (B-4) Zone.**

- (a) *Intent.* This zone is intended primarily for wholesaling, warehousing, storage operations and establishments whose activity is of the same general character as the above. To a lesser extent, this zone is also intended to provide for the mixture of professional offices and warehouses that promote reuse and redevelopment of older warehouses, allowing businesses to combine their entire operation in one (1) building, as recommended for the Office/Warehouse Land Use Category in the Comprehensive Plan. This zone is also intended to encourage the adaptive reuse of older structures to promote revitalization of these buildings, and the flexible use of sites. The Comprehensive Plan should be used to determine the appropriate locations for this zone. Consideration should be given to the relationship of this zone to the surrounding land uses and the adequacy of the street system to serve the anticipated traffic needs.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Wholesale establishment, wholesale establishment with warehouses, storage, and warehousing.
  2. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; plastering; metal work; printing; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; interior decorating; catering.
  3. Laundry (excluding self-service laundry), clothes cleaning or dyeing shop.
  4. Ice plant.
  5. Tire retreading and recapping.
  6. Parking lots and structures.
  7. Machine shop.
  8. Kennels, animal hospitals or clinics, provided that such structures or areas used, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
  9. Offices of purchasers, processors and handlers of agricultural products, limited to administrative uses only.
  10. Sales of feed, grain, or other agricultural supplies.
  11. Garden centers.
  12. Establishments and lots for the display, rental, sale, and repair of farm equipment; contractor equipment; automobiles, trucks, mobile homes; recreational vehicles, such as mini-bikes, motorcycles, bicycles; boats or supplies for such items.
  13. Truck terminals and freight yards.

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14. Automobile service stations, subject to the conditions of Article 16.
  15. Major or minor automobile and truck repair.
  16. Establishments for the display and sale of precut, prefabricated, or shell homes.
  17. Carnivals on a temporary basis, and upon issuance of a permit by the Divisions of Planning and Building Inspection, which may restrict the permit in terms of time, parking, access or other ways to protect public health, safety, or welfare; or deny such if public health, safety or welfare are adversely affected. A carnival may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  18. Retail sale of building materials and lumber.
  19. Pawnshops which:
    - (1) Were in operation prior to August 31, 1990, and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or
    - (2) Had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
  20. Mail order business.
  21. Office uses, limited to a maximum square footage of sixty percent (60%) of the floor area in the building in which the use is located.
  22. Office/warehouse mixed use project, as further regulated by Subsection (o)(3) of this section.
  23. Adaptive Reuse Projects, as further regulated in Subsection (o)(4) of this section.
  24. Shredding, sorting and baling of paper scrap and storage of waste paper, when wholly conducted in a completely enclosed building.
  25. Automobile and vehicle refueling stations, provided such uses conform to all requirements of Article 16.
  26. Industrial Reuse Projects, as further regulated in Subsection (o)(5) of this section.
  27. Indoor recreational activities, including, but not limited to, indoor tennis courts; skating rinks; athletic club facilities and bowling alleys. Also included would be any outdoor recreational facilities that are customarily accessory, clearly incidental and subordinate to such indoor recreational activities.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.
1. Parking areas and structures, and loading areas.
  2. Financial and insurance offices, the principal activities of which are oriented towards agricultural loans and farm insurance.
  3. Laundry pick-up station, when accessory to a laundry or dry-cleaning establishment.
  4. Retail sale of hardware-related items, when accessory to the sale of building materials and/or lumber.
  5. Satellite dish antennas, as further regulated by Section 15-8.
  6. Sale of manufactured products, goods, merchandise and finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than thirty percent (30%) of the total floor and storage area.

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7. The retail sale of groceries; dairy products; bakery goods; meat; beer; health and beauty items; stationery; and similar convenience-type merchandise, when accessory to an automobile service station.
  8. Beauty salons where accessory to an athletic club facility, provided that the area of the salon shall not constitute more than ten percent (10%) of the total floor area, that the salon has no separate external entrance, nor separate business signage.
  9. Facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building. Mobile food unit vendors may also serve this purpose, and be parked outside of a building to serve employees and visitors, provided that the requirements of Section 15-11 of the Code of Ordinances are met.
  10. Retail sale of liquid propane (limited to twenty pound (20 lb.) containers), when accessory to the retail sale of building materials and lumber permitted under Subsection (b)(18) of this section.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  2. Places of religious assembly, Sunday schools, and schools for academic instruction, when affiliated with a place of religious assembly or a religious entity, except as provided as part of an adaptive reuse project.
  3. Retail sale (except as provided as part of an adaptive reuse project) of furniture and household-related items, such as antiques; fabrics; fixtures; furnishings; glassware and china; when accessory to its storage, refinishing, repairing or upholstery on the same premises.
  4. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  5. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  6. Ecotourism activities to include campgrounds; commercial hiking, bicycling, equine and zip line trails; tree canopy trails; canoeing and kayaking launch sites; recreational outfitters; fishing and hunting clubs; botanical gardens; nature preserves; and seasonal activities, including associated gift shops as an accessory use.
  7. Market gardens, except as provided as part of an adaptive reuse project.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for

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illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Heavy manufacturing, heavy assembling, compounding, packaging, bottling, processing, and other industrial uses, except as permitted herein.
2. Storage of commodities, the storage of which is permitted for the first time in the industrial zones.
3. Amusement enterprises, such as indoor theaters; drive-in theaters; horse race tracks; pool halls; billiard halls; dancing halls and amusement parks.
4. Retail sales and offices, except as permitted herein.
5. Motels and hotels; boardinghouses.
6. Personal service establishments, except as permitted herein.
7. Dwellings, except as permitted in an office/warehouse project herein.
8. Schools and colleges for academic instruction, except as permitted herein.
9. Restaurants, cocktail lounges, and nightclubs, except as permitted herein.
10. Car washing establishments.
11. Refuse dumps, landfills, transfer stations, and incinerators.
12. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas, except in association with an automobile and vehicle refueling station.
13. Pawnshops, except as permitted herein.
14. Special events, parties, festivals and concerts.
15. Museums, including historic house museums.
16. Farm tours, hayrides, corn mazes, commercial far markets, outdoor rodeos, riding stables, horse shows, fishing lakes, hunting and trapping, sportsmen's farms, zoological gardens, value-added product sales, and classes related to agricultural products or sales.

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

- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum Front Yard.* No limitation, except as provided in Subsection (o) of this section.
- (i) *Minimum Each Side Yard.* No limitation, except as provided in Subsection (o) of this section.
- (j) *Minimum Rear Yard.* No limitation, except as provided in Subsection (o) of this section.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Seventy-five (75) feet, except when a side or rear yard abuts a Professional Office or a Residential zone, then a 3:1 height-to-yard ratio.
- (n) *Off-Street Parking.* (See Article 16 [and 18](#) for additional parking regulations.)

[No minimum requirements.](#)

~~Wholesale business, warehousing, storage; Establishments for special trade and general contractors; Machine shops; Sale of feed, grain or other agricultural supplies; Garden centers; and Establishments for the~~

~~rental, sale, service and repair of farm equipment, contractor equipment, trucks, travel trailers and mobile homes: One (1) space for every six hundred (600) square feet of floor area, with a minimum of five (5) spaces.~~

~~Tire re-treading or recapping; Truck terminals and ice plants: One (1) space for each two (2) employees on a maximum working shift; plus one (1) space for each vehicle owned or operated by the use, with a minimum of five (5) spaces total.~~

~~Offices, as permitted herein; Animal Hospitals or Clinics; Laundry, clothes cleaning or dyeing shop: One (1) space for every two hundred (200) square feet of floor area, with a minimum of five (5) spaces.~~

~~Animal Grooming Facilities: One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.~~

~~Kennels: One (1) space for every six hundred (600) square feet of floor area; plus one (1) space per two (2) employees on the maximum shift, with a minimum of five (5) spaces.~~

~~Office/Warehouse Mixed use Project: One (1) space for every five hundred (500) square feet of parking floor area, with a minimum of five (5) spaces.~~

~~Skating Rinks: One (1) space for every four hundred (400) square feet of floor area, plus one (1) space for each employee.~~

~~Bowling Alleys: Four (4) spaces per alley; however, snack bars and food service provided primarily to patrons shall not require additional parking.~~

~~Tennis Courts and other similar indoor recreational uses: One (1) space for every two (2) participants, plus one (1) space for every three (3) spectator seats, plus one (1) space for each employee.~~

~~Mail Order Business: One (1) for every two (2) employees on a maximum working shift, with a minimum of five (5) spaces; plus one (1) space for every four hundred (400) square feet of accessory retail sales area.~~

~~Retail Sales, Bulk Merchandise: One (1) space for every two hundred fifty (250) square feet of floor area.~~

~~Other Recreational Facilities or Ecotourism activities not otherwise stated herein: Five (5) spaces, plus one (1) for each employee for each separate use.~~

~~Conditional Uses: Parking requirements for conditional uses are minimum requirements; t~~The Board of Adjustment may require additional parking, as needed.

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

(o) *Special Provisions.*

1. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no opening except stationary windows and doors that are designed and intended solely for pedestrian access.
2. Landscape buffer areas shall be required as set forth in Article 18.
3. An Office/Warehouse mixed use project may be permitted by the Planning Commission upon the approval of a final development plan, as provided in Article 21 of this Zoning Ordinance, and subject to the following requirements:

In addition to the uses permitted in Subsection (b) of this section, the following uses shall also be permitted in an Office/Warehouse Project:

As principal permitted uses:

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- a. Offices, laboratories and data processing centers, limited to a maximum of seventy-five percent (75%) of the floor area of the building or project. This square footage limitation shall not apply if the project is located within the defined Infill and Redevelopment Area.

As accessory uses:

- a. Drive-through facilities for the provision of services allowed in an Office/Warehouse mixed use project;
  - b. Dwelling units for on-site security personnel.
4. Adaptive Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
- a. The property must be located in or adjacent to, or across a public right-of-way from, the defined Infill and Redevelopment Area. The area of the Project will be defined by the development plan and may include noncontiguous properties that can function together as an interrelated development.
  - b. The Project must include:
    - 1. At least one (1) existing building that will be adaptively reused as a principal structure.
    - 2. Public art or a public art easement that is publicly displayed in a publicly accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement.
  - c. The applicant shall provide documentation demonstrating that the Project meets at least one (1) of the following criteria:
    - 1. The site has a single building of over 30,000 square feet that is over 75 years old, or a total project of over 80,000 square feet with at least two adaptive reuse buildings over 75 years old.
    - 2. The site includes a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; is located within an Historic District (H-1) overlay zone; or was constructed prior to 1950.
  - d. The applicant shall include at least one element from the following categories and must reach total score of 10 points:
    - 1. Primary Land Use, Building Form, and Design:
      - i. Affordable Housing (6) - Provide residential housing, at least 20% of which will be set aside for affordable housing (60% AMI) for at least 15 years.
      - ii. Affordable Housing (4) - Provide residential housing, at least 20% of which will be set aside for affordable housing (80% AMI) for at least 15 years.
      - iii. Green Rated Site Design (Sustainable Sites Initiative or similar standard) (3) - Incorporating whole of project area.
      - iv. Green Building Design (LEED or similar standard) (3) - Structures that incorporate the principles of sustainable design of adaptively reused structures.
      - v. Green Building (LEED or similar standard) (2) - New Construction
      - vi. Green Infrastructure (2) - Manage 50% of stormwater onsite with Vegetative Low

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Impact Development BMPs and educational signage (must still meet LFUCG Stormwater Manuals).

- vii. Renewable Energy (1).
- viii. Mixed use residential and commercial site wide (1).
- ix. Innovation Credit (1) - Provide a high degree of innovative modification of land use, building form, and/or design.

2. Transit, Infrastructure, and Connectivity:

- i. Parking Structure (4).
- ii. Riparian Buffer Restoration (3) - Meet requirements of Stormwater Manual Table 1-7 along length of stream on lot.
- iii. Daylighting of stream/removal of culvert (3).
- iv. Stream channel restoration (2) - See Stormwater Manual Ch. 9 for guidance.
- v. Accessible transit shelter and bench (2).
- vi. Multi-use path or open space oriented amenities (2).
- vii. Publicly accessible property to property cross-connectivity (2).
- viii. Innovation Credit (1) - Provide a high degree of innovative modification of transit, infrastructure, and connectivity.

3. Quality of Life Components:

- i. Site is within an area that is a brownfield recovery site (4).
- ii. Increase of Canopy Coverage to 40% (4).
- iii. Increase of Canopy Coverage to 30% (3).
- iv. Increase of Canopy Coverage to 20% (2).
- v. Site is in a district that has applied for, or has obtained, special funding or similar government incentives (3).
- vi. Universal Design Standards for all ground floor space (2).
- vii. 20% Community oriented open space nonresidential (3).
- viii. 10% Community oriented open space nonresidential (2).
- ix. Community garden space (1).
- x. Innovation Credit (1) - Provide a high degree of innovative modification of quality of life components.

e. Principal uses in Adaptive Reuse Projects:

- 1. Any of the principal uses permitted in the underlying zone.
- 2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance, drama or theater; theaters, including movie theaters and other indoor amusements, except as prohibited under Section 8-19(e), including billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
- 3. Community centers, churches and private clubs.

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4. Restaurants, with or without outdoor seating and with or without live entertainment.
  5. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics and similar items.
  6. Pharmacies, provided that they are within a structure containing other uses and do not occupy a separate building.
  7. Banquet facilities or private clubs with live entertainment, brew-pubs, bars, cocktail lounges and nightclubs.
  8. Offices, banks or clinics.
  9. Hotels or motels.
  10. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
  11. Quick copy services not using offset printing methods.
  12. Residences of any kind.
  13. Health clubs, athletic clubs and spas.
  14. Parking lots and structures.
  15. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.
  16. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least twenty-five (25) square feet per child.
  17. Indoor or outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two (2) weeks.
  18. Passenger transportation terminals.
  19. Publicly accessible parks.
- f. Accessory uses that are clearly incidental and subordinate to the principal uses are permitted.
- g. Prohibited uses:
1. All adult uses, as listed in Sections 8-16(e)14 through 17.
  2. Drive-through facilities.
- h. Parking:
- ~~1. Dwelling Units: One (1) space for every two (2) units.~~
  12. For any site that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
  23. For any site that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.
  34. Structure parking shall not count toward any maximum parking requirement.
- i. Signage: Shall be as permitted under Section 17-11(n) for an MU-2 zone.
- j. Lot and Yard Requirements: No minimum.

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- k. Height: No maximum height for adaptive reuse of existing buildings. New buildings shall not be more than twelve (12) feet taller than the tallest structure that is being adaptively reused, or forty-eight (48) feet, whichever is greater.
  - l. The applicant shall submit a compliance statement with the development plan that specifies how the project will further the Goals and Objectives and other elements of the Comprehensive Plan.
  - m. Prior to holding a hearing on the development plan, the applicant shall post a sign, with dimensions set out in Section 23B-5(b), at a visible location on the property at least fourteen (14) days prior to the hearing, informing the public of the location, date and time of the hearing. Evidence of the sign having been posted shall be submitted to the Planning Commission at the hearing.
  - n. The Planning Commission shall have the power to approve, modify or disapprove the development plan, as set out in Article 21. In addition, if the Planning Commission approves the development plan, it must adopt a finding that the development plan furthers the Goals and Objectives or other elements of the Comprehensive Plan.
  - o. For additional land to be added to an adaptive reuse project area, the new portion must be adjacent to the current project area. An updated compliance statement must be submitted, which shall implement those elements that have been applied across the project area.
  - p. For any amendment that seeks to expand the originally approved project, the added portion of the project must meet all requirements of Sec. 8-18(o)(4)(d) separate from the original project.
5. Industrial Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
- a. The Planning Commission shall, with the approval of any development plan, consider the following locational and compatibility factors:
    - 1. The site shall be located outside of the defined Infill and Redevelopment Area.
    - 2. An Industrial Reuse Project shall not be located on an arterial roadway.
    - 3. The Project should be located in an area of mixed uses and zones.
    - 4. The Project should be located in a B-4 or 1-1 area in which, due to small lot size, adjacent uses, or the nature of the roadway system, it would not be appropriate to construct larger B-4 or 1-1 uses, such as truck terminals, manufacturing facilities or large warehousing facilities.
    - 5. The property has an existing building coverage that does not allow for substantial expansion of the structure or parking facilities.
  - b. The Project must include:
    - 1. At least one existing building that will be adaptively reused as a principal structure.
    - 2. Public art or a public art easement that is publicly displayed in an accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement.
  - c. The applicant shall provide documentation demonstrating that the Project meets at least one of the following criteria:
    - 1. The site includes a building lot coverage of 65% or greater and contains a building that is over 75 years old.

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2. The site includes a single building of over 30,000 square feet that is over 75 years old, or a total project of over 80,000 square feet with at least two adaptive reuse buildings over 75 years old.
  3. The site includes a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; is located within an Historic District (H-1) overlay zone; or was constructed prior to 1950.
- d. The applicant shall include at least one element from the following categories and must reach total score of 10 points:
1. Primary Land Use, Building Form, and Design:
    - i. Affordable Housing (6) - Provide residential housing, at least 20% of which will be set aside for affordable housing (60% AMI) for at least 15 years.
    - ii. Affordable Housing (4) - Provide residential housing, at least 20% of which will be set aside for affordable housing (80% AMI) for at least 15 years.
    - iii. Green Rated Site Design (Sustainable Sites Initiative, etc.) (3) - Incorporating whole of project area.
    - iv. Green Rated Site Design (Sustainable Sites Initiative or similar standard) (3) - Incorporating whole of project area.
    - v. Green Building Design (LEED or similar standard) (3) - Structures that incorporate the principles of sustainable design of adaptively reused structures.
    - vi. Green Building (LEED or similar standard) (2) - New Construction.
    - vii. Renewable Energy (1).
    - viii. Mixed use residential and commercial site wide (1).
    - ix. Innovation Credit (1) - Provide a high degree of innovative modification of land use, building form, and/or design.
  2. Transit, Infrastructure, and Connectivity:
    - i. Parking Structure (4).
    - ii. Riparian Buffer Restoration (3) - Meet requirements of Stormwater Manual Table 1-7 along length of stream on lot.
    - iii. Daylighting of stream/removal of culvert (3).
    - iv. Stream channel restoration (2) - See Stormwater Manual Ch. 9 for guidance.
    - v. Accessible transit shelter and bench (2).
    - vi. Multi-use path or open space oriented amenities (2).
    - vii. Publicly accessible property to property cross-connectivity (2).
    - viii. Innovation Credit (1) - Provide a high degree of innovative modification of transit, infrastructure, and connectivity.
  3. Quality of Life Components:
    - i. Site is within an area that is a brownfield recovery site (4).

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- ii. Increase of Canopy Coverage to 40% (4).
  - iii. Increase of Canopy Coverage to 30% (3).
  - iv. Increase of Canopy Coverage to 20% (2).
  - v. Site is in a district that has applied for, or has obtained, special funding or similar government incentives (3).
  - vi. Universal Design Standards for all ground floor space (2).
  - vii. 20% Community oriented open space nonresidential (3).
  - viii. 10% Community oriented open space nonresidential (2).
  - ix. Community garden space (1).
  - x. Innovation Credit (1) - Provide a high degree of innovative modification of quality of life components.
- e. Principal uses in Industrial Reuse Projects:
- 1. Any of the principal uses permitted in the underlying zone.
  - 2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance, drama or theater; theaters, including movie theaters and other indoor amusements, except as prohibited under Section 8-19(e), including billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
  - 3. Community centers, places of religious assembly and private clubs.
  - 4. Restaurants, with or without outdoor seating and with or without live entertainment.
  - 5. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics and similar items.
  - 6. Pharmacies, provided that they are within a structure containing other uses and do not occupy a separate building.
  - 7. Banquet facilities or private clubs with live entertainment, brew-pubs, bars, cocktail lounges and nightclubs.
  - 8. Offices, banks or clinics.
  - 9. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
  - 10. Residences of any kind.
  - 11. Health clubs, athletic clubs and spas.
  - 12. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.
  - 13. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least 25 square feet per child.
  - 14. Indoor or outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two weeks.
  - 15. Publicly accessible park.

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- f. Accessory uses that are clearly incidental and subordinate to the principal uses are permitted.
  - g. Conditional Uses:
    - 1. Drive-through facilities.
  - h. Prohibited uses:
    - 2. All adult uses, as listed in Sections 8-16(e)(14 through 17).
  - i. Parking:
    - ~~1. Dwelling Units—One (1) space for every two (2) units.~~
    - 12. For any commercial center that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
    - 23. For any commercial center that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.
    - 34. Structure parking shall not count toward any maximum parking requirement.
  - j. Signage Shall be as permitted under Article 17-7(0) for an MU-2 zone.
  - k. Lot and Yard Requirements - No minimum.
  - l. Height No maximum height for adaptive reuse of existing buildings. New buildings shall not be more than 12 feet taller than the tallest structure that is being adaptively reused on the same lot or the adjacent lot, or 48 feet, whichever is greater.
  - m. The applicant shall submit a compliance statement with the development plan that specifies how the project will further the Goals and Objectives and other elements of the Comprehensive Plan.
  - n. Prior to holding a hearing on the development plan, the applicant shall post a sign, with dimensions set out in Article 23B-5(b), at a visible location on the property at least 14 days prior to the hearing, informing the public of the location, date and time of the hearing. Evidence of the sign having been posted shall be submitted to the Planning Commission at the hearing.
  - o. The Planning Commission shall have the power to approve, modify or disapprove the development plan, as set out in Article 21. In addition, if the Planning Commission approves the development plan, it must adopt a finding that the development plan furthers the Goals and Objectives or other elements of the Comprehensive Plan.
  - p. For additional land to be added to an Industrial Reuse Project area, the new portion must be adjacent to the current project area. An updated compliance statement must be submitted, which shall implement those elements that have been applied across the project area.
  - q. For any amendment that seeks to expand the originally approved project, the added portion of the project must meet all requirements of Sec. 8-18(c)(4)(d) separate from the original project.
  - r. Flex Space Projects that have been approved prior to August 1, 2021, shall be regulated per the approved development plan.

(Code 1983, § 8-21; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 47-85, §§ 1, 2, 3-7-1985; Ord. No. 89-86, § 20, 5-29-1986; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 58-91, § 1, 4-4-1991; Ord. No. 93-91, § 1, 5-16-1991; Ord. No. 152-91, §§ 2, 4, 7-18-1991; Ord. No. 30-92, § 13, 3-3-1992; Ord. No. 134-92, §§ 1, 2, 7-9-1992; Ord. No. 44-93, §§ 2—4, 3-25-1993; Ord. No. 213-94, § 7, 1-20-1994; Ord. No. 292-95, § 1, 12-7-1995; Ord. No. 85-96, § 2, 5-30-1996; Ord. No. 258-96, § 1, 12-12-1996; Ord. No. 10-2002, § 1, 1-24-2002; Ord. No. 98-2002, § 1, 5-16-2002; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 77-2005, § 1, 3-24-2005; Ord. No. 299-2005, § 2, 11-3-2005; Ord. No. 227-2008, §§ 2—5, 10-23-2008; Ord. No. 60-2009, § 19, 5-7-2009; Ord. No. 99-2011, § 8, 8-25-2011; Ord. No. 100-

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2011 , §§ 7, 8, 8-25-2011; Ord. No. 114-2011 , § 1, 8-25-2011; Ord. No. 5-2013 , § 2, 1-31-2013; Ord. No. 89-2013 , § 1, 8-15-2013; Ord. No. 142-2013 , § 1, 12-5-2013; Ord. No. 155-2013 , § 2, 12-10-2013; Ord. No. 137-2016 , § 2(8-21), 7-7-2016; Ord. No. 22-2017 , § 3(8-21), 3-2-2017; Ord. No. 166-2017 , § 3(8-21), 11-16-2017; Ord. No. 015-2021 , § 2, 3-18-2021; Ord. No. 060-2021 , § 2, 7-6-2021)

## **Sec. 8-22. Light Industrial (I-1) Zone.**

- (a) *Intent.* This zone is intended for manufacturing, industrial and related uses not involving a potential nuisance in terms of smoke, noise, odor, vibration, heat, light or industrial waste. In addition, the Comprehensive Plan recognizes that it is important to promote adaptive reuse of older industrial areas and to allow Adaptive Reuse Projects and Industrial Reuse Projects. The Comprehensive Plan should be used to determine appropriate locations for this zone. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. The principal permitted uses in the B-4 zone.
  2. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of articles of merchandise from the following previously prepared materials: asbestos, bone, canvas, cellophane, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semi-precious metals, precious and semi-precious stones, rubber, sheet metal (excluding large stampings), shell, textiles, tobacco, wax, wire, wood (excluding sawmills, planing mills), and yarn.
  3. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of such products as: bakery goods; billboards; candy; ceramics; cosmetics; drafting instruments; electrical parts; appliances; electric or neon signs; electronic instruments; food products; meat packaging; ice cream; medical and dental instruments; musical instruments; pharmaceuticals; pottery, china, or figurines; radios; record players; rubber and metal stamps; rubber products; scientific instruments and equipment; shoes; television receivers; toiletries, soaps and detergents; toys; and watches and clocks.
  4. Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; columbariums and crematories; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.
  5. Recycling, sorting, baling and processing of glass and nonferrous metals, including copper; brass; aluminum; lead and nickel, but not including automobile wrecking yard; building materials salvage; junk yards or other uses first permitted in the I-2 zone. Recycling, and processing of paper shall be permitted only when wholly conducted in a completely enclosed building.
  6. Adaptive Reuse Projects, as set out in Section 8-21(b)23 and Section 8-21(o)4.
  7. Industrial Reuse Projects, as set out in Section 8-21 (b)26 and Section 8-21 (o)5.
  8. Commercial wood lots, provided that:

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- a. All wood storage and processing activities are located at least three hundred (300) feet from the nearest residential zone;
  - b. Wood piles are no greater than fifteen (15) feet in height, no greater than twenty (20) feet in width, no greater than one hundred (100) feet in length, and are spaced no less than twenty (20) feet from any property line; and
  - c. Cutting and splitting of timber takes place only between the hours of 8:00 a.m. and 5:00 p.m. on weekdays.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Off-street parking areas and structures; loading facilities.
  2. Dwelling units for watchmen or caretakers, provided that such facilities shall be located on the same premises as the permitted use.
  3. Outdoor storage of products manufactured on the premises or materials to be used in manufacture on the premises.
  4. Facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building. Mobile food unit vendors may also serve this purpose, and be parked outside of a building to serve employees and visitors, provided that the requirements of Section 15-11 of the Code of Ordinances are met.
  5. Offices.
  6. Recreational facilities, except as prohibited herein.
  7. Sale of manufactured goods.
  8. Sale of finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than thirty percent (30%) of the total floor and storage area.
  9. Satellite dish antennas, as further regulated by Section 15-8.
  10. Beauty salons where accessory to an athletic club facility, provided that the area of the salon shall not constitute more than ten percent (10%) of the total floor area, that the salon has no separate external entrance, nor separate business signage.
  11. Retail sale of liquid propane (limited to twenty-pound (20-lb.) containers), when accessory to retail sale of building materials and lumber permitted under Section 8-21(b)(18).
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Automobile, truck, ATV, motorcycle, bicycle motocross, or other vehicle or bicycle race tracks.
  2. Public utilities and public service uses and structures.
  3. Penal or correctional institutions.
  4. Grain drying, when operated in a fully enclosed building at least three hundred (300) feet from the nearest residential, business, or professional office zone.
  5. The above- or below-ground storage for resale of any flammable or nonflammable gas or oxidizer in liquid or gaseous form; the storage of any empty container that contained any gas in any form; and the receiving of or dispensing of any gas in any form, unless in association with an automobile and vehicle refueling station or limited by Subsection (e) of this section; and provided such operations conform to the standards prescribed by the National Fire Protection Association, the Kentucky Occupational Safety

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and Health Standards for General Industry, and any requirements of the Fire Marshall. Such conformance shall be certified in writing by the Fire Marshall, and any required protective measures for the containers shall be met in all ways.

6. Banks, with or without drive-through facilities, except as provided as part of an Adaptive Reuse Project or an Industrial Reuse Project, provided:
  - a. The site lies within the area of a development plan approved by the Planning Commission, having a minimum one hundred (100) acres zoned industrial;
  - b. There shall be an on-site stacking capacity of a minimum of twenty (20) cars for each bank having drive-through facilities;
  - c. The site shall not have direct access to an arterial street;
  - d. There exists, within the development plan area, industrial businesses having a full-time, non-seasonal, on-site total employee population of at least five hundred (500) employees;
  - e. There exists, within a one-mile radius of the property boundaries of the proposed site, industrial businesses having a full-time, non-seasonal, on-site total employee population of at least two thousand, five hundred (2,500) employees;
  - f. A site development plan is submitted to, and approved by, the Board of Adjustment and the Planning Commission.
7. Concrete mixing and concrete products, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein, and only under the following conditions:
  - a. That no concrete mixing operation be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
  - b. Noise, Air and Water Quality: The facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Section 6-7, Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.
  - c. Development Plan: The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, stormwater and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
  - d. Drainage and Erosion Control: All operations shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event that adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
  - e. Roads: All access roads that intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point. Internal roads may be unpaved, provided dust is adequately controlled.
  - f. Screening: Screening shall be provided as defined in accordance with LFUCG Article 18 of this Zoning Ordinance.
  - g. Transportation Plan: A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
    - 1) Product shipping and deliveries;

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- 2) Mode of transportation;
  - 3) Route(s) to and from the site;
  - 4) Schedule and frequency of shipments;
  - 5) Delivery and shipping spillage control methods;
  - 6) Employee parking.
- h. Storage: Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three (3) sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of eighteen (18) inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of this Zoning Ordinance.
  - i. Excess Product and Waste: Excess product and waste, when disposed of on-site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of eighteen (18) inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of this Zoning Ordinance.
8. Cable television system facilities, including transmitting towers; antennas; earth stations; microwave dishes; relays; business offices; television studios; and storage facilities.
  9. Vehicle storage yards, for which occupancy permits were applied for on or after May 1, 1985.
  10. Commercial composting, provided that the following requirements are met:
    - a. That all such composting shall be conducted in a fully enclosed building.
    - b. That a permit-by-rule or letter of intent from the Division of Waste Management of the Kentucky Natural Resources and Environmental Protection Cabinet be obtained prior to submission of any application to the Board of Adjustment for a conditional use permit.
    - c. That a development plan, indicating access points and circulation routes; proposed signage; screening and landscaping; fencing and other significant geological or physical features of the property, be submitted as part of any application.
    - d. That the Board specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic or dust.
  11. Helistops and heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.
  12. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

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13. Places of religious assembly, Sunday schools, and schools for academic instruction, when affiliated with a place of religious assembly or a religious entity, except as provided as part of an Adaptive Reuse Project.
  14. Retail sale, except as provided as part of an Adaptive Reuse Project, of furniture and household-related items, such as antiques; fabrics; fixtures; furnishings; glassware and china, when accessory to its storage, refinishing, repairing or upholstery on the same premises.
  15. Community centers, except as provided as part of an Adaptive Reuse Project.
  16. Childcare centers, except as provided as part of an Adaptive Reuse Project.
  17. Agricultural market and market gardens.
  18. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  19. Circus, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  20. Day shelters.
  21. Ecotourism activities to include campgrounds, commercial hiking, bicycling, and zip line trails; tree canopy trails; canoeing and kayaking launch sites; recreational outfitters; fishing and hunting clubs; botanical gardens; nature preserves; and seasonal activities.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. The prohibited uses in the B-4 zone, Section 8-21(e)3 through 11, and 14 through 16.
  2. All uses first permitted in the I-2 zone, except as specifically permitted herein.
  3. A facility for the storage and distribution of gas by railroad tank cars, through gas piping, or by tank trucks, which each have a water capacity in excess of four thousand (4,000) gallons.
  4. Slaughterhouses.
  5. Equine trails, children's rides, pony rides and petting zoos.
- Lot, Yard, and Height Requirements. (See Articles 3 and 15 for additional regulations.)
- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum Front Yard.* Twenty (20) feet.
- (i) *Minimum Each Side Yard.* No limitation, except as provided in Subsection (o) of this section.
- (j) *Minimum Rear Yard.* No limitation, except as provided in Subsection (o) of this section.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.

(m) *Maximum Height of Building.* Seventy-five (75) feet, except when a side or rear yard abuts a Professional Office or Residential zone, then a 3:1 height-to-yard ratio.

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

~~No minimum requirements.~~

~~As for B-4.~~

~~Manufacturing or Industrial Uses: One (1) space for every two (2) employees on a maximum working shift, with a minimum of five (5) spaces.~~

~~Automobile Race Tracks: One (1) space for every five (5) seats.~~

~~Correctional or Penal Institutions: One (1) space for each employee.~~

~~Accessory Dwelling Units: One (1) space per dwelling unit.~~

~~Retail Sales Facility for manufactured goods: One (1) space for every four hundred (400) square feet of floor area.~~

Conditional Uses: ~~Parking requirements for conditional uses are minimum requirements;~~ The Board of Adjustment may establish additional requirements ~~require additional parking,~~ as needed.

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

(o) *Special Provisions.*

1. All industrial uses shall be conducted in a completely enclosed building, except for outdoor storage uses, which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.
2. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no openings except stationary windows and doors that are designed and intended solely for pedestrian access.
3. Landscape buffer areas shall be required as set forth in Article 18.

(Code 1983, § 8-22; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 89-86, § 21, 5-29-1986; Ord. No. 35-87, §§ 1, 2, 3-5-1987; Ord. No. 154-88, § 1, 7-7-1988; Ord. No. 93-89, § 1, 6-1-1989; Ord. No. 154-89, § 1, 8-31-1989; Ord. No. 58-91, § 2, 4-4-1991; Ord. No. 84-91, § 2, 5-2-1991; Ord. No. 93-91, § 1, 5-16-1991; Ord. No. 30-92, §§ 14, 15, 3-3-1992; Ord. No. 134-92, § 3, 7-9-1992; Ord. No. 213-94, § 8, 1-20-1994; Ord. No. 31-95, § 1, 2-9-1995; Ord. No. 258-96, § 1, 12-12-1996; Ord. No. 7-99, § 1, 1-28-1999; Ord. No. 50-2004, § 1, 3-18-2004; Ord. No. 339-2006, §§ 1—6, 11-21-2006; Ord. No. 43-2007, § 1, 2-22-2007; Ord. No. 227-2008, §§ 7, 8, 10-23-2008; Ord. No. 1-2011, § 8, 1-13-2011; Ord. No. 99-2011, § 9, 8-25-2011; Ord. No. 100-2011, § 9, 8-25-2011; Ord. No. 114-2011, § 2, 8-25-2011; Ord. No. 153-2012, § 1, 12-6-2012; Ord. No. 5-2013, § 2, 1-31-2013; Ord. No. 89-2013, § 1, 8-15-2013; Ord. No. 155-2013, § 2, 12-10-2013; Ord. No. 68-2015, § 1(8-22), 6-18-2015; Ord. No. 137-2016, § 2(8-22), 7-7-2016; Ord. No. 166-2017, § 3(8-22), 11-16-2017; Ord. No. 060-2021, § 2, 7-6-2021)

### **Sec. 8-23. Heavy Industrial (I-2) Zone.**

- (a) *Intent.* This zone is intended for manufacturing, industrial, and related uses that involve potential nuisance factors. It is also intended to encourage Adaptive Reuse Projects of older structures in or adjoining the Infill and Redevelopment Area. The Comprehensive Plan should be used to determine the appropriate locations for this zone. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

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1. The principal permitted uses in the I-1 zone, provided that all provisions outlined therein shall apply for said uses in this zone.
  2. Abrasives manufacturing.
  3. Acid (non-corrosive) manufacturing.
  4. Aerosol packaging.
  5. Agricultural uses, including hatcheries.
  6. Asbestos manufacturing.
  7. Automobile assembling, rebuilding, and reconditioning.
  8. Bleaching plant.
  9. Boiler shops, structural steel fabricating shops, steel car or locomotive shops, railway repair shops, metal working shops, operative reciprocating hammers or chisels or other noise-producing machine operated tools.
  10. Bolt or screw thread rolling or cutting.
  11. Bottle making.
  12. Brewery, winery and distillery.
  13. Brick, tile and terra-cotta and other clay products manufacturing.
  14. Briquette manufacturing from previously prepared charcoal.
  15. Bronze casting.
  16. Candle or sperm oil manufacturing.
  17. Canvas manufacturing.
  18. Carpet or rug manufacturing.
  19. Coke manufacturing.
  20. Concrete mixing, concrete products.
  21. Correctional institutions.
  22. Die casting and making.
  23. Disinfectant, insecticide, or poison manufacturing.
  24. Dye or dyestuff manufacturing and printing ink manufacturing.
  25. Electric power generating plant.
  26. Excelsior and fiber manufacturing.
  27. Fencing, woven wire manufacturing.
  28. Fertilizer manufacturing.
  29. Forge.
  30. Foundry.
  31. Gas storage: Above- or below-ground storage for resale of flammable or non-flammable gas or oxidizer in liquid or gaseous form, the storage of any empty container which contained any gas in any form, and the receiving of or dispensing of any gas in any form unless the method of distribution is first permitted

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as a conditional use in this zone; and provided such operations conform to the standards prescribed by the National Fire Protection Association, the Kentucky Occupational Safety and Health Standards for General Industry, and any requirements of the Fire Marshall. Such conformance shall be certified in writing by the Fire Marshall, and any required protective measures for the containers shall be met in all ways. Any outside storage area must be enclosed on all sides by a fence or a solid wall, not less than six (6) feet in height.

32. Glass fiber manufacturing.
33. Glucose manufacturing.
34. Grain drying and poultry feed manufacturing from refuse, mash, or grain.
35. Hair manufacturing.
36. Iron storage, sorting, collecting or baling.
37. Leaf mold and similar plant material processing or manufacturing.
38. Linoleum, oil cloth or oiled goods manufacturing.
39. Match manufacturing.
40. Nitrating processes.
41. Oil, paint, shellac, turpentine, varnish or enamel manufacturing or the grinding of colors by machine.
42. Paper or pulp manufacturing.
43. Paper scrap or waste storage, sorting, collecting or baling.
44. Perfume manufacturing.
45. Plaster manufacturing and products.
46. Potash manufacturing or refining.
47. Pyroline plastic manufacturing.
48. Railroad roundhouse or yards.
49. Roofing material factory.
50. Rubber manufacturing, treating or reclaiming plant.
51. Sand blasting.
52. Sewage treatment plant.
53. Shoe blacking or polish manufacturing.
54. Soda ash, caustic soda or washing compound, containing chlorine bleaching powder manufacturing or refining.
55. Stadium.
56. Steam power plant.
57. Storage, drying, or cleaning of rags, glass, cloth, paper or clippings, including sorting, refining, baling, wool pulling and scouring.
58. Sugar refining or starch manufacturing.
59. Tar or asphalt roofing or waterproofing manufacturing.

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60. Textile manufacturing.
  61. Tire manufacturing.
  62. Vehicle storage yards.
  63. Adaptive Reuse Projects, as set out in Section 8-21(b)3 and Section 8-21(o)4.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
- The permitted accessory uses in the I-1 zone.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Acid (corrosive) manufacturing.
  2. Ammonia, chlorine or bleaching powder manufacturing.
  3. Animal black, lamp black or bone black manufacturing.
  4. Asphalt plant, but only when the following conditions are met:
    - a. That no asphalt plant be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
    - b. Noise, Air and Water Quality: The facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Section 6-7, Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.
    - c. Development Plan: The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, stormwater and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
    - d. Drainage and Erosion Control: All operations shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event, adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
    - e. Roads: All access roads which intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point.
    - f. Screening: Screening shall be provided as defined in accordance with LFUCG Article 18 of this Zoning Ordinance.
    - g. Transportation Plan: A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
      - 1) Product shipping and deliveries;
      - 2) Mode of transportation;
      - 3) Route(s) to and from the site;
      - 4) Schedule and frequency of shipments;
      - 5) Delivery and shipping spillage control methods;
      - 6) Employee parking.



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20. Glue manufacturing, size or gelatin manufacturing, where the processes include the refining or recovery of products from fish, animal refuse, or offal.
  21. Junk yard.
  22. Livestock feed yards.
  23. Machinery wrecking or storage yard.
  24. Petroleum or inflammable liquids production, refining and storage.
  25. Rock or stone crusher, or mill, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein.
  26. Slaughtering of animals or stockyards.
  27. Smelting of aluminum, copper, tin, iron, zinc ore.
  28. Steel mill.
  29. Storage, curing or tanning of raw, green or salted hides or skins.
  30. Sulphurous, sulphuric, nitric, picric, carbolic, or hydrochloric or other corrosive acid manufacturing.
  31. Yard for storage of dismantled, or partially dismantled, automobiles.
  32. Helistops and heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.
  33. Mining and/or quarrying of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  34. Indoor recreational activities, except as provided as part of an Adaptive Reuse Project, that require buildings which, as a result of their size and design, are not compatible with residential and business zones, but would be compatible in the Heavy Industrial (I-2) Zone, including indoor tennis courts; skating rinks; athletic club facilities and bowling alleys.
  35. Transfer station, but only when the following conditions are met:
    - a. This use shall be conducted in a completely enclosed building. No transfer station shall be closer than one thousand (1,000) feet to any A-R zone, to any residential zone, nor to any existing residence on another lot under different ownership.
    - b. The facility shall be operated at all times in compliance with applicable federal, state and local laws, including Health Department regulations; regulations on noise, air, and water quality; and this Zoning Ordinance. A plan demonstrating proposed conformance with these requirements shall be submitted as part of any application.

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- c. A site/development plan, indicating existing screening and landscaping, fencing and significant geological or physical features of the property, shall be submitted as part of any application. The development plan shall be prepared by either an engineer, architect, landscape architect, land surveyor, or certified planner. This plan should also indicate all existing contours, drainage courses, retention, stormwater and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet of the proposed transfer station. The facility shall have adequate groundwater monitoring, waste spillage, and liquid waste/leachate containment measures incorporated into the building and site, and all liquid waste must be disposed of via sanitary sewers. In the event adequate waste liquids/leachate containment, delivery controls and spillage control methods cannot be provided, the conditional use permit may be denied.
  - d. The site/development plan should also indicate access points, proposed signage, and internal circulation designed to minimize the impact of traffic, dust, and vehicle noise on areas outside the site. All roads to the site should be of sufficient width and constructed to safely handle all sizes of trucks, while being easily accessible to Federal or State highways. The plan shall identify (at a minimum) the route(s) to and from the site, the schedule and frequency of shipments, employee parking areas, and stacking areas for trucks. The Board shall review the location of access points to ensure that no traffic hazards are created.
  - e. All driveways and stacking areas shall be paved or sealed to prevent dust.
  - f. No transfer station shall be located within a 100-year floodplain or sinkhole area.
  - g. No waste shall remain overnight at the site.
  - h. This use shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m.
  - i. The operator shall identify and employ misting, spritzing, masking agents, or absorption agents to control offensive odors.
  - j. The Board of Adjustment shall specifically consider and be able to find that the proposed use will not constitute a nuisance by creating excessive noise, water pollution, odor, truck traffic, vermin or other disease vectors, dust or other public health hazards. The Board shall also be able to find that the applicant has demonstrated specific measures in their application and plans that ensure compliance with the applicable state environmental performance standards of 401 KAR 47:030.
- 36. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  - 37. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  - 38. Ecotourism activities to include campgrounds; commercial hiking, bicycling and zip line trails; tree canopy trails; canoeing and kayaking launch sites; recreational outfitters; fishing and hunting clubs; botanical gardens; nature preserves; and seasonal activities.
  - 39. Market gardens.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-4 zone, Sections 8-21(e)3 through 11 and Section 8-21(e)14 through 16. Lot, Yard, and Height Requirements. (See Articles 3 and 15 for additional regulations.)
- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum Front Yard.* Twenty (20) feet.
- (i) *Minimum Each Side Yard.* No limitation, except as provided in Subsection (o) of this section.
- (j) *Minimum Rear Yard.* No limitation, except as provided in Subsection (o) of this section.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* As for I-1.
- (n) *Off-Street Parking.* (See Article 16 and 18 for additional parking regulations.)
  - No minimum requirements.
  - As for I-1.
  - Conditional Uses: The Board of Adjustment may establish additional requirements as needed.
- (o) *Special Provisions.*
  1. All buildings, outside storage areas, loading and working areas (except accessory parking) in conjunction with uses which are first permitted in the I-2 zone shall be located at least three hundred (300) feet from any residential zone and at least one hundred (100) feet from any other zone except B-4, I-1, or A-R.
  2. Landscape buffer areas shall be required as set forth in Article 18. As to transfer stations, except in all cases at least a 15-foot landscape buffer shall surround the transfer station use.
  3. Outside storage and working areas (except accessory parking) shall be enclosed by a solid wall or fence, not less than six (6) feet in height.

(Code 1983, § 8-23; Ord. No. 35-87, §§ 3, 4, 3-5-1987; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 93-89, § 1, 6-1-1989; Ord. No. 154-89, § 1, 8-31-1989; Ord. No. 84-91, § 2, 5-2-1991; Ord. No. 30-92, §§ 16—18, 3-3-1992; Ord. No. 190-92, § 1, 10-29-1992; Ord. No. 215-92, § 1, 12-3-1992; Ord. No. 292-95, § 1, 12-7-1995; Ord. No. 341-2006, § 17, 12-7-2006; Ord. No. 227-2008, §§ 9—11, 10-23-2008; Ord. No. 1-2011, § 9, 1-13-2011; Ord. No. 99-2011, § 10, 8-25-2011; Ord. No. 100-2011, § 10, 8-25-2011; Ord. No. 5-2013, § 2, 1-31-2013; Ord. No. 137-2016, § 2(8-23), 7-7-2016; Ord. No. 22-2017, § 3(8-23), 3-2-2017; Ord. No. 166-2017, § 3(8-23), 11-16-2017)

## **Sec. 8-24. University Research Campus (P-2) Zone.**

- (a) *Intent.* This zoning category is created to provide for a mixture of compatible office, and research uses in a campus setting that adheres to high quality standards. Residential, retail, restaurants, and hotel/motel uses are intended to be supportive uses for the organizations located on the research campus.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
  1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
  2. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations.

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3. Research development and testing laboratories or centers.
  4. Colleges, universities, business colleges, technical or trade schools, and other schools and institutions for academic instruction, including dormitory facilities.
  5. Libraries, museums, art galleries, and reading rooms.
  6. Hospitals, medical and dental offices, clinics, and laboratories.
  7. Telephone exchanges, radio, and television studios.
  8. Studios for work or teaching of fine arts, such as photography; music; drama; dance; and theater.
  9. Community centers and private clubs.
  10. Computer and data processing centers.
  11. Ticket and travel agencies.
  12. Television system signal distribution centers and studios.
  13. Meeting and conference centers.
  14. Storage and warehousing, when conducted in a completely enclosed building.
  15. Parking lots and structures.
  16. Offices of purchasers, processors, and handlers of agricultural products, limited to administrative uses only.
  17. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of articles of merchandise from the following previously prepared materials: bone, canvas, cellophane, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semiprecious metals, precious and semi-precious stones, rubber, sheet metal (excluding large stampings), shell, textiles, tobacco, wax, wire, wood (excluding sawmills, planing mills), and yarn.
  18. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of such products as: bakery goods; billboards; candy; ceramics; cosmetics; drafting instruments; electrical parts; appliances; electric or neon signs; electronic instruments; food products; meat packaging; ice cream; medical and dental instruments; musical instruments; pharmaceuticals; pottery, china, or figurines; radios; record players; rubber and metal stamps; rubber products; scientific instruments and equipment; shoes; television receivers; toiletries, soaps and detergents; toys; and watches and clocks.
  19. Other industrial and manufacturing uses, such as beverage manufacturing; dairy and non-dairy, and food and non-food product bottling plants; box and crate assembly; cabinet shop; cannery; caterers; cooperage; crematory; dextrine and starch manufacturing; enameling, lacquering and japanning; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; and tool manufacturing.
  20. Recycling, sorting, baling and processing of glass, nonferrous metals (not including automobile wrecking yard), paper scrap and storage of waste paper, when wholly conducted in a completely enclosed building.
  21. Indoor and outdoor athletic facilities, such as field houses; gymnasiums; soccer; polo; and baseball fields.
  22. Outdoor recreational facilities, including swimming pools; tennis courts; golf courses and golf driving ranges, and similar uses.
  23. Agricultural research and experimentation facilities.

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24. Kindergartens, nursery schools, and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five square feet per child.
  25. Veterinarian clinics and laboratories.
  26. Supportive uses, limited to the following uses:
    - a. Multi-family dwellings.
    - b. Townhouses, except that not more than twelve (12) units shall be attached.
    - c. Restaurants, brew-pubs, and banquet facilities with indoor live entertainment. Such facilities utilizing live entertainment shall be located at least one-hundred (100) feet from any non-mixed use residential structure.
    - d. Hotels and motels, as specifically regulated under Article 8-24(o) (13) herein.
    - e. Designated retail sales or mixed-use areas, which shall be limited to the following uses:
      - i. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations.
      - ii. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
      - iii. Establishments for the retail sale of food products, as per Article 8-16(b)(17).
      - iv. Medical and dental offices, clinics, and laboratories.
      - v. Ticket and travel agencies.
      - vi. Restaurants, brew-pubs and banquet facilities; with live entertainment, dancing, and/or sale of alcoholic beverages.
      - vii. Establishments for the retail sale of merchandise, as per Article 8-16(b)(19).
      - viii. Beauty shops, barber shops, and shoe repair.
      - ix. Quick copy services utilizing xerographic or similar processes, but not including offset printing methods.
      - x. Laundry and laundry pick-up stations, but not including self-service laundry.
      - xi. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than 25 square feet per child.
      - xii. Athletic club facilities.
      - xiii. Market gardens.
      - xiv. Multi-family dwellings.
      - xv. Townhouses, except that not more than twelve (12) units shall be attached.
  27. Temporary cellular telephone transmitting facility; not to exceed 70 feet in height and with a 1:1 height-to-yard ratio.
  28. Adult day care centers.
  29. Day Shelters.

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

1. The accessory uses permitted in the P-1, B-4, and I-1 zones, except as specifically prohibited in Article 8-24(e) below.
2. Within the designated retail area, the following accessory uses shall be permitted:
  - a. Parking areas and structures.
  - b. Outdoor patio areas.
  - c. Warehousing, wholesaling, and storage, excluding outdoor storage.
  - d. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.
  - e. Satellite dish antennas, as further regulated by Article 15-8.

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

1. Helistops and/or heliports, provided such facilities conform to the requirements of all appropriate Federal, State, and local regulations.
2. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
  - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
  - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
  - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
3. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
  - a. To check all operating equipment;
  - b. To check fire suppression system(s);
  - c. To check the condition of the fire alarm(s);
  - d. To check for indications of fuel leaks and spillage;
  - e. To remove trash from the site;
  - f. To monitor the general condition of the site.
4. Temporary structures designed for use or occupancy for 61 to 180 days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
5. Automobile and vehicle refueling stations, provided such uses conform to all requirements of Article 16.
6. Ecotourism activities to include zip line trails; tree canopy tours; canoeing and kayaking launch sites; fishing clubs; and seasonal activities.

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

1. Single-family detached residences and two-family dwellings.
2. All outdoor storage and display, and/or sales areas, including any vehicular sales facilities; but excluding outdoor patio areas operated in conjunction with a restaurant.
3. Any uses first permitted in the Heavy Industrial (I-2) zone.
4. Refuse dumps, incinerators, and landfills.
5. A facility for the storage and distribution of gas by railroad tank cars, through gas piping, or by tank trucks which each have a water capacity in excess of 4,000 gallons.
6. Ecotourism activities.
7. Establishments for the storage, display, rental, or sales of any type of vehicles.
8. Automobile and vehicle refueling and/or service stations.

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

- (f) *Minimum Lot Size.* No limitation, as specifically regulated under 8-24(o) herein.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum Front Yard.* 200 feet on streets classified as expressways and major arterials on the official functional classification map; 100 feet on streets classified as minor arterials; 5 feet on collector and local streets.
- (i) *Minimum Side Yard.* 15 feet.
- (j) *Minimum Rear Yard.* 25 feet.
- (k) *Minimum Useable Open Space.* 40 percent for the entire P-2 development, as specifically regulated under Article 8-24(o) herein.
- (l) *Maximum Floor Area.* Maximum floor area ratio of 0.75 and as further regulated by Article 8-24(o)2.
- (m) *Maximum Height of Building.* 120 feet.
- (n) *Off-Street Parking* (See Article 16 and 18 for additional parking regulations.)

~~*No minimum requirements.*~~

~~*Uses first permitted in the B-4 zone: As per B-4.*~~

~~*Uses first permitted in the I-1 zone: As per I-1.*~~

~~*Office Uses: One (1) space for each 400 square feet of floor area.*~~

~~*Townhouse Dwelling Units: One (1) space per dwelling unit.*~~

~~*Multi-Family Dwelling Units: Three (3) spaces for every two (2) dwelling units or 0.9 spaces per bedroom in a multi-family dwelling, whichever is greater.*~~

~~*Hospitals: One (1) space for every three (3) beds, plus one (1) space for each employee on the maximum working shift, with a minimum of five (5) spaces.*~~

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~~Hotels and/or Motels: One (1) space per suite with a minimum of five (5) spaces. Designated Retail Area for Nonresidential Uses—One (1) space for each 400 square feet of floor area for the first 10,000 square feet; one (1) space for each 200 square feet of floor area after the first 10,000 square feet.~~

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

~~Adult Day Care Center: One (1) space for every ten (10) persons being provided care, plus one (1) space per caregiver on the maximum shift.~~

~~Day Shelter: One (1) space for every ten (10) persons being provided services, plus one (1) space per staff member on the maximum shift.~~

~~Other Recreational Facilities or activities not otherwise stated herein: Five (5) spaces, plus one (1) space for each employee for each separate use.~~

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

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(o) *Special Provisions.*

1. Any site to be zoned in a P-2 zoning category shall be a minimum of fifty (50) net acres in size.
2. No more than sixty percent (60%) of any P-2 project shall be covered with buildings and parking lots or other paved surfaces designed for vehicular use. All open space areas shall be permitted, however, to contain outdoor recreational/athletic facilities, such as ball fields; jogging trails; tennis courts; picnic areas; golf courses; or similar outdoor activities for the use of the employees of the principal use of the property or the public at large. Land owned by the developer at the time of rezoning, which is subsequently dedicated at no cost to the public as recreational or open spaces (not streets), shall be included in such open space requirement.
3. The developer shall be required to provide proof of at least the following private covenants having been created prior to the approval of any final development plan:
  - a. A design committee of at least three registered architects and landscape architects (mixed 2 to 1 in either combination) shall be required to review and approve all site and architectural designs within the development.
  - b. An owners' association or other mechanism which provides for uniform maintenance of all open space areas and common areas.
4. Landscaping shall be required as per Article 18 of the Zoning Ordinance, except as modified herein. Perimeter landscaping around the exterior boundary of the project shall be as provided under Article 18 for the I-1 zone; however, the Commission may permit such portions of required perimeter planting to be reallocated to areas interior to the site, where it finds that solid screening is not needed to screen the uses from the adjoining rights-of-way or properties. Tree canopy requirements shall be met for the development in accordance with Article 26. In addition, ten (10) square feet of landscape area for each 100 square feet, or fraction thereof, of vehicular use area shall be required within the development. Street trees shall be required as outlined in the Land Subdivision Regulations. Open space shall be defined on the preliminary development plan, and designated to protect and/or formally recognize existing natural and man-made features with a particular emphasis on any environmentally sensitive areas, geologic hazard areas, cemeteries, floodplains, or other area in order to meet the open space requirements for the P-2 development. Structures devoted solely to residential use shall be screened from adjacent industrial, office, or business use as required by the Property Perimeter Requirements provided in Article 18-3(a)(1)(C & D)(3).

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5. Signage within the P-2 zone shall be specifically regulated under Article 17-11(m) of the Zoning Ordinance.
  6. A preliminary development plan shall be required to be filed in conjunction with any zoning map amendment to a P-2 zone. No building permits shall be issued for any lot or building within the development unless and until final development plans are approved, as provided in Article 21. Prior to filing a final development plan with the Planning Commission, the site developer shall seek the approval of the design committee, as established under Article 8-24(o)(3)(a) herein.
  7. At the time of filing of the final development plan, the site developer shall provide a summary report documenting the conceptual design review and recommendation(s) of the design committee. Such summary report shall inform the Planning Commission of the following: architectural elements included in the building(s) design; how the building(s) will be compatible in form and scale with adjacent structures; building materials; entry features; and sustainable building features. The Planning Commission shall consider the design committee's recommendation in their decision. A final development plan with two or more buildings shall be designed as a cohesive architectural statement, with all development features exhibiting compatible design elements.
  8. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and final record plat.
  9. Parking areas shall not be permitted to encroach into required front yards. However, no more than 10 visitor parking spaces may be permitted within such required yards.
  10. In addition to the required development plan, the applicant for any P-2 zoning category shall be required to file a comprehensive development statement at the time of filing. Such comprehensive development statement shall include, at a minimum:
    - a. A traffic impact analysis.
    - b. A preliminary site analysis of all significant natural and man-made features with a particular emphasis on any environmentally sensitive areas, geologic hazard areas, existing vegetation which should be given priority as use for open space areas.
    - c. Any proposed use restrictions, building requirements, architectural requirements, or similar restrictions over those required herein.

Such studies shall be evaluated by the staff as part of the overall review of the map amendment request and development plan. Based upon such review, the Planning Commission and/or Council may impose restrictions on uses or other development aspects, including design criteria, as a part of the approval of the P-2 project.

11. Except to the extent otherwise permitted herein, all uses shall be conducted in a completely enclosed building.
12. No site utilities shall be permitted to be above ground, with the exception of major electric and telephone distribution lines (which shall generally be located on lot perimeters), pad mounted transformers, and similar facilities. Service connections of such utilities to individual buildings shall be required to be underground. Any utilities to be located above ground shall be shown on required final development plans. All such overhead utilities shall be designed, located, and, where appropriate, screened, so as to preclude visibility from adjoining arterial roadways and public open space and/or greenway areas to the greatest extent feasible.
13. Supportive uses are subject to the following requirements:
  - a. The total acreage of supportive uses shall not exceed fifteen percent (15%) of the area of the P-2 development.

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- b. Supportive uses shall only be developed and constructed either concurrently with or after construction and occupancy of at least 250,000 square feet of floor area for other principal permitted uses. Development shall be phased as follows:
    - i. Until 250,000 square feet of other principal permitted uses are approved and constructed for the P-2 development, the permitted floor area of supportive uses shall not exceed a maximum of twenty percent (20%) of the total floor area of all approved and constructed structures.
    - ii. Once the P-2 development has 250,000 square feet of existing floor area of other principal permitted uses, the phasing restriction in Article 8-24(o)(13)(b)(i) shall no longer apply.
  - c. Designated retail or mixed-use areas can be included within the supportive uses. Such designated retail and mixed-use areas shall be defined on a preliminary development plan for the P-2 zone. The designated retail or mixed-use areas shall be designated and located to primarily serve the needs of employees, residents, and visitors to the university research campus. Entrance to designated retail or mixed-use areas shall be located on collector or local streets and not major or minor arterial streets.
  - d. Entrance to restaurants, brew-pubs and/or banquet facilities, with indoor live entertainment shall be located on collector or local streets, and not on major or minor arterial streets.
  - e. The number of hotels and/or motels within a P-2 development shall not exceed a total of one (1) per fifty (50) net acres of the P-2 development.

(Code 1983, § 8-24; Ord. No. 248-90, § 1, 11-27-1990; Ord. No. 30-92, § 19, 3-3-1992; Ord. No. 213-94, § 9, 1-20-1994; Ord. No. 40-94, § 2, 3-24-1994; Ord. No. 85-96, § 2, 5-30-1996; Ord. No. 5-98, § 1, 1-8-1998; Ord. No. 222-98, § 1, 8-27-1998; Ord. No. 260-98, § 1, 10-1-1998; Ord. No. 307-2006, § 1, 11-2-2006; Ord. No. 99-2011, § 11, 8-25-2011; Ord. No. 5-2013, § 2, 1-31-2013; Ord. No. 129-2013, § 2, 10-24-2013; Ord. No. 68-2015, § 1(8-24), 6-18-2015; Ord. No. 137-2016, § 2(8-24), 7-7-2016; Ord. No. 22-2017, § 3(8-24), 3-2-2017; Ord. No. 76-2017, § 1, 5-25-2017; Ord. No. 166-2017, § 3(8-24), 11-16-2017; Ord. No. 009-2021, § 1, 2-11-2021; Ord. No. 015-2021, § 3, 3-18-2021)

## Article 9 GROUP RESIDENTIAL PROJECTS

### Sec. 9-1. Intent.

The intent of this Article is to provide a means to permit two (2) or more detached buildings for residential purposes to be placed on the same parcel or lot of land in any R-1T, R-3, R-4 or R-5 zone, if approved as a Group Residential Project as provided herein, and to allow slight variations from the requirements of the zone in which it is located only as specifically provided herein.

(Code 1983, § 9-1; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 49-2012, § 1, 4-26-2012; Ord. No. 166-2017, § 4(9-1), 11-16-2017)

### Sec. 9-2. Where required.

Any development in an R-1T, R-3, R-4, or R-5 zone, which proposes two (2) or more detached buildings for residential purposes on the same lot or parcel, shall be considered a Group Residential Project, and shall conform to the provisions of this Article.

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(Code 1983, § 9-2; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 49-2012 , § 2, 4-26-2012; Ord. No. 166-2017 , § 4(9-2), 11-16-2017)

### **Sec. 9-3. Permitted uses.**

The permitted uses shall be those principal and accessory uses listed in Article 8 for the zone in which the Group Residential Project is located. All other uses are prohibited, except that:

- (a) Schools for academic instruction;
- (b) Places of religious assembly;
- (c) Canteens of less than five hundred (500) square feet in size for the sale of sundries and other incidental items to residents of the Project;
- (d) A sales or rental office of less than one thousand, two hundred (1,200) square feet in size, where contracts or leases can be obtained or executed;
- (e) Up to two (2) clubhouses for each Project; and
- (f) Recreational facilities, with or without game rooms and/or one (1) indoor theater;

shall be permitted in a project approved by the Commission.

Single-family detached units permitted under the R-3 and R-4 zone are also prohibited from construction under the provisions of this Article. Such uses shall follow the requirements for subdividing, as required for single-family residential zones.

(Code 1983, § 9-3; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 159-94 , § 1, 8-25-1994; Ord. No. 49-2012 , § 3, 4-26-2012; Ord. No. 166-2017 , § 4(9-3), 11-16-2017)

### **Sec. 9-4. Detached buildings defined.**

For the purposes of this Article, the term "detached buildings for residential purposes" shall be defined as single-family, two-family, or multifamily residential buildings, including ranch, motel or garden design types; townhouses; apartment buildings butted against each other; or apartment buildings connected by an open breezeway or similar connection. Buildings connected by breezeways or similar connections shall be considered to be detached buildings rather than one (1) building. Ranch, motel, garden, butted buildings or other design types may be counted as single detached buildings, as long as they do not exceed two hundred (200) feet in length; and buildings exceeding this length shall be considered as two (2) or more detached buildings, and shall be permitted only in Group Residential Projects.

(Code 1983, § 9-4; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 4(9-4), 11-16-2017)

### **Sec. 9-5. Review and approval.**

The Division of Planning may approve site plans for a zoning compliance permit, after which the Division of Building Inspection may issue permits for the construction of a Group Residential Project on a lot of five (5) acres or less; provided the proposed Project meets the requirements set forth under Section 9-6. The Planning Commission shall review all other Group Residential Projects on lots of more than five (5) acres within ninety (90) days of their filing with the Division of Planning, unless the applicant agrees to a longer period. Projects of five (5) acres or less may also be submitted to the Commission. Regardless of the size, the Commission may only approve those Projects which meet the requirements of Section 9-6. The following procedure shall be followed for approval of Group Residential Projects by the Commission:

- (a) *Development Plan Required.* The Commission shall require a final development plan containing the information as required by Article 21; and, in addition, specifying the number and type of dwelling units for each building and use of other structures. The Commission shall review the plan for provision of safe, convenient, efficient and harmonious groupings of buildings in relation to their intended use; transportation and utilities in relation to the buildings served and general circulation needs; open space in relation to needs of the occupants; and for conformance to any other necessary requirements. The Project shall be planned to properly blend with all surrounding property.
- (b) *Public Hearing Required.* The Commission shall advertise and hold a public hearing before proceeding to postpone, approve, conditionally approve or disapprove the plan for a Group Residential Project. Amendments to the plan shall follow the same procedure as provided in Section 21-7.
- (c) *Certification of Approval.* The certification of approval for a Group Residential Project development plan shall be as provided in Section 21-4(d).
- (d) *Permits Required.* After certification by the Secretary of the Commission, the Divisions of Planning and Building Inspection may issue permits in conformance with the approved plan upon receipt of a certified copy of the plan.

(Code 1983, § 9-5; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 122-2011 , § 17, 9-29-2011; Ord. No. 49-2012 , § 4, 4-26-2012; Ord. No. 166-2017 , § 4(9-5), 11-16-2017)

**Sec. 9-6. Group residential projects minimum design standards.**

All Group Residential Projects shall conform to the following minimum design standards:

- (a) *Size.* The parcel or lot on which the Project is located shall not be less than the minimum lot area for the zone in which it is located.
- (b) *Maximum Floor Area Ratio and Lot Coverage.* For Projects in the R-3, R-4 or R-5 zone, the total floor area of all buildings shall not exceed the maximum floor area permitted in the zone in which the Project is located, unless specific permission is given by the Commission to exceed said permitted floor area by not more than one percent (1%) for each one percent (1%) of additional usable open space that is provided over the minimum required by Subsection (h) of this section. In any case, the maximum floor area shall not exceed, by more than ten percent (10%), the maximum floor area otherwise permitted in the zone. The maximum lot coverage shall be as provided in the zone in which the Project is located. For Projects located in the R-1T zone, the total lot coverage shall not exceed twenty-five percent (25%) There shall be no maximum floor area ratio for Group Residential Projects in the R-1T zone.
- (c) *Yard requirements.* The minimum width of required yards shall be as follows:
  - (1) *Front Yard.* Frontage along any public or private street shall constitute a front yard, and more than one (1) may be designated for each Project, as appropriate. The front yard shall be established as follows:

| Zone | Minimum Distance |
|------|------------------|
| R-1T | 10 feet          |
| R-3  | 20 feet          |
| R-4  | 20 feet          |
| R-5  | 20 feet          |

- (2) *Project Exterior Yard.* The Project exterior yard shall be established along the outside boundary of the property, except where a front yard has been established as required in Subsection (c)(1) of this section. Where a Project exterior yard is required, the distance between principal buildings and the outside boundary of the property upon which the Project is located shall not be less than the height of the building, nor twenty (20) feet, whichever is less. Where the wall of any principal building is not parallel to the outside boundary of the property or is broken or otherwise irregular, the average distance shall not be less than as specified above. At no point shall such distance be less than fifteen (15) feet.
- (3) *Distances Required Between Buildings.* The distances between principal buildings shall not be less than the required side yard in the zone in which the Project is located. Where the walls of the buildings are not parallel, or are broken or otherwise irregular, the average distance between the principal buildings shall not be less than as specified above, and shall at no point be less than one-half (½) the required side yard for the zone in which the Project is located.
- (d) *Proximity to Drive.* A part of every residential building shall not be farther than one hundred sixty (160) feet from an access roadway or drive providing vehicular access from a public street. Residential buildings shall not be closer than five (5) feet to any access roadway or drive.
- (e) *Maximum Height.* The maximum height of nonresidential buildings within a Project shall be thirty-five (35) feet. The maximum height of residential or mixed use buildings within a Project shall be as follows:

| Zone | Maximum Height |
|------|----------------|
| R-1T | 35 feet        |
| R-3  | 40 feet        |
| R-4  | 60 feet        |
| R-5  | 80 feet        |

- (f) *Parking Area.* ~~One and one half (1½) off-street parking spaces shall be provided per dwelling unit or 0.9 spaces per bedroom in a multifamily dwelling, whichever is greater. Parking minimums may be reduced for the provision of bicycle and transit facilities as specified in Section 16-10 of this Zoning Ordinance. As for the zone in which it is located (See Article 16 and 18 for additional parking regulations).~~
- (g) *Service Areas.* Proper open spaces shall be devoted to service needs of the Project, including, among others, refuse collection areas and equipment service areas.
- (h) *Usable Open Space and Screening.* Proper usable open spaces shall be devoted to the recreation needs of the Project for active and passive use. For projects with less than ten (10) dwelling units, no usable open space shall be required. Projects with ten (10) or more dwelling units shall provide usable open space based on the density of the project as follows:

| Density (d.u./net acre) | Usable Open Space Required (percent of net project area) |
|-------------------------|--|
| 5 d.u./acre             | 5 percent  |
| 5 to 15 d.u./acre       | 20 percent   |
| 16 to 40 d.u./acre      | 15 percent   |
| >40 d.u./acre           | 10 percent   |

- (i) *Private Streets.* Private streets may be permitted by the Commission. Plans containing private streets shall conform to the requirements of the Subdivision Regulations concerning private streets.

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- (j) *Maintenance of Common Spaces.* Where the design of the Group Residential Project indicates a need or desire to subdivide property and to provide for common areas, a Home Owners' Association, or other mechanism for the provision of maintenance, improvement, and operations for all common areas, including streets; parking areas; open space, etc.; shall be required to be established by the applicant. The applicant's responsibility to create such a mechanism shall be noted on the development plan of the Group Residential Project. A requirement that each property owner be individually responsible for maintenance of the common space abutting the lot shall not be considered as acceptable for fulfilling the requirements of this section.
  - (k) *Other Requirements.* Except as modified herein, the Project shall conform to the requirements of this Zoning Ordinance for the zone in which it is located.

(Code 1983, § 9-6; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 122-2011, § 18, 9-29-2011; Ord. No. 49-2012, § 5, 4-26-2012; Ord. No. 166-2017, § 4(9-6), 11-16-2017)

### **Sec. 9-7. Group residential projects in the infill and redevelopment area.**

Projects in the Infill and Redevelopment Area shall follow the same procedures set out as provided in Sections 9-5 and 9-6 herein for Group Residential Projects, except that such Projects may utilize the following alternative minimum design standards:

- (a) *Provisions of the Underlying Zone.* Projects in the Infill and Redevelopment Area may choose to comply in whole with the height; front, rear and side yard setbacks; and parking requirements as for the underlying zone rather than with Sections 9-6(b) through 9-6(f) above.
- (b) *Bonus Floor Area.* The maximum floor area shall not exceed one hundred twenty-five percent (125%) of the otherwise permitted maximum floor area in the zone in which the Project is located, provided the required usable open space has not been granted a dimensional variance. Any Project that proposes a total floor area of more than one hundred percent (100%) of that permitted in the zone in which the Project is located, shall require that notice be provided to all property owners within four hundred (400) feet of the site, as outlined in Section 6-4(b) herein prior to Planning Commission consideration.
- (c) *Open Space Reductions.* For projects located within one thousand (1,000) feet of an existing LFUCG park space, the minimum required open space shall be reduced by fifty percent (50%).
- (d) *Front Yard Averaging.* The front yard may be averaged as permitted in Section 15-2(a)(1) only if the primary wall plane of the building is parallel to the public or private street.

(Code 1983, § 9-7; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 49-2012, § 6, 4-26-2012; Ord. No. 166-2017, § 4(9-7), 11-16-2017)

## **Article 10 MOBILE HOME PARK (M-1P) ZONE**

### **Sec. 10-1. Intent.**

The intent of the Mobile Home Park (M-1P) zone is to permit the establishment of mobile home parks in areas which will provide a residential setting and which will be convenient to major traffic arterials. Because of unusual characteristics, mobile home parks pose special problems in the application of land use control techniques and require special consideration as to their proper location and character in relation to adjacent uses and to the proper integration of such uses into the community. The standards contained in this provision are intended to provide adequate protection and consideration for both the community and the mobile home dweller.

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(Code 1983, § 10-1; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-1), 11-16-2017)

### **Sec. 10-2. Permitted uses.**

The uses permitted in an M-1P zone are mobile home parks and those uses and structures which are customarily accessory, clearly incidental and subordinate to a mobile home park, such as satellite dish antennas, playgrounds, swimming pools, tennis courts, and similar non-commercial recreational buildings and facilities.

(Code 1983, § 10-2; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 89-86 , § 22, 5-29-1986; Ord. No. 166-2017 , § 5(10-2), 11-16-2017)

### **Sec. 10-3. Conditional uses permitted when authorized by the board of adjustment.**

- (a) Incidental retail uses, such as barber and beauty shops; self-service laundries; news and novelty stands; snack bars and commissaries conducted for the convenience of the residents of any mobile home park containing one hundred fifty (150) or more mobile home lots, when located wholly within a principal building with access only to an interior arcade or open court and having no exterior display space or identification sign visible from any adjacent public right-of-way; and provided that such uses do not exceed a total of two thousand, five hundred (2,500) square feet in area.
- (b) Nursery schools, day nurseries, and childcare centers for four (4) or more children when located in a permanent structure, provided there is a fenced and screened play lot.

(Code 1983, § 10-3; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-3), 11-16-2017)

### **Sec. 10-4. Prohibited uses.**

In any M-1P zone, all uses other than as specifically permitted are prohibited.

(Code 1983, § 10-4; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-4), 11-16-2017)

### **Sec. 10-5. Structures accessory to mobile homes.**

- (a) No accessory building shall be constructed as a permanent part of a mobile home, nor shall any other device be attached other than a cloth or metal awning or similar device.
- (b) Cabanas, ramadas, and other similar permanent structures may be erected in conjunction with a mobile home parking space, and shall not be closer to any other structure or mobile home, other than the one it is intended to serve, than the minimum distance required between mobile homes.

(Code 1983, § 10-5; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-5), 11-16-2017)

### **Sec. 10-6. Maximum height.**

The maximum height of any structure in an M-1P zone shall be twenty-five (25) feet.

(Code 1983, § 10-6; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-6), 11-16-2017)

### **Sec. 10-7. Locational standards.**

The following locational standards shall be met in the design of a mobile home park:

- 
- (a) A mobile home park shall have a minimum of two hundred (200) feet of frontage on a street designated by the Commission as an arterial or collector street and shall have its principal access to and from said street.
  - (b) The principal access to and from the mobile home park shall be at a location where traffic congestion does not exist at the present on the street or streets to be utilized for access to the proposed mobile home or trailer park; and the possibility of such congestion in the future shall be minimized by provision in the development plans for proper entrances and exits, and by internal provisions for traffic circulation and parking.
  - (c) No vehicular entrance or exit from a mobile home park shall be within two hundred (200) feet, measured along streets, from any property line of any lot containing a school; public playground; place of religious assembly; hospital; library; hospital; nursing or personal care facility; orphanage or rehabilitation home, except where such building or property is in another block or fronts on a street on which such mobile home park will have no entrance or exit.
  - (d) Each proposed mobile home park shall be well drained and properly graded to ensure proper drainage; shall have water service, sanitary sewer service, and shall be located so as to provide for the availability of community facilities and services such as schools, parks, shopping facilities, and police and fire protection.

(Code 1983, § 10-7; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-7), 11-16-2017)

#### **Sec. 10-8. Minimum design standards.**

- (a) All new mobile home parks shall have a minimum site area of ten (10) acres. There shall be no area limitations on additions to existing parks containing fifty (50) or more mobile home spaces.
- (b) There shall be a minimum of four thousand (4,000) square feet for each mobile home space.
- (c) Not less than ten percent (10%) of the site on which a mobile home park is located shall be devoted to open space available to the residents of the entire park.
- (d) Each mobile home lot shall have a minimum of twenty (20) feet of frontage on an improved access road or driveway.
- (e) Each mobile home shall be located at least twenty (20) feet from any other mobile home, except that the end-to-end clearance shall not be less than fifteen (15) feet.
- (f) Each mobile home shall be located at least twenty (20) feet from any permanent structure, service building or service area within the mobile home park, at least ten (10) feet from any property line, and at least twenty (20) feet from any street or dedicated right-of-way.
- (g) No mobile home shall be located closer than twenty (20) feet to any other zone.

(Code 1983, § 10-8; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-8), 11-16-2017)

#### **Sec. 10-9. Access roads and parking.**

- (a) *Required Width.* All access roads and driveways within a mobile home park shall be paved to a width of not less than twenty (20) feet and shall be improved in accordance with the requirements of the Division of Engineering.

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(b) *Pedestrian Access.* There shall be provided, along one (1) side of each access road and/or driveway, a sidewalk not less than three (3) feet in width to provide for pedestrian circulation throughout the mobile home park.

(c) *Required Parking.* ~~There shall be provided on the same space with the mobile home, or on a lot contiguous thereto, or on an access road, at least two (2) parking spaces per mobile home lot. The required p~~

No minimum requirements.

Parking spaces may be located within the access road or driveway, provided that the portion thereof to be used exclusively for such parking is improved in accordance with the requirements of the Division of Engineering. The minimum width of an access road or driveway on which parking is permitted shall be twenty-nine (29) feet for one-side parking and thirty-eight (38) feet for both-side parking.

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(Code 1983, § 10-9; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-9), 11-16-2017)

### **Sec. 10-10. Landscaping.**

(a) *Screening.* Landscaping and screening shall be provided as required by Article 18, Landscape and Land Use Buffers.

(b) *Open space.* All required open space and other areas not used for mobile home spaces, access, parking, traffic circulation, buildings or service areas, shall be landscaped with grass or a ground cover as defined in Article 18 of this Zoning Ordinance.

(Code 1983, § 10-10; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-10), 11-16-2017)

### **Sec. 10-11. Procedure.**

The procedure for obtaining a Zoning Map Amendment to the M-1P zone shall be the same as provided in Article 6 hereinabove and, in addition, as follows:

(a) *Preliminary Development Plan Required.* A preliminary development plan shall be submitted with the application for a Zoning Map Amendment, with the information as required in Article 21, Development Plans hereinbelow; and, in addition, the location and dimensions of all mobile home spaces, parking spaces and recreation areas.

(b) *Final Development Plan Required.* Within two (2) years of final approval by the legislative body of any M-1P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and approval; otherwise, an application to change the M-1P zone to its previous zone, or other appropriate zone may be filed by the Commission as provided by Article 6 hereinabove. The final development plan shall show the information required by Article 21 hereinbelow; and, in addition, the exact location of all mobile home spaces, parking spaces, and recreational areas. The Commission shall approve a final development plan with such conditions as are found necessary to comply with the Ordinance within ninety (90) days after the applicant submits the development plan.

(c) *Building Permit Required.* No building permit shall be issued until a final development plan has been approved by the Commission and certified to the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building permits; and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as provided in Article 21.

- (d) *Certificate of Occupancy Required.* No certificate of occupancy shall be issued until a minimum of fifty (50) mobile home spaces have been completed, have sanitary sewer service available, and are otherwise ready for occupancy, unless a performance bond or letter of credit in an amount specified by the Division of Engineering has been submitted to the Commission to ensure completion of all improvements for the aforesaid fifty (50) spaces.

(Code 1983, § 10-11; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 172-86 , § 1, 8-28-1986; Ord. No. 166-2017 , § 5(10-11), 11-16-2017)

**Sec. 10-12. Mobile homes in other zones.**

- (a) *Mobile Homes in Industrial Zones.* In any industrial (I-1, I-2) zone, not more than one (1) mobile home or trailer for each establishment may be occupied as sleeping quarters for a caretaker or watchman.
- (b) *Mobile Homes in Agricultural Zones.* In any A-R, A-B, A-N or A-U zone, one (1) mobile home used as a dwelling unit, farm employee accessory to the principal residence, which shall not be permitted to be a mobile home, may be located on a farm of forty (40) net acres or more as provided in Subsection (b)(1) through (3) of this section, below. On a farm of one hundred (100) net acres or more, a second mobile home used as a dwelling unit, farm employee shall be permitted as set forth in Subsection (b)(1) through (3) of this section. On farms of two hundred (200) net acres or more, mobile homes used as dwelling units, farm employee, in addition to the first two (2) permitted, shall be allowed at the rate of one (1) per one hundred (100) net acres, as set forth in Subsection (b)(1) through (3) of this section. The placement of any mobile home shall comply with all requirements set forth by the Board of Health of the Lexington-Fayette Urban Government and as follows:

| <i>Lot Size (net acres)</i> | <i>Number of Permitted Mobile Homes</i> |
|-----------------------------|---|
| 40 Acres                    | 1                                       |
| 100 Acres                   | 2                                       |
| 200 Acres                   | 3                                       |
| 300 Acres                   | 4                                       |

- (1) In any A-R, A-B, A-N or A-U zone, no mobile home shall be located closer than three hundred (300) feet to any existing or proposed right-of-way, nor shall any mobile home be located in a designated floodplain. One (1) or more of the occupants of all mobile homes must be employed full-time in agricultural activity on the farm on which such mobile is located; or the mobile home must be used as an accessory dwelling by parents, or natural or adopted children of the owner of the primary dwelling unit of the farm. No mobile home shall be located closer than three hundred (300) feet to any property line.
- (2) No more than one (1) driveway to any or all mobile homes located on property having common ownership shall be permitted for the first seven hundred fifty (750) feet of frontage. For property having more than seven hundred fifty (750) feet of frontage, additional driveways shall be permitted at the rate of one (1) per five hundred (500) feet of frontage.
- (3) In an A-R, A-B, A-N or A-U zone, all mobile homes shall be fitted with skirtings around the base so as to conceal any wheels and/or chassis, and the towing tongue shall be removed.
- (4) Any mobile home unoccupied for a period of one (1) year shall be required to be removed from the premises.

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(Code 1983, § 10-12; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 42-95 , § 1, 2-23-1995; Ord. No. 207-99 , § 1, 7-8-1999; Ord. No. 210-99 , § 1, 7-8-1999; Ord. No. 166-2017 , § 5(10-12), 11-16-2017; Ord. No. 102-2020 , § 3, 10-22-2020)

**Sec. 10-13. Enlargement of existing parks.**

Any enlargement or extension of any existing mobile home park shall be in accordance with the requirements of this Article.

(Code 1983, § 10-13; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-13), 11-16-2017)

**Sec. 10-14. Compliance with other law.**

Conformity with the standards established in this Ordinance shall not relieve the owner or operator of a mobile home park from compliance with all other requirements of the law.

(Code 1983, § 10-14; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 166-2017 , § 5(10-14), 11-16-2017)

**Article 11 INTERCHANGE SERVICE BUSINESS (B-5P) ZONE**

**Sec. 11-1. Intent.**

The intent of the Interchange Service Business (B-5P) zone is to permit the establishment of limited commercial facilities at limited access highway interchange areas so that the traveling public is conveniently provided with transient type services without endangering the movement along, as well as access to and from, the limited access highway. The standards contained in this Article are intended to provide adequate protection for, and consideration of, the traveling public.

(Code 1983, § 11-1; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 137-2016 , § 3(11-1), 7-7-2016)

**Sec. 11-2. Principal uses permitted.**

The following are principal permitted uses in an Interchange Service Business (B-5P) zone:

- a. Automobile Service Stations and automobile and vehicle refueling stations providing full-service, self-service, or a combination thereof; including the sale of convenience type merchandise in conjunction therewith in an enclosed building not exceeding three thousand (3,000) square feet in floor area. Such uses shall conform to all requirements of Article 16.
- b. Facilities for the sale of convenience type merchandise in an enclosed building not exceeding three thousand (3,000) square feet in floor area in conjunction with pumps for the sale of fuel for vehicles.
- c. Restaurants, excluding drive-in restaurants.
- d. Cocktail Lounges, Nightclubs, Wine Tasting Rooms and Discotheques, with or without live entertainment or dancing.
- e. Brew-pubs, when located at least one hundred (100) feet from a residential zone, which shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
- f. Hotels and Motels.

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- g. One Confectionery or Candy Store, not exceeding one thousand, five hundred (1,500) square feet, per interchange quadrant.
  - h. Roadside stand and value-added product sales, not exceeding three thousand (3,000) square feet in floor area or land area.
  - i. Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect public health, safety, or welfare or deny such if public health, safety, or welfare are adversely affected. A carnival may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  - j. Temporary cellular telephone transmitting facility; not to exceed seventy (70) feet in height and with a 1:1 height to yard ratio.
  - k. Car washing establishments, provided that surface water from such uses shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes. The use shall be located at least one hundred fifty (150) feet from a residential zone or residential structure in a nonresidential zone; or the use shall be designed so that all vehicular stacking areas and machine operations, including vacuuming and mechanical washing, shall be conducted inside a building, or shall be separated from the residential zone or residential structure in a nonresidential zone by a building or an eight-foot solid wall.

(Code 1983, § 11-2; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 30-95, § 1, 2-9-1995; Ord. No. 71-96, § 5, 5-16-1996; Ord. No. 85-96, § 2, 5-30-1996; Ord. No. 155-97, § 1, 7-10-1997; Ord. No. 171-2001, § 1, 7-5-2001; Ord. No. 60-2004, § 1, 4-8-2004; Ord. No. 100-2011, § 13, 8-25-2011; Ord. No. 5-2013, § 3, 1-31-2013; Ord. No. 137-2016, § 3(11-2), 7-7-2016)

### **Sec. 11-3. Accessory uses permitted.**

Accessory uses permitted in the B-5P zone are those uses which are customarily accessory, clearly incidental, and subordinate to any permitted principal use, such as:

- (a) Swimming pools.
- (b) Meeting rooms.
- (c) Tennis courts, putting greens, handball courts, and other similar indoor or outdoor recreational facilities.
- (d) Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
- (e) Bus agencies.

(Code 1983, § 11-3; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 174-86, § 1, 8-28-1986; Ord. No. 137-2016, § 3(11-3), 7-7-2016)

### **Sec. 11-4. Conditional uses.**

The following are conditional uses in an Interchange Service Business (B-5P) zone (Permitted only with Board of Adjustment approval):

- 
- (a) Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - (1) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - (2) That a reasonable degree of reclamation and proper drainage control is feasible; and
    - (3) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  - (b) Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  - (c) Seasonal activities.
  - (d) Market gardens.

(Code 1983, § 11-4; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 30-92 , § 20, 3-3-1992; Ord. No. 71-96 , § 6, 5-16-1996; Ord. No. 155-97 , § 1, 7-10-1997; Ord. No. 60-2004 , § 1, 4-8-2004; Ord. No. 100-2011 , § 14, 8-25-2011; Ord. No. 137-2016 , § 3(11-4), 7-7-2016; Ord. No. 22-2017 , § 4(11-4), 3-2-2017)

#### **Sec. 11-5. Prohibited uses.**

All uses, other than those specifically named as permitted uses, shall be prohibited in the B-5P zone.

(Code 1983, § 11-5; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 137-2016 , § 3(11-5), 7-7-2016)

#### **Sec. 11-6. Locational standards.**

A B-5P zone may be established only upon land having a minimum of five hundred (500) feet of frontage on a street designated by the Commission as an arterial and abutting a limited access highway interchange. The location of such B-5P zone shall have an acceptable relationship to the design of the limited access highway which it abuts.

(Code 1983, § 11-6; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 137-2016 , § 3(11-6), 7-7-2016)

#### **Sec. 11-7. Minimum design standards.**

- (a) *Access.* There shall be no direct entrances or exits from any establishments to any arterial street unless acceleration and deceleration lanes not less than two hundred (200) feet in length and eleven (11) feet in width are provided for both directions of travel.
- (b) *Non-conforming Uses.* Development of a B-5P zone in accordance with the provisions of this Article shall include the removal of any non-conforming use located on the property involved.
- (c) *Parking.* ~~Off-street parking areas for each permitted principal use shall be provided at least equal to those required for each such use in the B-3 zone. No minimum requirements. (See Article 16 for additional parking regulations)~~

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

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- (d) *Screening.* Landscaping and screening shall be provided as required in Article 18.
- (e) *Lot, Yard, and Height Requirements.* Lot and yard requirements shall be as for the Highway Service Business (B-3) zone. There shall be no height restriction except when a side or rear yard adjoins a residential zone, then a 3:1 height-to-yard ratio.

(Code 1983, § 11-7; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 137-2016 , § 3(11-7), 7-7-2016)

### **Sec. 11-8. Procedure.**

The procedure for obtaining a Zoning Map Amendment to the B-5P zone shall be the same as provided in Article 6 hereinabove; and in addition, as follows:

- (a) *Preliminary Development Plan Required.* A preliminary development plan shall be submitted with the application for a Zoning Map Amendment with the information as specified in Article 21 herein below
- (b) *Final Development Plans Required.* Within two (2) years of approval by the Urban County Council of any B-5P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and approval; otherwise, an application to change the B-5P zone to its previous zone or other appropriate zone may be filed by the Commission, as provided under Article 6 hereinabove. The final development plan shall show the information as specified by Article 21 herein below. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits the development plan.
- (c) *Building Permit Required.* No building permit shall be issued until a final development plan has been approved by the Commission and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.

(Code 1983, § 11-8; Ord. No. 263-83 , § 1, 12-15-1983; Ord. No. 172-86 , § 1, 8-28-1986; Ord. No. 122-2011 , § 19, 9-29-2011; Ord. No. 137-2016 , § 3(11-8), 7-7-2016)

## **Article 16 GENERAL REGULATIONS FOR ~~PARKING, LOADING AREAS, GARAGES, AUTOMOBILE SERVICE STATIONS, VEHICLE SALES LOTS AND STACKING AREAS~~ VEHICULAR USE AREAS**

### **Sec. 16-1. INTENT.**

The intent of this article is to allow development that provides the off-street parking, loading, and circulation facilities needed to meet demands created by occupants, employees, visitors, customers, and patrons, and to improve local traffic patterns. The standards in this section ensure that all provided off-street parking and vehicular use areas allow for safe and equitable access to developments for all users, including drivers, pedestrians, transit-riders, and cyclists.

The standards are intended to implement policies that support new development and the revitalization of mixed-use urban areas that encourages pedestrian-oriented development, reduces excessive paved surface areas, and promotes environmental sustainability.

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## Sec. 16-12. General regulations for parking and loading and pedestrian areas.

- (a) *Parking or Loading Spaces Established Prior to Adoption or Amendment of This Zoning Ordinance.* Any parking or loading spaces established prior to the adoption or amendment of this Zoning Ordinance shall be governed by any certified Development Plan or approved site plan, as acted upon by the Planning Commission or Board of Adjustment, that are either used or are intended to be used in connection with any principal building, structure, or use; or any spaces designed and intended to comply with the requirements of this Zoning Ordinance for any such principal building or structure erected after that adoption or amendment date, shall hereafter be maintained, as long as said building, structure, or use remains (unless the owner provides and maintains, in another location, an equivalent number of spaces as required in conformance with the provisions of this Zoning Ordinance).
- ~~(b) *Parking Requirements for a Change in the Principal Use.* Where the principal use is changed to a use for which additional parking space is required under the provisions of this Zoning Ordinance, it shall be unlawful to begin or maintain such altered use until the required off-street parking is provided.~~
- ~~(c) *Units of Measurement for Determining the Required Parking.* For the purpose of this Zoning Ordinance, the term "floor area" as used in computing the required off-street parking or loading areas, shall mean "Parking Floor Area" as defined in this Zoning Ordinance. In stadiums, sports arenas, places of religious assembly, or other places of assembly where patrons or spectators occupy benches, pews, or other such seating facilities, each twenty-four (24) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining the requirements for off-street parking spaces under this Zoning Ordinance. When units of measurement used in determining the number of required parking spaces would result in the requirement of a fractional space, any fraction less than one-half ( $\frac{1}{2}$ ) shall be disregarded, and fractions of one-half ( $\frac{1}{2}$ ) or more shall require one (1) parking space.~~
- ~~(d) *Location of Parking Spaces.* The location of parking spaces shall be as hereinafter set forth; and where distances are specified, they shall be the walking distances measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve. For one- and two-family dwellings, parking shall be provided on the same lot with the building it is required to serve; for multiple-family dwellings, not more than two hundred (200) feet from the building the parking spaces are required to serve; for uses located in or permitted in a Professional Office or any business zone (except B-2B); and for hospitals, nursing, convalescent and personal care facilities, orphanages, private clubs, fraternity or sorority houses, and places of religious assembly, not more than three hundred (300) feet from the building they are required to serve; for uses located in or permitted in any industrial zone and uses not specified above, not more than seven hundred (700) feet from the building, or other place of assembly, they are required to serve; and for all uses located in the B-2B zone, on any lot located within the B-2, B-2A, or B-2B zones, parking location shall be subject to the qualifications listed under the requirements of the B-2B zone.~~
- ~~(e) *Loading and Unloading Spaces Required.* In any zone, every building or part thereof hereafter erected, with a floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing; compounding; processing; storage; warehousing; goods display; retail store; wholesale store; hotel; hospital; funeral parlor; laundry; dry cleaning; or other uses similarly requiring the receipt or distribution by vehicles of material, objects, or merchandise, there shall be provided and maintained on the same premises with such building at least one (1) off-street loading space plus one (1) additional off-street loading space for each twenty thousand (20,000) square feet or fraction thereof of floor area so used in excess of twenty thousand (20,000) square feet.~~
- ~~(f) *Permit Requirement.* Permits are required for private walkways, parking, loading or unloading areas. Such permits shall not be issued until the applicant has met the design standards jointly promulgated by the~~

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Division of Traffic Engineering and the Division of Building Inspection, the storm drainage requirements of the Division of Engineering, and all other requirements of the ~~is~~ Zoning Ordinance.

(Code 1983, § 16-1; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 21-2013, § 3, 3-7-2013; Ord. No. 166-2017, § 8(16-1), 11-16-2017)

### **Sec. 16-~~23~~. Minimum design and maintenance requirements for parking areas.**

Every parcel of land hereafter used as a parking area shall be designed and maintained in accordance with the following requirements:

- (a) Off-street parking areas ~~shall equal or exceed the number of spaces required,~~ shall be of useable shape and surface, and shall have convenient ingress and egress. Not less than seventy-five percent (75%) of the total ~~provided~~~~required~~ parking spaces shall be designed for use by full-size vehicles. Up to twenty-five percent (25%) of the ~~provided~~~~required~~ parking may be designed and designated for compact vehicles. Aisles and access drives shall be designed so as to provide adequate vehicular maneuvering wholly upon the property being served; and in no case shall off-street parking areas be permitted that encourage or require the backing onto, or maneuvering within, the right-of-way of any public or private street.
- (b) Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way. Free-standing lighting shall be no taller than twelve (12) feet in height.
- (c) Any off-street parking area having more than one thousand, eight hundred (1,800) square feet of area and/or used by five (5) or more vehicles shall be landscaped and screened as required by Article 18, Landscape and Land Use Buffers.
- (d) A "sight triangle" shall be observed at all street intersections or intersections of driveways with streets as required in Article 18, Landscape and Land Use Buffers and Section 3-3 of this Zoning Ordinance.
- (e) All parking areas shall be paved and drained so as to dispose of all surface water within the parking area without carrying said water accumulation over a public sidewalk. Piping the water to a suitable outfall may be required.
- (f) ~~Where parking areas are provided for five (5) or more vehicles or contain more than one thousand, eight hundred (1,800) square feet of area in a residential zone; or are enlarged or expanded to provide for five (5) or more vehicles or to contain more than one thousand, eight hundred (1,800) square feet of area, they shall be paved with an asphalt, concrete, brick or other properly bound surface, so as to be durable and dustless. Each parking space shall be physically delineated on the surface of the parking area. The parking area and driveway shall be paved with concrete, asphalt, brick, grass pavers, or other suitable hard surface materials as approved by the Division of Building Inspection.~~

Loose aggregate or other type of gravel is prohibited, except:

- (i.) for agricultural land uses,
- (ii.) as approved by the Board of Architectural Review for the purpose of historic preservation,
- (iii.) when approved by the Urban County Forester for the purpose of tree protection.

In any case, the applicant must show that there is not another reasonable alternative to the loose aggregate. Where decorative rock, or a similar product, is being driven on or being used for parking, it shall be considered loose aggregate and prohibited, except where described in this section.

- (g) Permanent stormwater management, in compliance with the stormwater manuals and accepted by the Division of Engineering, shall be provided for all off-street parking areas containing five (5) or more

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parking spaces and/or more than one thousand, eight hundred (1,800) square feet. For off-street parking areas of one thousand, eight hundred (1,800) square feet or less, or less than five (5) parking spaces, permanent stormwater retention may be required by the Division of Engineering upon the determination that the lack of such retention would cause or aggravate flooding or other drainage problems on surrounding property.

(Code 1983, § 16-2; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 166-2017, § 8(16-2), 11-16-2017)

**Sec. 16-34. ~~Required~~ Professional Office, or Business (except B-2B) Zone automobile parking area as a conditional use in R-3, R-4 or R-5 zone.**

The establishment and operation of a restricted accessory parking area may be authorized by the Board of Adjustment as a conditional use in such parts of any Planned Neighborhood Residential (R-3) Zone, High Density Apartment (R-4) Zone or High Rise Apartment (R-5) Zone as abut, either directly or across an alley, a Professional Office or Business (except B-2B) Zone or any conforming or non-conforming ~~commercial~~institutional use in a particular residential zone, subject to the following conditions and requirements:

- (a) The parking area shall be accessory to and for use in conjunction with one (1) or more permitted uses located on an adjoining Professional Office or business (except B-2B) zone, or in connection with one (1) or more existing conforming or non-conforming ~~commercial~~institutional uses on adjoining premises.
- (b) Such parking shall be situated on premises not less than five thousand (5,000) square feet in area which shall abut at least fifty (50) feet, either directly or across an alley, on a Professional Office or business (except B-2B) zone, or on the premises of the existing conforming or non-conforming ~~commercial~~institutional use to which the parking area is accessory.
- ~~(c) Such parking area shall be used solely for the parking of passenger automobiles. No commercial repair work or service of any kind shall be conducted, and no charge shall be made for parking. No sign of any kind, other than designating ownership, entrances, exits, and conditions of use, shall be maintained on such parking area. Such signs shall conform to the zone in which the parking area is established.~~
- ~~(cd)~~ Each entrance and exit to and from such parking area shall be at least twenty (20) feet distant from any adjacent lot line located in any residential zone.
- ~~(de)~~ The parking area shall be subject to all requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping, screening, and minimum yards and setbacks.
- ~~(ef)~~ Any permit issued by the Division of Planning for such parking area may be revoked any time that the aforementioned requirements are not complied with; and any permittee who uses the premises in violation of any of the conditions specified above, or attached as conditions to such permit by the Board of Adjustment, shall be deemed in violation of this Zoning Ordinance.

(Code 1983, § 16-3; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 122-2011, § 26, 9-29-2011; Ord. No. 166-2017, § 8(16-3), 11-16-2017)

**Sec. 16-45. Parking, loading and unloading areas in residential zones.**

- (a) ~~Minimum Required Parking. In every R-1A, R-1B, R-1C, R-1D, R-1E, R-1T and R-2 zone, there shall be provided at least one (1) off-street parking space for each dwelling unit; For all single-family detached dwelling units, no such space shall be located within any required front yard or side street side yard area. The parking area and driveway shall be paved with concrete, asphalt, brick or other suitable hard surface materials, as~~

approved by the Division of Building Inspection. Loose aggregate or other type of gravel is prohibited, except as approved by the Board of Architectural Review for the purpose of historic preservation, or when approved by the Urban County Forester for the purpose of tree protection. In either case, the applicant must show that there is not another reasonable alternative to the loose aggregate. Where decorative rock, or a similar product, is being driven on or being used for parking, it shall be considered loose aggregate and prohibited.

- (1) Any private walkway shall be designed in such a way that a vehicle cannot drive on it so as to permit the area to be used as a parking space or vehicular use area. No private walkways shall be built in the street right-of-way without approval of an encroachment permit.

Within the defined Infill and Redevelopment Area, the maximum width in the front yard of any driveway serving the required space(s) per dwelling unit shall be limited to ten (10) feet.

- (b) Additional Parking. Provided the above parking requirements have been met, additional parking shall be permitted in any R-1A, R-1B, R-1C, R-1D, R-1E, R-1F or R-2 zone, provided the following requirements are met:

- (1) The parking area and driveway shall be paved with concrete, asphalt, brick, grass pavers, or other suitable hard surface materials as approved by the Division of Building Inspection. Loose aggregate or other type of gravel is prohibited, except as approved by the Board of Architectural Review for the purpose of historic preservation, or when approved by the Urban County Forester for the purpose of tree protection. In either case, the applicant must show that there is not another reasonable alternative to the loose aggregate. Where decorative rock, or a similar product, is being driven on or being used for parking, it shall be considered loose aggregate and prohibited.

Any private walkway shall be designed in such a way that a vehicle cannot drive on it so as to permit the area to be used as a parking space or vehicular use area. No private walkways shall be built in the street right-of-way without approval of an encroachment permit.

- (2) The paved areas for parking areas and driveways shall be set back from the property lines as follows: The setback from the side and rear lot line shall be two (2) feet for paved areas and driveways.

| <i>Zone</i>  | <i>Setback from Front Lot Line and/or Side Street Lot Line</i> | <i>Setback from Side and Rear Lot Line</i> |
|--------------|--|--|
| R-1A         | 15 feet  | 8 feet                                     |
| R-1B         | 10 feet  | 4 feet                                     |
| R-1C         | 6 feet   | 2 feet                                     |
| R-1D         | 6 feet   | 2 feet                                     |
| R-1E         | 6 feet   | 2 feet                                     |
| R-1F         | 6 feet   | 2 feet                                     |
| R-2          | 6 feet   | 2 feet                                     |
| R-3 and R-4* | 6 feet   | 2 feet                                     |

\* For single family homes or duplexes, per Section 16-4(c)(6)

3. Paving within a required front yard or side street side yard shall be limited to private walkways and residential driveways as defined and regulated herein.

4. Driveway Width – Allowable driveway width shall be based on the lot frontage, regardless of the width of the provided off-street parking area.

(a) Outside the infill and redevelopment area, where lot frontage is forty (40) feet or more, the maximum driveway width shall be twenty-four (24) feet.

(b) Inside the infill and redevelopment area, driveway width shall not exceed ten (10) feet.

(c) Where existing lot frontage is less than forty (40) feet, driveway width shall not exceed ten (10) feet. A driveway width may be widened to fifty (50%) percent of the lot frontage if an approved pervious surface is installed.

(d) If the width of a garage exceeds the allowable driveway width, the driveway shall be allowed to flare to that width for a distance no less than eighteen (18) feet, beginning at a location no closer to the street than half (½) of the required front yard or side street side yard.

(e) Shared driveways are allowed (and encouraged for lots with less than forty (40) feet of frontage), but may not exceed a total width of twenty (20) feet. (See Figure 2: Shared Driveways)

a. If located within the required front yard or required side street side yard, outside the defined Infill and Redevelopment Area, the percentage of coverage of parking areas and driveways shall not exceed fifty percent (50%) of the total required front or side street side yard. The maximum amount of paved area, including private walkways, shall not exceed sixty percent (60%) of the total required front or side street side yard.

b. If located within the required front or side street side yard, inside the defined Infill and Redevelopment Area, parking is prohibited, and driveway width shall be limited to ten (10) feet. The maximum amount of private walkways shall not exceed ten percent (10%) of the total required front or side street side yard.

(54) The design of the parking areas and driveways shall be developed so as to discourage the backing of vehicles onto a public right-of-way.

(65) The parking area shall be landscaped and screened as required by Article 18 of this Zoning Ordinance.

(76) A permit shall be required for the construction of all parking areas and driveways that fall under the above regulations. The owner must provide the Division of Building Inspection with a plot plan showing the entire lot, the location of the residence, the layout of the parking areas and driveways ~~(both the required spaces and proposed extra spaces)~~ and all proposed landscaping and screening required, as well as any other information necessary to clearly define the proposed construction as required by the Division of Building Inspection.

(7) ~~Within the defined Infill and Redevelopment Area, the maximum number of parking spaces on the lot will be no more than fifty percent (50%) additional spaces over the required parking. The following table gives examples of the required and maximum number of parking spaces:~~

| <i>Required Parking</i> | <i>Maximum Parking</i> |
|-------------------------|------------------------|
| <del>1</del>            | <del>2</del>           |
| <del>2</del>            | <del>3</del>           |
| <del>3</del>            | <del>5</del>           |
| <del>4</del>            | <del>6</del>           |

(8) The maximum amount of paved area, including private walkways, shall not exceed sixty percent (60%) of the total required front or side street side yard. ~~Properties that have one (1) or more street frontage with restricted parking shall be allowed one (1) additional parking space per restricted street frontage over the maximum allowed parking.~~

(b) For all single family attached dwelling units and multi-family residential ~~(fewer than six (6) or fewer dwelling units), driveways, parking areas, and private walkways shall be regulated in accordance with the regulations for single family detached above, except:~~

(1) Single-family attached units shall receive vehicle access only from the front or rear lot line exclusively, not both. End units with a side street side yard may receive vehicle access from that lot line in lieu of front or rear entry.

(2) Single-family attached units with vehicle access in the rear shall be served by an alley or public street.

(3) Single-family attached units with all front-loaded garages and driveways must be paired, except where a paired unit cannot be achieved.

(4) Shared parking courts, or a lot dedicated to providing shared off-street parking for single family attached dwelling units, shall meet the following standards:

a. Shared parking courts shall be owned and maintained by a common ownership mechanism.

b. Shared parking courts shall contain a maximum of twelve (12) parking spaces.

c. Landscaping shall be in accordance with Article 18-3

d. Parking courts shall be located to the rear or side of the single-family attached units.

i. Shared parking courts shall not be the principal use on a corner lot.

ii. Shared parking courts shall be adjacent to single-family attached units on at least two sides.

iii. When located in the same block frontage as other residential uses, no parking spaces shall be located within the required front yard for the zone.

(c) Parking, Loading, and Unloading Prohibited in Residential Zones. R-3, R-4 and R-5. In the R-3, R-4 and R-5 residential zones, parking, driveways, loading and unloading areas must meet the following requirements For multi-family residential (greater than six (6) dwelling units) and Group Residential Projects, driveways, parking areas, and private walkways shall be regulated as follows:

~~(1) Vehicular use area (VUA) shall not be located between a principal structure and the street. No off-street parking area, loading or unloading area, maneuvering area or aisles shall be permitted within the required front yard or side street side yard of any lot with a principal building. Where parking is the principal use of a lot, such off-street parking, loading or unloading area shall not be closer to any lot line than the distance required for a principal building of one (1) story in height.~~

~~(2) No portion of the front yard or side street side yard, exclusive of driveways or pedestrian walkways, shall be paved or surfaced; and all such front and side street side yards shall be enclosed by a barrier, or landscaped in such a manner, suitable to preclude any such activity as prohibited in this section.~~

~~(3) The parking area and driveway shall be paved with concrete, asphalt, brick or other suitable hard surface materials, as approved by the Division of Building Inspection. Loose aggregate or other type of gravel is prohibited, except as approved by the Board of Architectural Review for the purpose of historic preservation, or when approved by the Urban County Forester for the purpose of tree protection. In either case, the applicant must show that there is not another reasonable alternative to the loose aggregate.~~

~~(4) Within the defined Infill and Redevelopment Area, the maximum number of surface parking spaces on the lot will be no more than fifty percent (50%) additional spaces over the required parking. (See the table in Subsection (b)(7) of this section for examples.)~~

~~(5) Properties that have one (1) or more street frontage with restricted parking shall be allowed one (1) additional parking space, over the maximum allowed parking, per restricted street frontage.~~

~~(6) For a single-family detached dwelling unit, or a two-family duplex unit in the R-3 or R-4 zone, the parking requirements shall be as per Sections 16-4(a) and 16-4(b).~~

~~(d) Non-conforming Parking Exception.~~

- ~~(1) No off-street parking space shall be required for a single-family detached residence on any lot redeveloped as defined in Section 15-2(a)(1) when the lot already has no off-street parking space (a non-conforming situation).~~
- ~~(2) No off-street parking space shall be required within the defined Infill and Redevelopment Area where the Urban County Council has established a designated on-street parking area on a block-by-block basis.~~

(Code 1983, § 16-4; Ord. No. 104-99, § 1, 4-22-1999; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 129-2009, §§ 28-31, 7-2-2009; Ord. No. 21-2013, § 3, 3-7-2013; Ord. No. 166-2017, § 8(16-4), 11-16-2017)

**Sec. 16-6. Vehicular use area, pedestrian facilities, and loading and unloading areas permitted in non-residential and mixed-use zones**

(a.) Locational Standards for any P-1, B-1, B-3, B-5P, B-6P, CC, MU-1, MU-2 or MU-3, zones as well as any Supportive Uses in the ED zone:

(1.) On a corner lot, vehicular use areas shall not be in the front yard. Vehicular use areas along the side street shall be set back a minimum of fifteen (15) feet from the right-of-way.

(2.) On all other lots a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to sixty (60) feet in depth as measured perpendicular to the street, whichever is greater, shall be permitted between the building and the street, except otherwise prohibited by a maximum setback.

(3.) Connection Standards:

(a.) Internal pedestrian walkways shall be required and meet the following standards:

- (1.) A minimum of five (5) feet wide
- (2.) Extend from the vehicular access point to the building entrance(s).
- (3.) Directly connected to all adjacent rights-of-way.

(b.) For projects with two or more buildings, internal vehicular and pedestrian walkways shall be provided between vehicular use areas.

(c.) Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

(b.) Locational Standards for any B-2, B-2A, B-2B zone:

(1.) There shall be no vehicular use areas located in the front yard or side street side yard.

(2.) Connection Standards:

(a.) Internal pedestrian walkways shall be required and meet the following standards:

- (1.) A minimum of five (5) feet wide
- (2.) Extend from the vehicular access point to the building entrance(s).
- (3.) Directly connected to all adjacent rights-of-way.

(b.) For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.

(c.) Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

(c.) Locational Standards for any B-4, I-1, I-2, or ED zone:

(1.) There shall be a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to one hundred twenty (120) feet in depth as measured perpendicular to the street, whichever is greater.

(2.) Connection Standards:

(a.) Internal pedestrian walkways shall be required and meet the following standards:

(1.) A minimum of five (5) feet wide where there is no vehicular curb overhang. A minimum of seven (7) feet where there is vehicular curb overhang.

(2.) Extend from the vehicular access point to the building entrance(s).

(3.) Directly connected to all adjacent rights-of-way.

(b.) For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.

(c.) Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

### **Sec. 16-57. Parking, loading and unloading areas permitted in required front or side street side yard in zones other than residential zones.**

In any zone other than a residential zone, or an industrial zone adjoining an Agricultural Rural (A-R), Agricultural Buffer (A-B) or Agricultural Natural (A-N) zone across a public or private street right-of-way, off-street parking, loading or unloading areas may be permitted within the required front or side street side yard if there is sufficient depth between the street right-of-way line and the building line or other barrier to accommodate all parking and maneuvering without the necessity of backing over the street right-of-way line. All portions of front yards and side street side yards, including driveways, shall be enclosed by a barrier or landscaped in accordance with the landscaping requirements for vehicular use areas set forth in Article 18 of this Zoning Ordinance.

(Code 1983, § 16-5; Ord. No. 201-86, § 1, 10-2-1986; Ord. No. 32-90, § 1, 2-22-1990; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 166-2017, § 8(16-5), 11-16-2017)

### **~~Sec. 16-6. Single parking areas for multiple uses.~~**

~~The required off-street parking for any number of separate uses may be combined in one (1) lot; but the off-street parking required by any use for the purposes of complying with this Zoning Ordinance shall not be counted, nor shall it be included in the off-street parking required for any other use unless specifically permitted herein.~~

~~(Code 1983, § 16-6; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 166-2017, § 8(16-6), 11-16-2017)~~

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### **Sec. 16-7. Joint use of parking areas.**

The Division of Planning may, upon application by all parties involved, authorize the joint use of off-street parking facilities. Joint use of off-street parking shall be subject to the following limitations and conditions:

- (a) ~~Off-street parking areas required for detached single-family and two-family residential use shall not be included in any joint parking arrangement. For the purpose of this Article, residential uses shall be considered between the hours of 7:00 p.m. and 7:00 a.m.~~
- (b) ~~Up to one hundred percent (100%) of the off-street parking required for a place of religious assembly, or an auditorium incidental to a public or private school; and up to seventy-five percent (75%) of the off-street parking required for any other use may be provided by a joint parking arrangement.~~
- (c) ~~The joint parking area shall be within three hundred (300) feet of all of the uses being served by such facility, measured by the walking distance from the nearest point of the parking facility property to the nearest point of the property where the use is located and which the parking is intended to serve.~~
- (d) ~~The applicant shall submit sufficient data to the Division of Planning to demonstrate that the normal and regular operating hours of the uses proposing a joint parking arrangement do not coincide or overlap by more than one (1) hour.~~
- (e) ~~All parties shall execute a properly drawn legal instrument for the joint use of off-street parking areas. This instrument, having been approved as to form and manner of execution by the legal counsel of the Lexington-Fayette Urban County Government, shall be filed with the application.~~

~~(Code 1983, § 16-7; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 129-2009, § 32, 7-2-2009; Ord. No. 122-2011, §§ 27, 28, 9-29-2011; Ord. No. 166-2017, § 8(16-7), 11-16-2017)~~

### **Sec. 16-8. Special access, surface, and location requirements for garages, parking lots, automobile service stations, and vehicle sales lots.**

- (a) *Required Distance Between Service Stations/Garages/Automobile Repair Shops/Automobile and Vehicle Refueling Stations and Residential Zones and/or Institutional Uses.* No building, structure or premises intended or designed to be used as a community garage; an automobile repair shop; a service station; an automobile and vehicle refueling station or a parking lot or structure, whether a principal or a conditional use on a property, shall be used, erected or altered, which has an entrance or exit for vehicles in the same block front and within two hundred (200) feet of the property boundary of any school; public playground; place of religious assembly; hospital; public library; convalescent home, nursing home or personal care facility or orphanage. No such entrance or exit, except for a community garage, shall be located within twenty (20) feet of any residential zone; nor shall any structure used for an automobile repair shop or service station, or any part of a parking lot or structure, be located within one hundred (100) feet of any property boundary line of any of the aforesaid public or institutional uses. The term "parking lot," as used herein, does not include off-street parking areas ~~as otherwise required~~ for the public or institutional uses listed above.
- (b) *Required Distance Between Gasoline/Oil Dispensing Facilities and Residential Zones/Uses.* No gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within fifteen (15) feet of any right-of-way line, or within fifty (50) feet of a residential zone, except where such a pump, pit or appliance is within a completely enclosed building and distant at least fifteen (15) feet from any vehicular entrance or exit of such building. Notwithstanding the above provision, no gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within sixty-five (65) feet of a single-family residential zone or within sixty-five (65) feet of a single-family detached residential unit located in any residential zone. However, such 65-foot dimension shall not be applicable to the renovation, reconstruction, redevelopment, or construction of such

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a service station upon a tract used by such a facility within twelve (12) months prior to the application for a building permit. Except for gasoline service stations, no gasoline pump shall be permitted as an accessory use for another activity unless a site plan showing the following is submitted to, and approved by, the Division of Planning:

- (1) A safe traffic flow pattern shall exist at all times for vehicles to be serviced with gas, including a safe entrance and exit to the service area, and a traffic flow lane not impeded by parked vehicles or other objects.
  - (2) A safe traffic pattern shall exist for pedestrians to insure that pedestrian flow for other purposes is not routed by the gasoline pumps, thereby exposing such pedestrians to unnecessary hazards.
  - (3) The gasoline pumps shall be operated only by employees of the activity; or if others are permitted to operate them, the facility must comply with Chapter 28 of the Kentucky Fire Prevention Code, specifically Section F-2803.8.2 and Section F-2803.8.3.
- (c) *Required Distances Between Automobile and Vehicle Refueling Stations Dispensing Compressed Natural Gas and/or Liquid Natural Gas and Other Uses.* In addition to the requirements of this section (above), no stationary dispensing equipment for compressed natural gas or liquid natural gas associated with an automobile and vehicle refueling station may be located within:
- (1) Ten (10) feet of any sidewalk, walkway, parking lot or property line;
  - (2) Fifteen (15) feet of any electrical source or any overhead electric utility line;
  - (3) Fifty (50) feet of a right-of-way line, a building on another lot, or the nearest rail of any railroad line;
  - (4) Sixty-five (65) feet of a residential zone; and
  - (5) Not less than fifty (50) feet of a fire hydrant.
- (d) *Requirements for Vehicle Sales Lots.* Every parcel of land hereafter used as an automobile, truck, mobile home, boat, trailer, or camper sales lot, or as an automobile service station shall be subject to the requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping and screening, and minimum yards and setbacks; and shall be considered, in the application thereof, as the equivalent of a parking area for more than five (5) vehicles, regardless of its size.
- (e) *Community Garages as Conditional Uses.* Community garages permitted as a conditional use in a R-3 and R-4 zone shall not be within eighty (80) feet of any right-of-way line or in a R-3 zone be within twenty-five (25) feet of any other lot line; or in a R-4 zone be within twenty (20) feet of any lot line, except the rear lot line of an adjoining Professional Office, Business or Industrial Zone.

(Code 1983, § 16-8; Ord. No. 108-87, § 1, 6-11-1987; Ord. No. 222-98, § 1, 8-27-1998; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 122-2011, § 29, 9-29-2011; Ord. No. 5-2013, § 5, 1-31-2013; Ord. No. 166-2017, § 8(16-8), 11-16-2017)

### **Sec. 16-9. Stacking area.**

For any use which utilizes a drive-in or drive-through window or service area, a vehicular stacking area shall be provided for a minimum of five (5) vehicles. Such vehicular stacking area shall not include any spaces located at the windows or service areas, shall be provided wholly on the property and shall not include any right-of-way. Where menu boards or other stopping points are utilized before moving to the window or service area, the vehicular stacking area shall not include the space at the stopping point nor the spaces between that stopping point and the window or service area. The vehicular stacking area shall be subject to all yard, paving, landscaping and other requirements of a vehicular use area, as contained in Article 18.

(Code 1983, § 16-9; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 166-2017, § 8(16-9), 11-16-2017)

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## **Sec. 16-10. Reductions of minimum required parking.**

All parking reductions shall apply only under the following circumstances:

- (1) ~~Uses shall be limited to attached single family dwellings and multi-family dwellings in residential and/or mixed use zones.~~
- (2) ~~Properties in the P-1 and B-1 zones, when located within the Infill and Redevelopment Area, are eligible.~~
- (3) ~~Properties in the B-3 or B-6P zone, when required to meet the provisions of Article 12-8 herein, are eligible for parking reductions.~~
- (4) ~~The Planning Commission must approve the specific proposed use of the property on a development plan.~~
- (5) ~~The total maximum amount of parking reductions, including the on-street parking provision of the Mixed Use zones, shall not exceed a fifteen percent (15%) reduction of the otherwise required parking, unless the Board of Adjustment grants a parking variance allowable under Article 7.~~
  - (a) ~~*Allowable Bicycle Reductions.* Sites having fifty (50) or more parking spaces may reduce the total minimum automobile parking space requirement by one (1) parking space for every one (1) bicycle space provided on a permanently constructed bicycle rack. The maximum reduction of required parking spaces shall not be reduced less than five percent (5%) of the otherwise required amount. Only the provision of additional bicycle spaces shall count toward this reduction when a minimum bicycle space is required. Provision of bicycle spaces shall not count against the otherwise required minimum for the calculation of the maximum parking allowed.~~
  - (b) ~~*Allowable Transit Stop Reductions.*~~

~~Sites located within 300 feet of a transit stop with a shelter may be allowed a ten percent (10%) reduction of the minimum required parking. Sites located within 300 feet of a transit stop without a shelter may be allowed a five percent (5%) reduction of the minimum required parking. If the site is located within 300 feet of more than one transit stop, the maximum reduction allowed will be ten percent (10%) for this specific parking reduction. Provision of a transit stop shall not count against the otherwise required minimum for the calculation of the maximum parking allowed.~~

~~In addition, "big-box" developments in any B-3 or B-6P zone may be allowed a ten percent (10%) reduction of the minimum required parking if a designated Park and Ride lot is provided on the site near a transit stop with a shelter (designed to meet the specifications of the Lexington Transit Authority), provided the shelter is directly connected to the entrance of a "big-box" establishment by a sidewalk or designated pedestrian pathway.~~
  - (c) ~~*Mixed income housing reductions.* Where dwelling units are provided and the Planning Commission has approved a final development plan, the required parking spaces may be reduced to a rate of 1 space per dwelling unit.~~

~~(Code 1983, § 16-10; Ord. No. 129-2009, § 33, 7-2-2009; Ord. No. 173-2010, § 1, 10-21-2010; Ord. No. 166-2017, § 8(16-10), 11-16-2017; Ord. No. 84-2020, § 2, 9-3-2020)~~

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## **Sec. 16-~~1011~~. Effect of pedestrian-oriented business district.**

For any such district created under Code of Ordinances Article 18, Chapter XIII, the provisions of the district will take precedence over any ~~off-street parking requirements or~~ related provisions contained in the Zoning Ordinance.

(Code 1983, § 16-11; Ord. No. 124-2012 , § 1, 10-11-2012; Ord. No. 166-2017 , § 8(16-11), 11-16-2017)

## **Sec. 16-11. Parking Structures.**

### (a) General Standards:

- (1.) Gated vehicular entrances shall be recessed from the front building plane fifteen (15) feet.
- (2.) There shall be a delineated pedestrian access point(s) into the parking structure. Pedestrian walkways shall meet the following standards:
  - (a.) A minimum of five (5) feet wide.
  - (b.) Directly connected to all adjacent rights-of-way.
- (3.) Transparent windows or openings shall be provided for a minimum of sixty (60%) percent of the ground level, except where residential uses are located.
- (4.) Ground floor activation shall include one of the following along every street frontage:
  - (a.) Façade articulation that includes a change in exterior material type, style or finish such that materials vary for every eighty (80) feet of length or fraction thereof, or;
  - (b.) ~~Ground floor that includes a~~At least thirty (30%) percent of the ground floor façade includes commercial land uses or dwelling units, or;
  - (c.) An accessible useable open space of a minimum depth of twenty (20) feet along twenty (20%) percent of the ground floor. Open space includes plazas with seating, playgrounds, parks, porches, patios, or similarly programmed spaces. Landscaping not designed to be used by people are not included.

## **Sec. 16-12. Bicycle Parking and Storage.**

- (a) Where vehicle parking is provided, bicycle parking facilities shall be provided and shall meet the following standards:
  - (1) Bicycle parking shall be provided at a rate of one (1) space for every ten (10) vehicular spaces or fraction thereof;
  - (2) Bicycle parking facilities shall be securely anchored;
  - (3) Short-term bicycle parking facilities shall be located ~~along the internal pedestrian walkway~~ within fifty (50) feet from the entrance;
  - (4) Long-term bicycle parking facilities shall be constructed with at least one of the following features:
    - (a) A bicycle locker or similar structure manufactured for the purpose of securing and protecting a standard size bicycle, or;
    - (b) A secured and dedicated bicycle parking area provided either inside the principal building on the lot, or in a building located elsewhere on the lot.

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### **Sec. 16-13. Loading and Unloading Areas.**

Loading and Unloading Spaces Required. In any zone, every non-residential building or part thereof, hereafter erected, with a floor area of ten thousand (10,000) square feet or more, there shall be provided and maintained on the same premises with such building at least one (1) off-street loading space plus one (1) additional off-street loading space for each twenty thousand (20,000) square feet or fraction thereof of floor area so used in excess of twenty thousand (20,000) square feet.

### **Sec. 16-14. Parking Demand Studies.**

All significant developments requiring a Zoning Map Amendment shall submit a Parking Demand Study. As used herein, the term "significant developments" shall mean any new construction in excess of five thousand (5,000) square feet. A study shall not be required for new construction of single family residential and multi-family residential with 6 or fewer dwelling units, or for any construction in the B-2, B-2A, B-2B and B-6P zones. The applicant shall have the responsibility of providing the study. The information from the study shall provide guidance to determine the necessary parking facilities. Those facilities shall be approved by the Planning Commission and reflected on the associated development plan per Article 21-6.

- (a) The study shall be submitted to the appropriately identify the necessary provision of vehicular and bicycle parking spaces based on the unique locational and end-user/tenant mix for the development. Such a study shall be prepared by a qualified professional well-suited to addressing the quantity of parking for the property, including a Professional Engineer, AICP Planner, CCIM Real Estate Professional, or substantially similar qualification. The Parking Demand Study shall include:
- 1) Review of national best practices for parking calculations for the project, including the current ITE Manual Parking ranges or the ranges produced by the ITEParkGen Report.
  - 2) The anticipated parking demand for the project;
  - 3) How the anticipated parking demand will be satisfied on-site or off-site;
  - 4) The methods and strategies to be implemented in order to reduce vehicle trips by site users;
  - 5) The methods and strategies to be implemented in order to promote transportation options by site users; and
  - ~~6)~~ 6) The projected mode share by site users from the utilization of the Study's strategies.
- (b) Strategies for parking mitigation can include, but are not limited to, the following:
- 1) Shared or joint parking arrangements;
  - 2) Mixed-use developments that promotes live/work arrangements;
  - 3) Support for car-share and bike-share services and facilities;
  - 4) Dedicated areas for drop off/pick up areas along public right-of-way;
  - 5) Parking cash-out programs or unbundled parking/market rate pricing;
  - 6) Roadway improvements adjacent to the site that will help encourage transportation options;
  - 7) Parking management partnerships with LexPark.

## Article 18 LANDSCAPE AND LAND USE BUFFERS

### Sec. 18-1. Intent.

The intent of this Article is to improve the appearance of vehicular use areas (VUAs) and property abutting public rights-of-way; to require buffering between incompatible land uses; and to protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare.

(Code 1983, § 18-1)

### Sec. 18-2. Sites affected.

- (a) *New Sites.* No new site development, building, or structure shall hereafter be constructed or vehicular use area created or used unless landscaping is provided as required by the provisions of this Article.
- (b) *Existing Sites.* No building, structure, or vehicular use area (VUA) shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provision of this Article is provided for the property to the extent of its alteration or expansion, but not for the entire property.
- (c) *Change of Use.* No use shall be changed to another use for which the Zoning Ordinance requires additional parking over and above that required for the previous use, unless vehicular use area perimeter landscaping as required by this Article is provided for such additional parking. The provisions of this section shall be effective regardless of whether or not new construction is necessary to meet the parking requirements for the new uses. Where new construction will not be necessary to meet the parking requirements, such additional required parking shall be deemed to be on the perimeter for as much as possible of the existing vehicular use area. Where the previous use had no required parking, perimeter landscaping shall be provided for the entire vehicular use area serving the new use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.
- (d) *Change of Zone.* No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

(Code 1983, § 18-2)

### Sec. 18-3. Where landscape materials required.

This section describes the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicular use areas, perimeter landscaping for incompatible land use areas, and landscaping for service areas.

- (a) *Perimeter Landscaping Requirements.* Unless otherwise provided, landscape materials shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one (1) foot above finished grade level to the top of the required planting, hedge, fence, wall, or earth mound within four (4) years after installation. The required landscaping shall be provided along the property perimeter in designated landscape buffer areas (LBAs) as shown in the chart in Subsection (a)(1) of this section or adjacent to the vehicular use area as shown in the chart in Subsection (a)(2) of this section. A "Planting Manual" and a "Plant Materials List" shall be maintained

by the Division of Planning and available in the offices of the Division of Environmental Services, to provide more detailed information on the acceptable plant material.

(1) *Property Perimeter Requirements.*

|    | A.   | B.   | C.  | D.   |
|----|--|--|---|--|
|    | When the following...  | Adjoins the following...   | A minimum buffer area <sup>1</sup> of this average width (with three feet as the least dimension) is required. <sup>3 4</sup>                               | Which will contain this material, to achieve opacity required. <sup>5 8</sup>  |
| 1. | Any M-1P zone.   | Any property in any zone other than M-1P.  | Ten feet adjacent to all common boundaries, including street frontage.  | One tree/40 feet of linear boundary, OFT <sup>2</sup> , from Group A, B, or C of Plant List plus continuous six feet high planting, hedge, fence, wall or earth mound.   |
| 2. | Any office or business zone (except P-2).  | Any residential zone.  | 15 feet adjacent to all common boundaries (located behind the building line) except street frontage <sup>7</sup> .  | One tree/40 feet of linear boundary, OFT, from Group A or B only, plus, 1) a double row of six feet high hedge or 2) a six feet high fence, wall or earth mound.   |
| 3. | Any industrial or P-2 zone.  | Any residential, office, or business zone.   | 15 feet adjacent to all common boundaries except street frontage <sup>7 9</sup> .   | Same as 2D.  |
| 4. | Any double frontage lot (as defined by the Subdivision Regulations) in any zone except A-U, A-R, A-N and A-B unless the lot is used for a vehicular sales facility or a service station. | Any state maintained freeway or arterial street not providing direct access to the property. | 20 feet for residential zones and ten feet for all other zones adjacent to freeway or arterial.   | One tree/30 feet, OFT, Group A or B, plus continuous six (6) feet high planting, hedge, wall, fence (not to exceed eight feet in height at street grade) or earth mound. Such plantings are to be shown on a unified plan for the development. |
| 5. | Any zone except agricultural and industrial zones.   | Railroads (except spur tracks and along sight triangles)                                     | Same as 6C, adjacent to railroad boundaries.  | Same as 2D.  |
| 6. | Utility substation, junk yards, landfills, sewage plants, sewage pump stations, transfer stations or similar uses.   | Any property boundary, including street rights-of-way.                                       | 15 feet adjacent to all boundaries, except only five feet for utility substations and sewage pump stations measured adjacent to the enclosure. <sup>7</sup> | Same as 2D.  |
| 7. | Any R-1T, R-3, R-4 or R-5 zone except when developed as buildings  | Any R-1A, R-1B, R-1C, R-1D, or R-2 zone.   | Six feet adjacent to all common boundaries except street frontage.  | One tree/40 feet of linear boundary, OFT <sup>2</sup> , from Group A, B, or C of Plant List plus a continuous six feet high  |

|     |  |  |   |   |
|-----|--|--|---|---|
|     | for single-family or two-family occupancy.             |  |   | planting, hedge, fence, wall, or earthmound.  |
| 8.  | Any business, office, or industrial zone.              | Any A-R zone.  | 15 feet adjacent to all common boundaries except street frontage.                       | One tree/40 feet of linear boundary, OFT <sup>2</sup> , of native species from Group a of Plant List plus continuous six feet high planting or hedge or, 1) one evergreen tree/15 feet of linear boundary, OFT, planted 15 feet o.k.; or 2) one tree/20 feet of linear boundary, OFT, that is a combination of 50 percent deciduous, native species trees from Group A and 50 percent evergreen trees or small flowering trees. |
| 9.  | Any residential, business, office, or industrial zone. | Urban Service Area boundary.                           | Five feet adjacent to all common boundaries except street frontage. <sup>6</sup>        | Same as 1D, except use only native tree species from Group A.   |
| 10. | Any cemetery use, whether private or public.           | Any property boundary, including street rights-of-way. | 50 feet adjacent to all boundaries, as shown on a development plan or subdivision plan. | One tree/40 feet of linear boundary, OFT, from Group A or one tree/30 feet from Group B, plus continuous six feet high planting, or hedge, in addition to a wall or fence a minimum of three feet in height.  |

1. Grass or ground cover shall be planted on all portions of the landscape buffer area not occupied by other landscape material.

2. OFT means "or fraction thereof." Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.

3. To determine required area of landscape buffer area, multiply required averaged width by length of common boundary. Using item 1C as an example, the ten-foot average required width times an assumed 100 feet of common boundary equals 1,000 square feet of required landscape area. Thus, if some sections of the landscape buffer area are only three feet in width, other sections will have to be greater than ten feet in width in order to attain the required one thousand (1,000) square feet of landscape area.

4. Five feet shall be the least dimension for any P-1, B-1, B-2, B-2A, B-2B, B-3, B-4, I-1, or I-2 zone with three feet as the least dimension for any other zone.

5. A continuous planting of evergreen trees 15 feet o.c. Shall be deemed to meet the requirements for trees and a continuous planting provided the trees meet the requirements of Section 18-4(c) and an opacity of 70 percent is achieved.

6. No map amendment request, major subdivision plan, or development plan shall be approved by the Planning Commission except in compliance with this section. However, the Planning Commission shall not require such landscaping adjoining the Urban Service Area boundary where any of the following conditions

exist: major railroad lines, major water bodies (not including streams or farm ponds), publicly owned parks or open space, public property with a low intensity of use, or existing urban development along the Urban Service Area boundary.

7. The 15-foot Landscape Buffer Area (LBA) may be reduced to five feet when used in conjunction with a six-foot high wall or fence.

8. In situations where a slope occurs along a boundary, the required landscaping shall be placed (in relation to the slope) where it will most effectively screen the more intensive use from the adjoining property.

9. In conjunction with the required development plan in a P-2 zone, the Planning Commission may permit portions of required perimeter planting to be reallocated to areas interior to the site. This shall be permitted for areas where the Commission finds that such solid screening is not necessary or desirable to screen the P-2 uses from adjoining properties or right-of-way. For example, where such uses as open space areas, outdoor recreation areas, large open yards, and the like adjoin the abutting rights-of-way or adjoining properties, the Commission should consider utilizing the reallocation provision of this section.

(2) Vehicular Use Area Perimeter Requirements:

(a) A vehicular use area perimeter buffer shall be located between vehicular use areas containing 1,800 sq. ft. of area and/or used by five or more of any type of vehicle and any adjacent streets and adjacent properties excluding required sight clearances at driveways and ingress/egress locations. A vehicular use area perimeter buffer shall not be required when a vehicular use area is contiguous to a required property perimeter buffer and the screening intent of this Article is met.

(b) Vehicular Use Area Perimeter Requirements shall be required as follows:

(1) The vehicular use area perimeter buffer shall be located along the perimeter of a vehicular use area and maintain a minimum average width of eight (8) feet, as measured from the outer edge of the vehicular use area. The buffer shall contain:

(i) A continuous hedge, fence, wall, or earthen mound, except where trees require breaks.

(a) Hedges shall be composed of a double staggered row of evergreen shrubs, deciduous shrubs, and/or warm season grasses with a minimum planting height of 30 inches and planted three feet on-center.

(1) Up to 25 percent may be deciduous.

(2) Plant material other than groundcover shall be located at least three (3) feet from the back edge of the curb where cars overhang.

(b) Fences or walls shall be opaque and shall be a minimum of four (4) feet in height.

(ii) One (1) canopy tree (Group A or B) per twenty-five (25) linear feet of the total perimeter of the parking area.

(a.) Trees shall be located at least six (6) feet from the back edge of the curb where cars overhang.

(b.) In areas where overhead utilities prevent the use of canopy trees (Group A or B), understory trees (Group C) may be substituted.

|           |           |           |           |
|-----------|-----------|-----------|-----------|
| <u>A.</u> | <u>B.</u> | <u>C.</u> | <u>D.</u> |
|-----------|-----------|-----------|-----------|

| When the following...  | Adjoins the following...   | A minimum landscape buffer area of this width is required <sup>1</sup>   | Which will contain this material, <sup>2</sup> to achieve opacity required.   |
|--|--|--|---|
| 1. Any vehicular use area <sup>2</sup> (VUA) on any property   | Any property in any zone except Industrial (I-1, I-2) Downtown Business Core (B-2), Downtown Business Frame (B-2A), Lexington Center Business (B-2B), or Agricultural (A-U, A-R, A-N or A-B) | Five feet to edge of paving where vehicles overhang, four feet minimum from edge of paving and three feet (that prohibits any vehicular overhang) for other areas, adjacent to portion of vehicular use area that faces adjacent property. | One tree/40 feet of boundary of vehicular use area OFT <sup>4</sup> , from group A, B, or C, plus a three feet average height continuous planting, hedge, fence, wall or earth mound or a three feet decrease in elevation from the adjoining property to the vehicular use area.   |
| 2. Any vehicular use area in any zone outside the B-2, B-2A, or B-2B zones, except vehicle sales facilities or service stations. | Any public or private street right-of-way, access road or service road (except expressways).   | Same as 1C above, except applies to VUA portion facing public or private street right-of-way, access road, or service road.  | Same as 1D, except use only Group A or B.   |
| 3. Any vehicle sales facility or service station.  | Any public or private street right-of-way, access road, service road, expressway or arterial street.   | Same as 2C above.  | One tree/50 feet OFT from Group A or B, plus an 18-inch average height continuous planting, hedge, fence or wall.   |
| 4. Any vehicular use area (except loading and unloading in areas) B-2, B-2A or B-2B zones.                                       | Same as 2B.  | Six feet adjacent to portion of vehicular use area that faces a public or private street right-of-way, access road or service road.  | Three feet average height continuous planting, hedge, or wall.  |
| 5. Financial institutions with drive-in facilities or night deposits.  | Same as 2B.  | Same as 1C.  | One (1) tree/40 feet of boundary OFT from Group A or B (deciduous only) with five feet of clear trunk, plus an 18-inch average height continuous planting, hedge, fence or wall adjoining a public or private right-of-way and a three feet average height planting, hedge, fence or wall adjacent to all other property. |

<sup>1</sup>. These provisions may be included within the property perimeter landscaping required by Subsection (a)(1) of this section where landscape buffer areas are also applicable.

~~2. A vehicular use area (V.U.A.) is any open or unenclosed area containing more than 1,800 square feet of area and/or used by five or more, of any type of vehicle, whether, moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph (and intervening curbs, sidewalks landscape strips, etc., do not eliminate adjacency).~~

~~3. Grass or ground cover shall be planted on all portions of the landscape buffer areas not occupied by other landscape material.~~

~~4. OFT means "or fraction thereof."~~

~~5. In the B-2, B-2A, and B-2B zones, when a wall is used, it is to be constructed of natural stone, brick or precast concrete.~~

- (3) *Who Provides Landscape Buffer Area.* The landscape buffer area and material required adjacent to any vehicular use area under Subsection (a)(2) of this section shall be provided by the person in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise (hereinafter referred to as "owner"), unless the authority building the street has fully met all requirements on the street right-of-way. When adjacent to other common boundaries, the landscape buffer area and materials:
- (a) May be placed on either adjoining parcel, or astride the boundary, if both are owned and being processed by the same owner; or
  - (b) ~~Generally shall be placed on the property with the vehicular use area the activity listed under Column A of Subsections (a)(1) and (a)(2) of this section~~ when adjoining parcels have different owners; or
  - (c) May be placed astride the boundary of adjoining parcels having different owners if a written agreement, signed by both owners, is filed with the Division of Environmental Services as a public record; or
  - ~~(d) Shall be placed on the activity or parcel being processed when adjoining property is already developed with the exception of Subsection (a)(1) of this section, lines 4 and 5; or~~
  - (ed.) Shall not be required along the common boundary if the requirements of this Article have been fully complied with on the adjoining property, in fulfillment of the requirements of this ordinance. A note indicating the maintenance of the shared boundary shall be included on the approved landscape plan.
- (4) *Requirement Conflicts.* Whenever a parcel or activity falls under two (2) or more of the landscape requirements listed ~~in the table of Subsections (a)(1) or (a)(2) of this section~~, the most stringent requirements will be enforced.
- (5) *Landscaping in Easements.* The required landscape buffer area may be combined with a utility or other easements as long as all of the landscape requirements can be fully met, otherwise, the landscape buffer area shall be provided in addition to, and separate from, any easement. Trees to be planted in utility easements containing overhead lines shall be only those specified in the Plant List. Cars or other objects shall not overhang or otherwise intrude upon the required landscape buffer area more than ~~two and one-half (2½)~~ three (3) feet, and wheel stops or curbs will be required.
- (6) *Street Trees in the Right-of-Way.* Trees required as a part of the vehicular use area perimeter landscaping may be placed on the right-of-way adjoining such vehicular use area when approved by the Division of Environmental Services ~~and the Street Tree Coordination Committee~~. Where street trees required by the Subdivision Regulations have already been planted in the right-of-

way, such trees may be substituted for an equal number of ~~vehicular use area VUA~~ perimeter trees. Written permission from the authority having jurisdiction over the right-of-way shall be submitted by the developer prior to the approval of a landscape plan which utilizes the right-of-way for ~~vehicular use area VUA~~ perimeter landscaping. The Division of Environmental Services shall permit the required ~~vehicular use area VUA~~ perimeter trees to be located in the right-of-way only if there is sufficient area for such trees to grow to maturity.

- (7) *Existing Landscape Material.* Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the Division of Environmental Services such material meets the requirements and achieves the objectives of this Article. Existing healthy trees from Group "A" or "B" of the Plant List may be substituted for trees required for property or vehicular use area perimeter landscaping, or for interior landscaping by using the following criteria: a six-inch to twelve (12)-inch caliper tree surrounded by a minimum of one hundred fifty (150) square feet of landscape area may be substituted for two (2) new trees of the required minimum size; a twelve (12)-inch to twenty-four (24)-inch caliper tree surrounded by a minimum of two hundred fifty (250) square feet of landscape area may be substituted for three (3) new trees of the required minimum size; a twenty-four (24)-inch or greater caliper tree surrounded by a minimum of three hundred (300) square feet of landscape area may be substituted for four (4) new trees of the required minimum size.
- (8) *Landscaping at Driveway and Street Intersections.* To ensure that landscape materials do not constitute a driving hazard, a "sight triangle" will be observed at all street intersections or intersections of driveways with streets as required by Section 3-2 herein.
- (9) *Joint Driveways and Common Vehicular Use Areas.* Vehicular use area screening shall not be required between a vehicular use area and the adjoining property where a property line divides a driveway used for common access to two (2) or more properties nor when a final development plan for the properties has been approved by the Planning Commission. ~~both of the following conditions exist:~~
- a. ~~The vehicular use areas are for the required parking for the properties or the common use of the properties (as substantiated by a reciprocal parking and access agreement);~~
  - b. ~~A final development plan for the properties has been approved by the Planning Commission.~~
- (b) *Interior Landscaping for Vehicular Use Areas.* Any open vehicular use area ~~(excluding loading, unloading, and storage areas in an industrial zone, I-1 or I-2, or warehouse business zone, B-4)~~ containing ~~six-five thousand (65,000)~~ or more square feet of area, or ~~twenty (20) fifteen (15)~~ or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or expanded to increase the size to six-five thousand (65,000) or more square feet of area, or twenty-fifteen (2015) or more vehicular parking spaces, interior landscaping for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion.
- ~~(1) Landscape Area. For each one hundred (100) square feet, or fraction thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided in all zones except the P-2 zone. In the P-2 zone, ten (10) square feet of landscaped area shall be required for each one hundred (100) square feet of vehicular use area.~~
- (a1) *Minimum Interior Landscape Area.* The minimum interior landscape area shall be ten (10%) percent of the total vehicular use area, excluding loading, unloading, and storage areas in a Wholesale and Warehouse Business (B-4), Light Industrial (I-1), Heavy Industrial (I-2), or

Economic Development (ED) zone permitted shall be sixty four (64) square feet, with a four-foot minimum dimension to all trees from edge of pavement where vehicles overhang.

- (b) Maximum Contiguous Area. In order to encourage the required landscape areas to be properly dispersed, no required landscape area shall be larger than three hundred fifty (350) square feet in vehicular use areas under thirty thousand (30,000) square feet in size, and no required area shall be larger than one thousand, five hundred (1,500) square feet in vehicular use areas over thirty thousand (30,000) square feet. In both cases, the least dimension of any required area shall be four (4) feet minimum dimension to all trees from edge of pavement where vehicles overhang. The maximum distance between landscape areas shall be one hundred twenty (120) feet measured from the closest perimeter landscape area curb edge or the closest curb edge of each required interior area. Landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum.
- (e2) Minimum Interior Vehicular Use Area Trees Canopy. Tree canopy equal to or exceeding thirty percent of the total vehicular use area shall be provided, including loading, unloading, and storage areas in a Wholesale and Warehouse Business (B-4), Light Industrial (I-1), Heavy Industrial (I-2), or Economic Development (ED) zone. In areas where overhead utilities prevent the use of canopy trees (Group A or B), understory trees (Group C) may be substituted. Mature trees shall have a clear trunk of at least eight (8) feet above the ground. Clustering is permitted within the interior landscape areas. A minimum of one (1) tree shall be required for each two hundred fifty (250) square feet or fraction thereof of required landscape area. Trees shall have a clear trunk of at least five (5) feet above the ground. The remaining area shall be landscaped with shrubs, or ground cover, not to exceed two (2) feet in height.
- (d) Vehicle Overhang. Parked vehicles may hang over the interior landscaped area no more than two and one-half (2½) feet, as long as concrete or other wheel stops are provided to ensure no greater overhang or penetration of the landscaped area.
- (3) Alternative Tree Locations for loading/unloading zones or storage areas in the Wholesale and Warehouse Business (B-4), Light Industrial (I-1), Heavy Industrial (I-2), or Economic Development (ED) zones – where required tree canopy cannot be accommodated within the required vehicular use area interior landscape areas the remaining trees shall be planted elsewhere on the site.
- (4) Location for Interior Landscape Areas
- (a) A maximum distance of ninety (90) feet between interior landscape areas.
  - (b) At the end of every row of parking there shall be an interior landscape area.
  - (c) Every other row of double-loaded parking requires a continuous interior landscape area.
- (5) Interior Landscape Area without Trees
- (a) Minimum Area - Seventy-two (72) square feet as measured from front of curb.
  - (b) Plant Material Required - Low shrubs, ground cover, herbaceous cover or native warm season grass to cover at least seventy-five (75%) percent at maturity.
  - (c) Vehicle Overhang – Plant material other than groundcover shall be located at least three (3) feet from the back edge of curb, where vehicles overhang.
- (6) Interior Landscape Area with Trees
- (a) Minimum Area – One Hundred and forty-four (144) square feet per tree as measured from front of curb.
  - (b) Minimum Top Soil Depth – Three (3) feet.

(c.) Plant Material Required - At least one canopy tree from Group A or Group B; In areas where overhead utilities prevent the use of canopy trees (Group A or B), understory trees (Group C) may be substituted. Trees shall be underplanted with low shrubs, ground cover, herbaceous cover or native warm season grass to cover at least 75% at maturity.

(d) Vehicle Overhang – Trees shall be located at least four (4) feet from the back edge of curb, where vehicles overhang.

~~(e7)~~ *Landscaping for Service Structures.* All service structures shall be fully screened except when located in a R-1, R-2, B-4, I-1 or I-2 zone or when located more than thirty-five (35) feet above the established grade. Service structures in the B-4, I-1 or I-2 zone shall be fully screened when located within one hundred (100) feet of any zone except B-4, I-1 or I-2. For the purpose of this Article, service structures shall include propane tanks, air-conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.

~~(a1)~~ *Location of Screening.* A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one (1) side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.

~~(b2)~~ *Protection of Screening Material.* Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a fixed barrier to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least eighteen (18) inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be twelve (12) feet to allow service vehicles access to the container.

~~(e8)~~ *Screening of Outdoor Storage Areas.* All outdoor storage areas in the I-1 and I-2 zones shall be screened by a solid wall or fence not less than six (6) feet in height.

(9) Innovative Design Landscape Plan. Interior landscaping requirements for vehicular use areas may be modified on a development plan without a variance in accordance with an Innovative Design Landscape Plan. An Innovative Design Landscape Plan shall be prepared and sealed by an architect, landscape architect or engineer licensed to practice in the State of Kentucky.

The plan may include, but is not limited to:

- a. Green infrastructure elements above and beyond existing requirements,
- b. Provisions for solar or alternative energy production,
- c. Vegetated areas that do not meet one or more of the above regulations, but still achieve the basic objectives of these regulations.

The plan shall be reviewed and approved by the Landscape Review Committee; and a finding shall be made by the Planning Commission and noted on the Final Development Plan. Such

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[finding shall state that the proposed interior landscaping for the vehicular use area utilizes innovative landscape design elements to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare in accordance with Article 18-1.](#)

(Code 1983, § 18-3; Ord. No. 201-86, § 1, 10-2-1986; Ord. No. 228-86, § 1, 10-21-1986; Ord. No. 153-87, § 1, 7-9-1987; Ord. No. 198-87, § 1, 8-27-1987; Ord. No. 7-88, § 1, 1-28-1988; Ord. No. 73-89, § 1, 5-4-1989; Ord. No. 248-90, § 1, 11-27-1990; Ord. No. 292-95, § 1, 12-7-1995; Ord. No. 211-99, § 1, 7-8-1999; Ord. No. 156-2004, § 1, 7-2-2004; Ord. No. 29-2006, § 3, 2-9-2006; Ord. No. 5-2010, § 2, 1-14-2010; Ord. No. 124-2017, § 3, 8-31-2017)

#### **Sec. 18-4. Landscape materials.**

The landscaping materials shall consist of the following, and are described in more detail in the Planting Manual and Plant Materials List available at the Division of Planning and the Division of Environmental Services.

- (a) *Walls and Fences.* Walls shall be constructed of natural stone, brick or other weatherproof materials arranged in a linear, serpentine, or other alignment; while fences shall be constructed of wood or other weatherproof, durable materials generally used in the exterior construction of buildings. Fence posts shall be structurally stable based on the material used, and shall have a maximum spacing of 8' on center (o.c.). If wood is used, the posts shall be 4" x 4" minimum. Posts shall be set in or anchored to crowned concrete footers at least six (6) inches larger in each direction than the post it supports. The base of the footer shall be at least twenty-four (24) inches below finished grade. If wood is used for any member, it shall be softwood treated with water-borne preservative to the American Wood Preservers Institute standard LP-2 for above ground use or LP-22 for ground contact use, or all heart redwood, or all heart cedar. All cut surfaces of pressure treated lumber shall be waterproofed. If another material is used, it shall be weatherproof. Slats are to be minimum one-half (½) inch in thickness and are to be placed on the outside of the fence unless the design is two-sided (shadow-box, etc.). All hardware is to be galvanized or otherwise rust-proofed. Wood horizontal members shall be installed bark-side up. Chain link fencing may not be used to meet the requirements of this Article. Chain link fencing may be installed in the required landscape area only if it is in addition to the required continuous planting, hedge, fence, wall or earth mound. All walls or fences shall have a minimum opacity of eighty (80) percent. Walls and fences allowed to meet the requirements of this Article shall not be used for the erection or display of any sign or other advertising device. Height limitations for walls and fences are regulated by zone and land use in Article 15-4(b).
- (b) *Earth Mounds.* Earth mounds shall be physical barriers which block or screen the view similar to a hedge, fence, or wall. Mounds shall be constructed with proper and adequate plant material to prevent erosion. A difference in elevation between areas requiring screening does not constitute an earth mound.
- (c) *Plants.* All plant materials shall be living plants (artificial plants are prohibited) and shall meet the following requirements:
  - (1) *Quality.* Plant materials used in conformance with provision of this Zoning Ordinance shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under State regulations. Bare root plants, with the exception of shrubs and hedges, vines and ground covers shall be prohibited.
  - (2) *Deciduous Trees.* (Trees which normally shed their leaves in the Fall) - Shall be species having an average mature crown spread of greater than fifteen (15) feet in Fayette County and having

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trunk(s) which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen (15) crown spread. A minimum of ten (10) feet overall height or a minimum caliper (trunk diameter, measured 6 inches above ground for trees up to 4 inches caliper) of at least one and three-fourths (1¾) inches immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four (4) inches thick, reinforced concrete. Columnar variety trees of any species may only be permitted upon the express approval of the Division of Environmental Services in accordance with Section 18-6. Any columnar variety tree shall be considered as a small tree and be granted new canopy credit of 100 square feet according to Article 26-5(e).

- (3) *Evergreen Trees.* Evergreen trees shall be a minimum of five (5) feet high with a minimum caliper of one and one-half (1½) inches immediately after planting.
  - (4) *Shrubs and Hedges.* Shall be at least twelve (12) inches with three (3) canes for Section 18-3(a)(2), lines 3 and 5, at least two (2) feet with three (3) canes for all other lines of Section 18-3(a)(2), and three (3) feet with four (4) canes for Section 18-3(a)(1) in average height when installed. After approval by the Division of Environmental Services and with the exception of the 12-inch plants, shrubs and hedges may be pruned to one-half (½) the height in accordance with accepted horticultural practices. All plants shall conform to opacity, mature height, and other requirements within four (4) years after the date of the final approval of each planting or replanting. Privet (*Ligustrum* species) cannot meet the opacity requirements and may not be used to satisfy the requirements of this Article. The height of the planting shall be measured from the level of the surface of the vehicular use area at the edge closest to the screening.
  - (5) *Vines.* Shall be at least twelve (12) or fifteen (15) inches high at planting, and are generally used in conjunction with walls or fences.
  - (6) *Grass or Ground Cover.* Grass of the fescus (*Gramineae*) or Bluegrass (*Poaceae*) family shall be planted in species normally grown as permanent lawns in Fayette County, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted not more than fifteen (15) inches on center and in such a manner as to present a finished appearance and have seventy-five (75) percent of complete coverage after two (2) complete growing seasons. In certain cases, ground cover also may consist of rocks, pebbles, sand, and similar approved materials.
- (d) *Maintenance and Installation.* All landscaping required by this Article shall be installed and maintained by the owner in compliance with the standards specified in Section 4 of the Planting Manual and the American National Standards (ANSI A300) and, as applicable, the requirements specified in Lexington-Fayette Urban County Government Ordinances No. 1-91 and No. 34-92 (Man o' War Boulevard), No. 134-89 (Old Frankfort Pike), No. 133-89 (Georgetown Road), No. 213-83 and No. 266-87 (Richmond Road), No. 42-98 (Downtown Street Trees), and No. 85-2008 (Newtown Pike), all available in the offices of the Division of Environmental Services; or any other future amendments to these ordinances. Any landscape material that fails to meet the minimum requirements of this Article at the time of installation shall be removed and replaced with acceptable materials. The person in charge of, or in control of, the property, whether as owner, lessee, tenant, occupant, or otherwise, shall be responsible

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for the continued proper maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance, free from refuse and debris, at all times. All unhealthy or dead plant materials shall be replaced within one (1) year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Sizes for the above-mentioned replacements shall be as provided in Subsection (c)(2) of this section. Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper or permitted for the maintenance of trees as required by this Article. Except as provided above, the removal of landscape materials requires the approval of the Division of Environmental Services. When trees are removed, other than as permitted above, such trees shall either be replaced with the necessary number two and one-half (2½)-inch caliper trees to equal the total caliper of trees removed, or with trees of the same caliper as those that were removed. All replacement trees shall be planted in the original location unless an alternate location is approved by the Division of Environmental Services. Violation of these installation and maintenance provisions shall be grounds for the Division of Building Inspection to refuse a building occupancy permit, or for the Division of Environmental Services to require replacement of landscape material or institute legal proceedings to enforce the provisions of this Article.

(Code 1983, § 18-4; Ord. No. 201-86, § 1, 10-2-1986; Ord. No. 198-87, § 1, 8-27-1987; Ord. No. 100-96, § 1, 6-27-1996; Ord. No. 11-2011, § 1, 2-3-2011; Ord. No. 124-2017, § 4, 8-31-2017; Ord. No. 45-2019, § 1, 2, 7-2-2019)

### **Sec. 18-5. Plan submission and approval.**

Whenever any property is affected by these landscape requirements, the property owner or developer shall submit a landscape plan to the Division of Environmental Services. For any property where a vehicular use area for twenty (20) or more vehicles or six thousand (6,000) or more square feet is provided, the landscape plan shall be prepared and sealed by an architect, landscape architect or engineer licensed to practice in the State of Kentucky. For any property, where a vehicular use area for fifty (50) or more vehicles is provided, the landscape plan shall be prepared and sealed by a landscape architect licensed to practice in the State of Kentucky. The requirements of this Article shall be followed in approving or disapproving any landscape plan required by this Article. Landscape plans also may be submitted as part of any development plan required by the Planning Commission. Such "combination plans," however, shall be first submitted to the Division of Environmental Services for its approval or disapproval of the landscape portion of the plan.

- (a) *Plan Content.* The contents of the plan shall include the following:
- (1) Plot plan, drawn to an easily readable scale, showing and labeling by name and dimensions, all existing and proposed property lines; easements; buildings and other structures; vehicular use areas (including parking stalls, driveways, service areas, square footage, etc.); water outlets and landscape material (including botanical name and common name, installation size, on center planting dimensions where applicable, and quantities for all plants used);
  - (2) Existing and proposed contours at two-foot intervals;
  - (3) Typical elevations and/or cross-sections as may be required;
  - (4) Title block with the pertinent names and addresses (property owner, person drawing plan, and person installing landscape material), scale, date, north arrow (generally orient plan so that north is to top of plan), and zone;
  - (5) Requirements or an approved tree protection plan applicable to the site, per Article 26, Tree Protection Standards.

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- (b) *Building Permit and Certificate of Occupancy.* Where landscaping is required, no building permit shall be issued until the required landscaping plan has been submitted and approved; and no Certificate of Occupancy shall be issued until the landscaping is completed as certified by an on-site inspection by the Division of Environmental Services. If the required landscaping has not been completed and a Temporary Certificate of Occupancy is issued under Section 5-4(a) of this Zoning Ordinance, a full cash bond or irrevocable letter of credit from a banking institution with offices in Fayette County shall be posted at that time. The amount of the bond or letter of credit shall be based upon the cost of the proper installation of the uninstalled landscape material shown in the submitted plan, with the cost certified by a landscape contractor. The amount of the bond or letter of credit shall also include an inflation factor and/or administrative contingency cost of no more than twenty-five percent (25%) of the base cost, as determined by the Division of Environmental Services, to complete the work in the event of the foreclosure of the bond or letter of credit.
- (c) *Posting of a Full Cash Bond or Irrevocable Letter of Credit.* After a full cash bond or irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within three (3) months after the date of posting the full cash bond or irrevocable letter of credit. A one-month extension of the planting period may be granted by the Division of Environmental Services upon a demonstration by the property owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant materials. No more than three (3) such one-month extensions may be granted. The full cash performance bond or irrevocable letter of credit shall be called if the required landscaping has not been installed by the end of the approved planting period, and the Division of Environmental Services shall apply the proceeds of the bond or letter of credit to have the work completed.

(Code 1983, § 18-5; Ord. No. 201-86 , § 1, 10-2-1986; Ord. No. 289-2000 , § 1, 9-14-2000; Ord. No. 124-2017 , § 5, 8-31-2017)

### **Sec. 18-6. Planting manual and plant materials list.**

Developers shall refer to the Planting Manual and Plant Materials List, which are available at the offices of the Division of Planning and the Division of Environmental Services for minimal requirements to use in meeting the provisions of this Article. Any materials that are not on the Plant Materials List shall be considered on an individual basis to determine the suitability of the specific plant in the proposed location. A plant not on the Plant Materials List shall be permitted only upon the expressed approval of the Division of Environmental Services.

(Code 1983, § 18-6; Ord. No. 124-2017 , § 6, 8-31-2017)

### **Sec. 18-7. Variances.**

Any landscape plan submitted to, and disapproved by the Division of Environmental Services because it does not meet the requirements of this Article, may be appealed within sixty (60) days of such action to the Board of Adjustment.

- (a) *Landscape Review Committee.* To aid the Board of Adjustment in the performance of the duties imposed by this Article, there is hereby created a Landscape Review Committee.
- (b) *Membership.* The Landscape Review Committee shall consist of five (5) members, to be appointed by the action of the Board of Adjustment. One member shall be a nurseryman or horticulturist, one (1) shall be a landscape architect, one (1) shall be a member of the Lexington Homebuilder's Association, one (1) shall be a member of the Urban County Tree Board and one (1) shall be a member of the Board of Adjustment. The term of the Board of Adjustment member shall be the same as his Board of Adjustment appointment. For others, at the initial appointment, one (1) shall be appointed for four (4)

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years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. Subsequent appointments shall be for four (4) years.

- (c) *Organization and Meetings.* The Landscape Review Committee shall elect a chairman and any other officers deemed necessary, and keep official minutes of its meetings and recommendations. The Division of Planning shall perform staff service for the committee. Meetings shall be held at regularly scheduled times, or at the call of the chairman, or by joint action of two (2) members. In any case, notification shall be given to all members at least six (6) days prior to any meeting. A quorum shall consist of three (3) members, and official recommendations may be decided by the vote of two (2) members when a quorum is present.
- (d) *Reviewing Variance Requests.* The committee, in its review of said recommendations on variance requests, shall base its recommendations on all of the following criteria:
  - (1) The requested variance arises from special circumstances which do generally apply to land in the general vicinity or in the same zone.
  - (2) The strict application of the provisions of this Zoning Ordinance would deprive the applicant of a reasonable use of the land or would create unnecessary hardship on the applicant.
  - (3) Such special circumstances are not the result of actions of the applicant subsequent to the adoption or amendment of this Zoning Ordinance.
  - (4) Reasons that the variance will adversely effect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.
- (e) *Recording.* Whenever the committee makes a recommendation, such recommendation shall be forwarded to the Board of Adjustment, the Division of Environmental Services, and be properly described in the committee's minutes.

(Code 1983, § 18-7; Ord. No. 201-86 , § 1, 10-2-1986; Ord. No. 124-2017 , § 7, 8-31-2017)

### **Sec. 18-8. Enforcement.**

Violations of this Article 18 are subject to the penalty provisions in Section 5-8 and may be enforced through the issuance of a civil citation pursuant to Section 5-9.

(Code 1983, § 18-8; Ord. No. 11-2011 , § 2, 2-3-2011)

## **Article 21 DEVELOPMENT PLANS**

### **Sec. 21-1. Intent and purpose.**

The purpose of this Article is to establish and define development plans which may be utilized for a wide variety of planning related procedures. This Article outlines the content and procedure for submission, review, and approval, of all development plans required by the Zoning Ordinance and Subdivision Regulations unless another procedure or different contents are specified elsewhere in this Zoning Ordinance.

(Code 1983, § 21-1)

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### **Sec. 21-2. Approval of development plan before building permit.**

For any case where a development plan is required by this Zoning Ordinance, no building permits shall be issued until a final development plan is approved by the Planning Commission and a copy of said plan is certified to the Division of Building Inspection by the Secretary of the Commission. The approval of a development plan shall limit and control the issuance of all building and occupancy permits, and restrict the construction, location and use of all land and structures to the conditions as set forth in the plan.

(Code 1983, § 21-2)

### **Sec. 21-3. Where required.**

Developments plans shall be required as follows:

- (a) *Development Plans Required for P-2, B-5P, B-6P and M-1P.* As authorized by KRS 100.203(2), all applications for zone map amendments to the P-2, B-5P, B-6P, and M-1P zones shall require the submission and approval of both a preliminary development plan and a final development plan prior to development of the property. The preliminary development plan shall be required to be submitted in conjunction with the zone map amendment request. The development plan shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed.
- (b) *Development Plans Required for Multiple Principal Structures as Permitted by Section 3-1(e).* Development plans required by Section 3-1(e) to permit more than one (1) principal structure and its accessory structures on a lot or parcel of land shall be submitted to the Commission, in accordance with the provisions of this Article.
- (c) *Development Plans Required in Conjunction with Zone map amendment requests.* As authorized by KRS 100.203(2), development plans shall be required to accompany any zone map amendment request as set forth in Subsections (c)(1), (2), (3), and (4) of this section, below. The development plan shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed:
  - (1) Any map amendment request from an A-R or A-U zone to any nonagricultural zone.
  - (2) Any map amendment request to any residential or business zone.
  - (3) Any map amendment request from a residential zoning to a nonresidential zoning.
  - (4) The Commission, at its discretion, may require the submission and approval of a preliminary development plan, a final development plan, or both, for the subject property of any Zoning Map Amendment proposal if the Commission finds there are existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the subject property that could have an adverse influence on existing or future development of the subject property or other property in the neighborhood.

(Code 1983, § 21-3; Ord. No. 30-88 , § 1, 2-25-1988; Ord. No. 248-90 , § 1, 11-27-1990; Ord. No. 51-99 , § 1, 3-11-1999)

### **Sec. 21-4. Development plan procedures.**

The following shall be the procedure for Planning Commission consideration of any development plan.

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- (a) *On-Site Meeting.* Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester who will determine if an on-site meeting with the developer's design professional and/or other pertinent Urban County Government staff is necessary.
- (b) *Filing.* To formally request Planning Commission action on the development plan, the developer shall file a completed application form, filing fee and copies of the plans as required by the Commission's adopted filing and fee schedules with the Division of Planning. The Division of Planning shall make copies of the plan available to all other concerned agencies.
- (c) *Review.* The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Committee to try to resolve all differences and to make recommendations to the Commission's Subdivision Committee. The Subdivision Committee will review all recommendations, and then forward their recommendations to the Commission. These Committee meetings shall be open to the developer and to any interested citizen, however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.
1. The Subdivision Committee shall have the authority to require an applicant to prepare a traffic impact study for significant developments per Article 6-1(a). These Committee meetings shall be open to the developer and to any interested citizen, however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.
  2. The Subdivision Committee shall have the authority to require an applicant to prepare a Parking Demand Study for significant developments per Article 16-14.

(d) *Commission Action.*

No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by the Subdivision Committee unless this requirement is waived by the Commission under its adopted late filing procedures. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed for Commission action with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

The Commission will review the Subdivision Committee's recommendation and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property. In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e) hereinbelow. Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:

- (1) *Approval.* Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.

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- (2) *Conditional Approval.* Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.
  - (3) *Postponement.* Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.
  - (4) *Disapproval.* Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required under Subsection (b) of this section.
- (e) *Certification of Approval.* Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void:
- (1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan including the signed owner's certification to the Division of Planning;
  - (2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension or reapproval of an expired plan, the Commission may require changes in the development plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.
- (f) *Timing Restrictions.* The following timing restrictions shall be applicable to development plans:
- (1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan, otherwise, the preliminary development plan shall be deemed as disapproved by the Commission.
  - (2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of Commission action on the development plan, otherwise, no further building permits shall be issued unless and until the plan is reapproved by the Planning Commission.

(Code 1983, § 21-4; Ord. No. 18-87, § 1, 2-19-1987; Ord. No. 30-88, § 1, 2-25-1988; Ord. No. 174-88, § 1, 7-14-1988; Ord. No. 289-2000, § 1, 9-14-2000; Ord. No. 75-2021, § 1, 8-26-2021)

## **Sec. 21-5. Types of development plans.**

There shall be a preliminary development plan and a final development plan, defined as follows:

- (a) *Preliminary Development Plans.* A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based upon a preliminary development plan.

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- (b) *Final Development Plan.* A final development plan is a development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking areas, open spaces, access points and any other site design features.

(Code 1983, § 21-5)

## **Sec. 21-6. Contents and format of development plans.**

All development plans shall be prepared on Mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding one (1) inch equals one hundred (100) feet) which enables clear presentation of required information. Required plan information shall be as follows:

- (a) *Contents of preliminary development plan.* A preliminary development plan shall contain the following information at a minimum:
- (1) A title block containing the plan name, development plan type, name and address of developer and plan preparer; and written and graphic scale.
  - (2) The boundary of the subject property, its record plan designation (if available); and the record plan name or owner's name of all adjoining property.
  - (3) A vicinity sketch, oriented in the same direction as the design scheme.
  - (4) Topography with contour intervals not greater than five (5) feet.
  - (5) Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, point of ingress and egress (including all gates restricting vehicular access), access points for construction vehicles, and other vehicular and pedestrian rights-of-way.
  - (6) Location and cross-sections of any proposed or existing streets within or abutting the subject property.
  - (7) Screening, landscaping and buffering, (as required by Article 18) recreational and other open space areas.
  - (8) Approximate size, location, height, floor area, area arrangement and use of proposed and existing buildings and signs.
  - (9) Storm drainage areas, floodplains, conceptual drainage controls and stormwater retention and any other designated environmentally sensitive or geologic hazard area.
  - (10) Proposed and existing easements for utilities or other purposes.
  - (11) A tree inventory map as required by Article 26.
  - (12) Location of any existing burial grounds (including private family cemeteries) on the subject property and all adjoining property, and provisions for their protection, maintenance and accessibility.
  - (13) A statistical summary of all pertinent site data, including site area, zoning, building coverage and floor area, parking, open space, etc.
  - (14) A note stating that no grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.

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- (15) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textural representations shown hereon, and do adopt this as my (our) development plan for the property."
  - (16) A Commission's certification to be signed by the Commission's Secretary if and when the plan is fully approved, as follows: "I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date)."
  - (17) A note stating that no building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
- (b) *Contents of final development plan.* All information required for preliminary development plans as required under Subsections (a)1 through 17 of this section, above; except that contour intervals shall be two (2) feet, a tree protection plan, data block, and tree protection areas shall be required and that the plan information shall be of an exact nature, rather than approximate or general.

(Code 1983, § 21-6; Ord. No. 26-88, § 1, 2-11-1988; Ord. No. 30-88, § 1, 2-25-1988; Ord. No. 26-94, § 1, 2-24-1994; Ord. No. 289-2000, § 1, 9-14-2000; Ord. No. 209-2002, § 1, 8-29-2002; Ord. No. 5-2010, § 3, 1-14-2010; Ord. No. 1-2011, § 10, 1-13-2011)

### **Sec. 21-7. Amendments to development plans.**

Amendments to approved development plans can be made only by official Planning Commission action in a public hearing. However, amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's Secretary without further action by the Commission.

- (a) *Minor Amendments Defined.* Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments:
- (1) Shall not decrease the overall land area in yards, or other open spaces;
  - (2) Shall not increase building ground area coverage, floor area, or height, or increase the number of dwelling units;
  - (3) Shall not increase the number or size of signs;
  - (4) Shall not change the location or cross-section of any street and shall not increase the number, or change the location of street access points, except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street and the Divisions of Traffic Engineering and Planning concur that such relocation will not have a negative effect on traffic safety and movement.
- (b) *Procedures for Minor Amendments.* Shall be as follows:
- (1) *Filing.* The developer shall file the following materials with the Division of Planning: a reproducible tracing of the plan prepared on Mylar or other material capable of clear reproduction using ozalid print process; three (3) blue or black line prints of the tracing; and a filing fee in the amount determined by the Commission's adopted fee schedule.
  - (2) *Review.* The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering, and others as appropriate to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the

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plan as approved. If any question arises as to compliance, or if the Division of Planning feels that the proposed amendment raises issues deserving the attention of the full Commission, however, the plan shall be referred to the full Commission for action.

- (3) *Certification.* Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.
- (c) *Content and Format of Minor Amendments.* Minor amendments shall have the same content and format requirements as the original development plan, except that:
  - (1) The title shall indicate the plan is a minor amendment;
  - (2) A note shall be added listing the exact nature of the requested changes (no plan change shall be considered in effect unless it is referenced in this note); and
  - (3) The following will be the required language for the Commission's certification: "I do hereby certify that this development plan amendment complies with the provisions of Section 21-7 of this Zoning Ordinance."
- (d) *Content and Format of Major Amendment Requirements.* Major amendments to development plans shall have the same content and format requirements as the original development plan, except that:
  - (1) The title shall indicate the plan is an amended development plan; and
  - (2) A note shall be added listing the exact nature of the requested changes.

No plan change shall be considered in effect unless it is referenced in this note.

- (e) *Major Amendment Procedures.* The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Section 21-4 above. However, in addition to the standards listed in Section 21-4(c), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare, or alter the essential character of the development as originally approved.

(Code 1983, § 21-7; Ord. No. 30-88 , § 1, 2-25-1988; Ord. No. 134-2014 , § 1, 11-13-2014; Ord. No. 70-2015 , § 1, 6-18-2015)

## **Sec. 21-8. Relationship to land subdivision regulations.**

The relationships between development plans and the Land Subdivision Regulations are established as follows:

- (a) *Applicability of Land Subdivision Regulations.* Although developments plans are not subdivision plans, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Subdivision Regulations shall be applied to proposals contained on the development plan.
- (b) *Development Plans Required Under Section 5-2(g) of the Land Subdivision Regulations.* Development plans required under Section 5-2(g) of the Land Subdivision Regulations are required to conform with the provisions of this Article 21 of this Zoning Ordinance.
- (c) *Development Plans and Preliminary Subdivision Plans May Be Combined.* It is recognized that for certain development situations it can be advantageous to both the developer and the Commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:

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- (1) The developer shall meet with the Division of Planning no later than five (5) working days in advance of the filing deadline to discuss the appropriateness of filing a combined plan.
  - (2) The plan shall show all information required for a development plan (preliminary or final as appropriate) and all information required for preliminary subdivision plans as set forth in Section 5-2 of the Land Subdivision Regulations.
  - (3) Provisions relating to the timing of public or private streets or other public or common use improvements in relation to the timing of building permit issuance may be required.
- (d) *Preliminary Subdivision Plan May Be Substituted for Development Plans Required in Conjunction with map amendment request.* It is recognized that in certain cases, a preliminary subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivisions plans prior to receiving a zone change approval. When a developer is required to provide a development plan under Section 21-3(c) hereinabove, and the developer desires to file a subdivision plan in its place, the developer shall meet with the Division of Planning in advance of filing the map amendment request to discuss the appropriateness of a substitution. In any disputed cases, the Planning Commission shall make the final judgments as to whether a development plan or subdivision plan is required.

(Code 1983, § 21-8; Ord. No. 174-88 , § 1, 7-14-1988)

## **Article 23 EXPANSION AREAS ZONING CATEGORIES AND RESTRICTIONS**

### **Sec. 23-1. Purpose.**

As a part of adoption of the Comprehensive Plan, the Planning Commission adopted an Expansion Area Master Plan (EAMP) element, which sets forth provisions to guide growth within designated Expansion Areas (EA) to Lexington-Fayette County's Urban Service Area. The Expansion Area Master Plan is intended to establish a new approach to development coordination and regulation than has been previously used within the existing Urban Service Area. The Expansion Area Master Plan encourages innovative design and a range of uses which are integrated into the development; encourages development which is sensitive to the topographic features and the unique rural character of the Bluegrass; encourages the new development within the Expansion Area to function as a "community" with a mix of uses, housing types and land for economic development and community facilities, including parks, public facilities, and community centers. The purpose of this Article and its appendices is to provide the necessary implementing regulations to achieve the goals of the Expansion Area Master Plan.

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(Code 1983, § 23-1; Ord. No. 196-96 , § 1, 10-3-1996; Ord. No. 353-2000 , § 1, 11-16-2000; Ord. No. 166-2017 , § 11(23-1), 11-16-2017)

### **Sec. 23-2. General provisions.**

Within the Expansion Areas, the following provisions shall be applicable to all properties as appropriate:

- (a) *Applicability.* Except as specifically modified by the provisions of this Article, all other provisions of this Zoning Ordinance shall be applicable to the Expansion Areas.
- (b) *Existing Agricultural Uses Not Non-conforming Uses.* Agricultural uses of land or agricultural uses of buildings or structures which were lawful prior to the adoption of the Expansion Areas Zoning Categories and Restrictions and which would be otherwise prohibited, regulated, or restricted by the provisions of this Article, shall for the purposes of this Article be deemed permitted uses in the zone or district in which they are located and shall not be deemed non-conforming.
- (c) *Existing Lots and Existing Residential Uses.* Notwithstanding any provision of this Article, any lot which was in existence at the time of the adoption of these Expansion Areas Zoning Categories and Restrictions may be used for one (1) single-family house and permitted accessory uses with lot, yard and height as in the Agricultural Rural (A-R) Zone as a principal or accessory use, as appropriate.
- (d) *Zoning Categories Permitted.* The only zoning categories to be permitted within the Expansion Areas shall be those expressly created in Appendix 23A. The only exception to this requirement shall be that the Lexington-Fayette Urban County Government, in conjunction with a government sponsored comprehensive rezoning of the Expansion Area, may opt for developed land to keep the zoning in existence at the time of adoption of this Article in place if it finds such action to be in the best interest of furthering the goals of the Expansion Area Master Plan. Likewise, the zoning categories created herein shall only be utilized within the Expansion Areas, and shall not be permitted within other areas of Fayette County, except in conformance with any future amendments to the Comprehensive Plan.

(Code 1983, § 23-2; Ord. No. 196-96 , § 1, 10-3-1996; Ord. No. 353-2000 , § 1, 11-16-2000; Ord. No. 166-2017 , § 11(23-2), 11-16-2017)

### **Sec. 23-3. Interpretations and definitions.**

The provisions of this Article shall be construed so as to liberally carry out its purpose in the interest of protecting the public health, safety and welfare by managing growth and development in the Expansion Areas. For the purposes of administration and enforcement of this Article, the following rules of construction shall apply:

- (a) In case of any difference of meaning or implication between the text of this Article and any caption, illustration, summary table, or illustrative table, the text shall control.
- (b) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either ... or":
  - (1) "And" indicates that all the connected terms, conditions, provisions or events shall apply;
  - (2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination;
  - (3) "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (c) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

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- (d) All terms used herein shall have the same meaning as in the Lexington-Fayette Urban County Comprehensive Plan, the other provisions of the Lexington-Fayette Urban County Zoning Ordinance, and the Lexington-Fayette Urban County Land Subdivision Regulations unless otherwise indicated. The following words and phrases are defined for the purposes of this Article (and when used in the Article shall have the defined meaning regardless of whether the term is capitalized in the text):

*Acreage, Gross* means the total number of acres within a parcel including land to the centerline of any adjoining right-of way.

*Acreage, Net Developable* means the total number of acres within a parcel proposed for development less the area that is designated as a greenway, or is a public right-of-way, steep slope over thirty percent (30%), water body, floodplain, sinkhole or sinkhole cluster area or woodlands.

*Affidavit of Density Transfer Rights (DTR)* means an affidavit of Density Transfer Rights (DTR) is a sworn, written statement by a property owner which attests that:

- (1) The property owner owns or has an option to purchase DTR; and
- (2) That the DTR have not previously been used on the parcel of land from which the rights have been transferred or on any other parcel of land. For the purposes of this section, an option to acquire a DTR which is specifically enforceable shall constitute ownership. An Affidavit of DTR shall be in conformance with a form provided by the Division of Planning.

*Affordable Housing Unit* means a dwelling unit which is provided for sale to an owner-occupant household with an income which does not exceed eighty percent (80%) of median income (adjusted for family size) for Lexington-Fayette County, or for rent to a household with an income which does not exceed sixty percent (60%) of the median income (adjusted for family size) for Lexington-Fayette County. For the purposes of this Article, a unit shall be deemed affordable to an owner-occupant if the total principal, interest, taxes and insurance does not exceed thirty-six percent (36%) of the household's income; and a unit shall be deemed affordable to a renter household if the total rent, including any tenant-paid utilities, does not exceed thirty percent (30%) of the household's income.

*Certificate of Density Transfer Rights (DTR)* means a Certificate of DTR is a document which is issued by the Lexington-Fayette Urban County Government which attests to the existence of DTR which may be transferred to a particular Receiver Site. The certificate constitutes an official determination by Lexington-Fayette Urban County Government that particular DTR are eligible for transfer to a specific Receiver Site, subject to approval of a development plan. The Certificate is not an opinion of title by the Lexington-Fayette Urban County Government in regard to the DTR which are proposed to be transferred.

*Density Transfer Right (DTR)* means a residential density development right which is severable from the real property to which it is appurtenant and which is transferable to another parcel within a specific Expansion Area.

*Direct Vehicular Access* means a driveway which allows a motorized vehicle to move from a residential lot onto a public or private way.

*Expansion Areas* means the land area of Lexington-Fayette County added to the Urban Service Area under the provisions of the adopted Expansion Area Master Plan and more specifically designated as EA-1, EA-2A, EA-2B, EA-2C and EA-3; as applied to density transfers and exactions as set forth herein, each of the five (5) designated Expansion Areas shall be considered distinct and separate.

*Expansion Area Master Plan (EAMP)* means an element of the Lexington-Fayette Urban County Government's Comprehensive Plan adopted by the Planning Commission on July 18, 1996, including any duly approved subsequent amendment. As used in this Article, the term shall also be construed to

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extend to any other Comprehensive Plan element expressly and directly applicable to the Expansion Areas.

*Fence, Stone* means a fence either built of quarried or dressed rocks; or from rocks which have been gathered from fields or creek bottoms; or of undressed ledge or quarried rock.

*Fence, Transparent* means a fence which has at least sixty percent (60%) of its surface area open, and allows the free and unobstructed passage of light.

*Greenway* means land designated as a greenway in the Expansion Area Master Plan.

*Open Space, Common* means outdoor area of a lot or tract which is used for outdoor living, recreation, pedestrian access, or plantings, including buffer yards. Such open space shall generally be available for the use and enjoyment of larger groups of persons such as homeowners' associations, tenant associations, the general public and the like; but shall not be construed to include lands purchased by any government entity for public use, such as parks or street rights-of-way.

*Open Space, General* means an area not covered by structures, driveways, parking lots, walkways, streets, or other paved surfaces.

*Pedestrian Accessway* means an improved path or sidewalk which is designed for pedestrian movement.

*Receiver Site* means a parcel of land to which DTR are transferred.

*Rural Scenic Roads* means a road which is designated as a Rural Scenic Road in the Expansion Area Master Plan.

*Scenic Resource Area* means an area designated and mapped as a Scenic Resource Area in the Expansion Area Master Plan.

*Sender Site* means a parcel of land from which DTR are severed and transferred.

*Special Design Area* means an area designated and mapped as a Special Design Area in the Expansion Area Master Plan.

(Code 1983, § 23-3; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 166-2017, § 11(23-3), 11-16-2017; Ord. No. 102-2021, § 10, 10-28-2021)

## **APPENDIX 23A. ZONING CATEGORIES AND RESTRICTIONS**

### **Sec. 23A-1. Purpose.**

The purpose of this appendix is to set forth the zoning categories and restrictions for use in the Expansion Areas, and to establish their regulatory content.

(Code 1983, § 23A-1; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 166-2017, § 11(23A-1), 11-16-2017)

### **Sec. 23A-2. General provisions applicable in all zones.**

The following provisions shall be applicable in all zones within the Expansion Areas:

- (a) *Special Rural Road Access Requirements.* In order to protect the unique character of rural roads within the Expansion Areas, no new street or new driveway access shall be permitted to the following roads:

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DeLong Road in Expansion Area 1 and 2C; northwest side of Walnut Grove Lane in Expansion Area 2A and Deer Haven Lane in Expansion Area 2B; and the southeast side of Chilesburg Road in Expansion Area 2C.

- (b) *Fences.* No more than fifty (50) feet of fence which is not a transparent fence or a stone fence shall be located in a single horizontal plane.
- (c) *Environmentally Sensitive Land.* Except as provided under Subsections (d), (g), and (u) of this section, below, any environmentally sensitive areas or geologic hazard areas shall be regulated in accordance with the provisions of Section 6-11 of the Land Subdivision Regulations as applicable.
- (d) *Steep Slope Areas.* No building or structure shall be located on any land with a slope which is greater than thirty percent (30%). For areas with slopes between fifteen percent (15%) and thirty percent (30%), the provisions of Section 6-11 of the Land Subdivision Regulations shall be applicable.
- (e) *Rural Service Area Setback.* No building or structure other than transparent fences and stone fences shall be located within one hundred (100) of the Rural Service Area Boundary.
- (f) *Rural Service Area Agricultural Use Buffer Yard.* All development shall provide a buffer yard along any boundary of a parcel proposed for development adjacent to land which adjoins the Urban/Rural Service Area Boundary, which is used for agricultural uses and which is not located across an arterial street, which shall be:
  - 1. Fifty (50) feet in width with two (2) parallel fences of not less than six (6) feet in height located along the outermost and innermost boundaries of the buffer yard with barbed wire not less than six (6) feet above-ground level or landscaping material along each fence which will prevent persons from climbing onto or over the fence; or
  - 2. One hundred (100) feet in width with a fence of not less than six (6) feet in height located at the innermost boundary of the buffer yard with barbed wire not less than six (6) feet above-ground level or landscaping material which will prevent persons from climbing onto or over the fence; or
  - 3. Three hundred (300) feet in width with a fence of not less than four (4) feet in height located along the innermost boundary of the buffer yard with landscaping material which will prevent persons from climbing onto or over the fence; or
  - 4. A buffer yard width as agreed to in the form of a legally recorded covenant by the owner of the land used for agricultural purposes which provides comparable protection to the agricultural use.
- (g) *Greenways.* All greenways shall be either dedicated to public use or encumbered by a conservation or stormwater management easement, and shall be provided with sufficient points of access as necessary to achieve the intent of the Expansion Area Master Plan. No building, structure, or other development shall be permitted in a greenway except for pedestrian and/or bicycle pathways, or structures necessary for stormwater management. The greenway shall be at least one hundred (100) feet on each side of the centerline of the stream, or fifty (50) feet in width measured from the edge of the stream banks.
- (h) *Pedestrian Accessways.* All properties shall have access to a pedestrian accessway, and development plans shall provide for connections between residential uses, nonresidential uses, greenways, and other pedestrian accessways. The development of any parcel of land which abuts a land in a CC zone shall provide a pedestrian accessway directly to the Community Center.
- (i) *Front Yard Driveways.* Any driveway within a front yard of a residential dwelling:
  - 1. On any detached dwelling unit, where no enclosed garage is provided, the driveway must extend beyond the front wall of the residence into the side or rear yard for a distance of at least twenty

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- (20) feet. For attached housing, the developer and the Commission are encouraged to find alternative parking schemes within street rights-of-way as an alternative to front yard parking.
2. Where the dwelling is set back from the right-of-way less than twenty-five (25) feet, the driveway may not access a garage which fronts the street, but may extend to a side or rear facing garage, or a front facing garage located more than twenty-five (25) feet from the right-of-way.
  3. Where the residence is set back twenty-five (25) feet or greater, the driveway may access a front facing garage located no closer than twenty-five (25) feet from the right-of-way.
  4. In any case, the width of a front yard driveway shall not exceed fifty percent (50%) of the width of any lot at the building line as established on the final development plan or final subdivision plan, as appropriate.
- (j) *Building and Fence Relationship to Yard Abutting Major Street.* No residential dwelling shall be developed so that the rear of the structure abuts an arterial or collector street unless the dwelling is located not less than two hundred (200) feet from the arterial or collector street. Walls or fences other than transparent fences and stone fences shall only be permitted along the rear of any property abutting an arterial or collector street right-of-way where such are shown on the approved development plan. The Commission shall only approve such walls or fences where they are designed and planned as a part of the overall project, do not create any areas where proper maintenance would be impaired, and would not have the effect of impairing the view of open space areas.
- (k) *Accessory Structures Prohibited in Front Yards.* Notwithstanding any other provision of this Article, no accessory structure may be located within any yard area directly between a principal structure and any street except an alley.
- (l) *General Lot, Yard, and Height Requirements.* Shall be as follows:
1. There shall be no minimum lot sizes in any Expansion Area Zone (CD, EAR 1-3, TA, ED, or CC). However, the developer shall establish restrictions for minimum and, where appropriate, maximum lot sizes on the final development plan or the final subdivision plan, as appropriate.
  2. With the exception of the setback/yard required to achieve the requirements of the Rural Scenic Roads provisions, Scenic Resource Areas, and Special Design Areas, or other expressly stated yards as established elsewhere in this Article, there shall be no minimum setback or other yard requirements other than those required through the Building Code and the Fire Code. However, the developer shall establish restrictions on yards on the final development plan.
- (m) *Density Clustering and Transfers.* Shall be permitted as follows:
1. Density may be clustered on lands which are part of a single development plan under the same ownership and within the same zone and the same Expansion Area so that the average density of the site does not exceed the maximum for the zoning category.
  2. Density Transfer Rights may be transferred from any land which is designated as a Special Design Area, a Scenic Resource Area, a greenway or any land which contains environmentally sensitive land when the density allocated to that land by the underlying zoning district cannot be developed on site. Such density rights may be transferred to any parcel of land within the same Expansion Area which is designated as EAR-2, EAR-3, CC or TA and used in accordance with the density limitations of those districts.
    - a) *Transfers of Fractions of DTR Prohibited.* The transfer of less than one DTR or any other fraction of a unit shall not be permitted.
    - b) *Use of Sender Site after Transfer.* Once DTR have been severed from a Sender Site, the future use of the Sender Site shall be limited to the extent of the transfer, and a deed

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restriction in favor of the Lexington-Fayette Urban County Government shall be recorded restricting the use of the Site in accordance with procedures established by the Division of Planning.

- c) *Aggregation of DTR Permitted on Single Receiver Site.* DTR may be aggregated from different Sender Sites for development on a single Receiver Site.
- d) *Receiver Site Must Meet Underlying Zone District Requirements.* Development using DTR shall meet each and every requirement of the Zone District.
- e) *Density Rights Appurtenant to Land Until Development Plan Approval Obtained.* The owner of DTR may transfer such rights at any time to any person; provided, however, that the use, rights and the value thereof shall be deemed for taxation and all other purposes to be appurtenant to the land from which the rights are transferred until a development plan is approved and certified, which authorizes the use of the transferred density.
- f) *Procedures.* The use of DTR shall be carried out as follows:
  - 1) *Application for Certificate of DTR and Approval of a Transfer.* Prior to filing an application for development plan approval using DTR, the owner of a DTR shall obtain a Certificate of DTR from the Lexington-Fayette Urban County Government. In order to obtain a Certificate of DTR, the owner shall prepare an Affidavit of DTR and intent to transfer the DTR to a specific Receiver Site. Along with the Affidavit of DTR, the owner of a DTR shall attach a copy of the executed but unrecorded deed conveying the DTR and a copy of the executed but unrecorded deed restriction for the Sender Site. The affidavit shall be filed with the Division of Planning at least thirty (30) days prior to any application for development plan approval. The Division of Planning shall review the application and issue the Certificate of DTR if they determine that adequate documentation of ownership has been submitted and that the deed documents are recordable.
  - 2) *Application for Development Plan Approval.* An application for development plan approval utilizing DTR shall include the Certificate of DTR and shall demonstrate that the proposed development plan complies with the regulations applicable to the Receiver Site. The deeds of conveyance and restriction shall be recorded prior to certification of approval of the development plan.
  - 3) *Where a developer dedicates land to a public entity, at no cost, for a purpose not expressly provided for through an exaction, and the public entity accepts such dedication, the developer may transfer the density allocated by the underlying zoning category of that parcel to any parcel of land within the same Expansion Area which is designated as EAR-2, EAR-3, CC or TA.*
- (n) *Accessory Dwelling Units.* Density, which might otherwise be implied by provisions which permit an Accessory Dwelling Unit, shall not be transferred to any other area or parcel of land.
- (o) *Fencing Along Agricultural Land.* Fencing shall be provided along the boundary of any development that adjoins land being used for agricultural purposes and which is recommended for Core Agricultural and Rural Land in the Comprehensive Plan. Such fencing shall be required to be a single standard gauge diamond mesh wire fence, of durable construction, not less than seventy-two (72) inches high set on nine-foot posts with a required six-inch top board, unless the owner of the agricultural parcel agrees to an exemption, or to comparable protection, in the form of a legally recorded covenant.
- (p) *Satellite Dish Antennas.* Shall be permitted in all zones subject to the provisions of Section 15-7.

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- (q) *Front Yard Landscaping in Residential Zones.* At least fifty percent (50%) of the front yard of any residential dwelling in any EAR category shall be landscaped with vegetative material of any type.
- (r) *Buffering of Uses.* Buffering of uses shall be as follows:
1. Except as provided herein, where adjacent housing developments differ by more than three (3) dwelling units per acre, the Planning Commission may require a buffer yard of six (6) feet in width, with one (1) tree for every forty (40) feet of linear boundary from the Group A, B, or C of the Plant List, as referenced by Article 18 of this Zoning Ordinance; plus a minimum four-foot-high hedge, fence, wall or earth mound or combination thereof. In order to encourage a diversity of housing types within a single development, such buffering shall not be required where single-family detached houses are interspersed with or are adjacent to detached single-family houses, duplexes, tri-plexes or four-plexes in a single development.
  2. Any development in an ED or CC zone which directly adjoins any EAR zone shall be required to provide a buffer yard of six (6) feet in width, with one (1) tree for every thirty (30) feet of linear boundary from the Group A, B, or C of the Plant List, as referenced by Article 18 of this Zoning Ordinance; plus a 6-foot high fence, wall or earth mound. The responsibility for such buffer shall be the ED or CC property, although the buffer yard may be shared as provided in Section 18-3(a)(3)(c).
  3. Any residential or nonresidential development in the Expansion Areas which abuts an interstate highway shall meet the requirements of Section 18-3(a)(1)(4) as for a residential zone.
- (s) *Scenic Resource Areas.* Areas designated as Scenic Resource Areas shall be limited to a maximum on-site density of no more than three (3) dwelling units per five (5) acres. All development shall be clustered so that at least eighty percent (80%) of the portion of the development within the Scenic Resource Area is preserved as common open space or agricultural uses and is sited so as to minimize the visual impact of the development on the adjoining rural road to the greatest extent feasible. Within the Scenic Resource Areas, there shall be no parking areas and no buildings or structures other than driveways, transparent fences and stone fences permitted within two hundred (200) feet of the right-of-way of Delong Road, Winchester Road, Walnut Grove Lane, Deer Haven Lane, Faulkner Avenue and Russell Cave Road. Utilities, drainage and sanitary sewer facilities may be located within this two hundred (200)-foot area only upon the approval of the Planning Commission, who shall approve such facilities only upon a finding that alternative locations are not feasible from an engineering standpoint; would result in undue hardship; or would be detrimental from an environmental standpoint. Further, the Commission shall impose conditions on the design and installation of any facility to ensure that the visual quality of the area is maintained.
- (t) *Special Design Areas.* All development in a Special Design Area shall be clustered so that at least sixty percent (60%) of the portion of the development within the Special Design Area is preserved as common open space or agricultural uses, and is sited so as to minimize the visual impact of the development on the adjoining rural road to the greatest extent feasible. Within the Special Design Areas, there shall be no parking areas and no buildings or structures other than driveways, transparent fences and stone fences permitted within two hundred (200) feet of the right-of-way of Delong Road, Athens-Boonesboro Road and Chilesburg Road.
- (u) *Boundaries of SDAs.* The boundaries of SDAs shall be as shown on the adopted Comprehensive Plan, unless it is determined during the development review process by the Planning Commission that the final boundary requires refinement based upon more detailed analysis of the final development features, such as roads; land use; topography; and view sheds. To further refine the boundary, the Planning Commission must find that the final development configuration will better implement the intent of the SDA than when the boundary was first established in the 1996 Comprehensive Plan. In all cases, the Planning Commission shall not reduce the overall land area in the SDA, nor modify the

minimum setbacks from roadways established in Subsection (t) of this section, and must adopt findings that the final boundary meets the intent of the Expansion Area Master Plan, and this Article of this Zoning Ordinance.

- (v) *Protection of Woodlands.* The development of parcels of land which contain mature woodlands, tree stands, and/or significant individual trees which are identified in the Expansion Area Master Plan Natural Resources Map Series and/or Land Capability Study shall be designed and carried out so as to protect and preserve all mature trees to the maximum extent practicable. Individual trees may be removed only as necessary to carry out economically feasible development and/or to achieve the objectives of the Expansion Area Master Plan, provided that the removal of individual trees will not result in the loss of the woodlands or tree stands of which they are a part; and that the design of the development has maximized the preservation of tree stands and significant individual trees. Consideration should be given by the Planning Commission to alternative street cross-sections, street geometrics, and development designs where the developer has established that significant trees will be properly preserved as a result of such alternative designs and/or standards.
- (w) *Affordable Housing Units.* Units that are designated as Affordable Housing Units shall be restricted by the developer exclusively to affordable housing for a minimum period of fifteen (15) years. Further, such units shall be identified separately in the Certificate of Land Use Restriction filed for the development where the units are located, and such units shall be subject to a deed restriction in favor of the Lexington-Fayette Urban County Government which shall restrict the use of the property and shall establish monitoring procedures to ensure that the units remain affordable during the period. During the affordability period, an affordable housing unit may be sold to a non-low-income household by acquisition of a DTR, which must be assigned to the site, and repayment of any and all development exactions that may have been waived. Such site may be a receiver of a DTR only if the maximum density permitted with DTR would not be exceeded.

(Code 1983, § 23A-2; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 173-2000, § 1, 6-29-2000; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 175-2002, § 1, 7-16-2002; Ord. No. 207-2002, § 1, 8-22-2002; Ord. No. 133-2016, § 2, 7-7-2016; Ord. No. 166-2017, § 11(23A-2), 11-16-2017)

**Sec. 23A-3. Schedule of zones.**

Sections 23A-4 through 23A-10 create the zoning categories for use within the Expansion Areas and establish the requirements and restrictions within each zone. The zones are as follows:

| Section | Zone                                      |
|---------|---|
| 23A-4   | CONSERVATION DISTRICT (CD) ZONE           |
| 23A-5   | EXPANSION AREA RESIDENTIAL 1 (EAR-1) ZONE |
| 23A-6   | EXPANSION AREA RESIDENTIAL 2 (EAR-2) ZONE |
| 23A-7   | EXPANSION AREA RESIDENTIAL 3 (EAR-3) ZONE |
| 23A-8   | TRANSITION AREA (TA) ZONE                 |
| 23A-9   | COMMUNITY CENTER (CC) ZONE                |
| 23A-10  | ECONOMIC DEVELOPMENT (ED) ZONE            |

The terms "principal," "accessory," "conditional" and "prohibited," as applied to uses and structures within the Expansion Areas, shall have their usual and customary meaning as provided elsewhere within this Zoning Ordinance. Only those uses specifically named as principal, accessory or conditional uses or substantially similar to principal, accessory or conditional uses are permitted in each zone. All uses not specifically permitted or substantially similar to permitted uses are prohibited. Prohibited uses shall include, but not be limited to, those specifically named as prohibited.

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(Code 1983, § 23A-3; Ord. No. 196-96 , § 1, 10-3-1996; Ord. No. 353-2000 , § 1, 11-16-2000; Ord. No. 166-2017 , § 11(23A-3), 11-16-2017)

#### **Sec. 23A-4. Conservation District (CD) Zone.**

- (a) *Intent.* This zone is intended to provide areas within the Expansion Area for active and passive recreation and to provide neighborhood and community recreational facilities needed to serve the residents of the Expansion Area.
- (b) *Principal Uses.*
1. Outdoor commercial and non-commercial recreational facilities such as golf courses, driving ranges, zoological gardens, sportsmen's farms (excluding rifle and other firearm ranges), riding stables, fishing lakes, and outdoor swimming pools, outdoor tennis courts, outdoor skating rinks, baseball fields, soccer fields, polo fields, and the like; and including a structure not exceeding one thousand (1,000) square feet for the administration of the outdoor recreational use.
  2. Ecotourism activities to include hiking, bicycling, equine and zip line trails; tree canopy tours; canoeing and kayaking launch sites; botanical gardens and nature preserves.
- (c) *Accessory Uses.*
1. Private garages, storage sheds, and parking lots.
- (d) *Conditional Uses.*
1. Sale of food and merchandise directly associated with the recreational activity when accessory to a principal use.
  2. Lighting of outdoor recreational facilities.
  3. Outdoor speakers and public address systems. Such systems shall only be permitted by the Board of Adjustment upon finding that the system would not constitute a public nuisance by creating excessive noise on the property and surrounding properties; and is a necessary adjunct to the proposed use and has been designed to serve only such need. The Board may limit such features as to the location, power, and time of operation of such systems to ensure the protection of surrounding uses and properties.
  4. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  5. Ecotourism activities to include primitive camping, fishing and hunting clubs, and seasonal activities.
- (e) *Prohibited Uses.*
1. Commercial recreational facilities such as amusement parks, bowling alleys, skating rinks, pool or billiard halls, outdoor theaters, automobile race tracks, athletic club facilities.
  2. Indoor recreational facilities.
  3. Ecotourism activities, except as permitted herein.
- Lot, Yard, and Height Requirements.
- (f) *Maximum Height of A Building.* Thirty-five (35) feet.
- (g) *Parking Requirements.* (See Article 16 and 18 for additional parking regulations)  
No minimum requirements.

~~Outdoor Athletic Facilities: One space for every five (5) spectator seats.~~

~~Riding Stables, Sportsmen's Farms, and Zoological Gardens: Five spaces plus one (1) space for each employee.~~

~~Golf Courses: Three spaces for each hole on the main course.~~

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

~~Other Recreational Facilities or Ecotourism activities not otherwise stated herein: Five (5) spaces, plus, one (1) space for each employee for each separate use.~~

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(Code 1983, § 23A-4; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 60-2009, § 20, 5-7-2009; Ord. No. 99-2011, § 12, 8-25-2011; Ord. No. 137-2016, § 4(23A-4), 7-7-2016; Ord. No. 166-2017, § 11(23A-4), 11-16-2017)

### **Sec. 23A-5. Expansion Area Residential 1 (EAR-1) Zone.**

(a) *Intent.* This zone is intended to provide a mixture of low density residential uses which will serve as a transition between the more intensely developed suburban neighborhoods and the Rural Service Area.

(b) *Principal Uses.*

1. Single-family, two-family, multifamily, and townhouse dwellings.
2. Community residences.
3. Golf courses and common open spaces.
4. Places of religious assembly when located adjacent to a street that has the functional classification of collector/boulevard or arterial.

5. Shared parking court, as regulated by Article 16-5(b)(4), where depicted on a certified development plan.

(c) *Accessory Uses.*

1. Private garages and parking areas.
2. Accessory Dwelling Units, as regulated in Article 3-12.
3. Swimming pools and tennis courts, which may include a clubhouse, as approved by the Planning Commission on a final development plan, for the use and enjoyment of the surrounding neighborhood, which may also include weight training and exercise rooms, restrooms, meeting rooms, or similar facilities.
4. Home offices and home occupations.
5. Family childcare for up to six children.
6. The keeping of not more than two (2) roomers or boarders by a resident family.
7. Childcare facilities and schools for academic instruction when accessory to a place of religious assembly on the same property.
8. Non-commercial hiking and bicycling trails.

(d) *Conditional Uses.*

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1. Home-based businesses.
  2. Family Childcare for seven and not more than twelve (12) children, provided the total number of children living or being cared for on the premises shall not exceed twelve (12).
  3. Temporary Real Estate Sales Offices for the sale of lots located only within the subdivision in which the sales office is located, to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.
  4. Clubhouse, with sale of food and merchandise, when accessory to a golf course.
  5. Historic house museums.
  6. Schools for academic instruction, except as permitted herein, but only when located on a lot adjacent to a street that has the functional classification of collector/boulevard or arterial.
  7. Equine trails.
  8. Seasonal activities.
  9. Market gardens.
  10. The short-term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short-term rental facilities, if any, within the general neighborhood of the property being considered for such use.
- (e) *Prohibited Uses.* All uses not specifically listed as permitted shall be prohibited.
- Lot, Yard, Height, and Density Requirements.
- (f) *Dwelling Unit Density.* The dwelling unit density within the EAR-1 zone shall not exceed three (3) units per gross acre. (See Special Provisions, below.)
- (g) *Maximum Height of Building.* Thirty-five (35) feet.
- (h) *Floor Area Ratio.* None; except where more than one (1) principal residential structure is placed on a lot, the FAR shall not exceed 0.5.
- (i) *Off-Street Parking Requirements.* (See Article 16 and 18 for additional parking regulations)
- ~~1. There shall be a minimum of one (1) space per dwelling unit for single family detached, duplex and townhouse residential units. Multifamily units shall have a minimum of 1.5 spaces per unit; except for elderly housing, which shall provide three (3) spaces for every four (4) units. One additional space shall be provided for any accessory dwelling unit.~~
  - ~~2. Golf courses. As per CD.~~
  - ~~3. Community residences. One space per every four (4) beds, plus one (1) space for each employee on the maximum working shift, with a minimum of five (5) spaces.~~
  - ~~4. Accessory and conditional uses. Parking shall be as provided elsewhere in the Zoning Ordinance within the zone where the use is first permitted.~~
- No minimum requirements.
- Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

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(j) *Special Provisions.*

1. At least twenty-five percent (25%) of the net developable acreage of any project in the EAR-1 zone shall be open space.

(Code 1983, § 23A-5; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 84-2001, § 1, 4-5-2001; Ord. No. 311-2002, § 1, 12-5-2002; Ord. No. 207-2003, § 1, 8-28-2003; Ord. No. 108-2004, § 1, 5-25-2004; Ord. No. 227-2005, §§ 1, 2, 8-25-2005; Ord. No. 60-2009, § 21, 5-7-2009; Ord. No. 129-2016, § 1, 7-5-2016; Ord. No. 22-2017, § 5(23A-5), 3-2-2017; Ord. No. 166-2017, § 11(23A-5), 11-16-2017; Ord. No. 102-2021, §§ 11, 12, 10-28-2021)

**Sec. 23A-6. Expansion Area Residential 2 (EAR-2) Zone.**

(a) *Intent.* The intent of the Expansion Area Residential 2 Zone is to provide a mixture of residential uses and housing types, to allow density transfer from areas which should not be developed, and to provide for well-designed neighborhoods.

(b) *Principal Uses.*

1. As for EAR-1.
2. Schools for academic instruction.

(c) *Accessory Uses.* As for EAR-1.

(d) *Conditional Uses.*

1. As for EAR-1.
2. Boardinghouses, rehabilitation homes, nursing homes, personal care facilities, and assisted living facilities. As a prerequisite requirement, sites for such uses must front on a street with a functional classification of collector or arterial.
3. Existing radio, telephone or television transmitting or relay facilities as of May 26, 2005, including line-of-sight relays and towers, except as permitted by KRS 100.324, and only under the following conditions:
  - a. Such facilities shall be operated at all times in compliance with applicable federal, state and local laws and regulations, including all standards of the Federal Aviation Administration and the Federal Communications Commission.
  - b. No transmitting or relay tower shall be located closer than the height of the tower from another lot under different ownership, or any public or private street or highway, unless the tower is constructed to withstand a minimum wind speed of one hundred (100) miles per hour.
  - c. The plans of tower construction shall be certified by an engineer registered in the Commonwealth of Kentucky.
  - d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.

(e) *Prohibited Uses.* As for EAR-1.

Lot, Yard, Height, and Density Requirements.

(f) *Dwelling Unit Density.*

Minimum Density: Three (3) dwelling units per gross acre.

Maximum Density without DTR: Six (6) dwelling units per gross acre.

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Maximum Density with DTR: Nine (9) dwelling units per gross acre.

- (g) *Maximum Height of Building.* Thirty-five (35) feet.
- (h) *Floor Area Ratio.* None; except where more than one (1) principal residential structure is placed on a lot, the FAR shall not exceed 0.75.
- (i) *Minimum Front Yard.* Five (5) feet.
- (j) *Off-Street Parking Requirements.* (See Article 16 and 18 for additional parking regulations)

~~There shall be a minimum of one (1) space per dwelling unit for single-family detached, duplex and townhouse residential units. Multifamily units shall have a minimum of 1.5 spaces per unit; except for elderly housing, which shall provide three (3) spaces for every four (4) units. One additional space shall be provided for any accessory dwelling unit.~~

No minimum requirements.

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

- (k) *Special Provisions.*
  1. Affordable housing units shall not be considered as dwelling units for the purposes of calculating maximum density, provided the number of affordable units does not exceed eight (8) units per gross acre.
  2. At least twenty-five percent (25%) of the net developable acreage of any project in the EAR-2 zone shall be open space.
  3. Permitted schools shall not be located on a lot exceeding fifteen (15) acres in area.

(Code 1983, § 23A-6; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 226-98, § 1, 8-27-1998; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 108-2004, § 1, 5-25-2004; Ord. No. 171-2005, § 1, 7-7-2005; Ord. No. 60-2009, § 22, 5-7-2009; Ord. No. 166-2017, § 11(23A-6), 11-16-2017)

### **Sec. 23A-7. Expansion Area Residential 3 (EAR-3) Zone.**

- (a) *Intent.* The intent of the Expansion Area Residential 3 Zone is to provide a mixture of residential uses and housing types at a higher density than the other Expansion Area Residential zones, to allow density transfer from areas that should not be developed and to provide for well-designed neighborhoods.
- (b) *Principal Uses.* As for EAR-2.
- (c) *Accessory Uses.* As for EAR-2.
- (d) *Conditional Uses.* As for EAR-2.
- (e) *Prohibited Uses.* As for EAR-2.

Lot, Yard, Height, and Density Requirements.

- (f) *Dwelling Unit Density.*

Minimum Density: Six dwelling units per gross acre.

Maximum Density without DTR: Eighteen (18) dwelling units per gross acre.

Maximum Density with DTR: Twenty-four (24) dwelling units per gross acre.

- (g) *Maximum Height of Building:* Sixty (60) feet.
- (h) *Floor Area Ratio:* None.

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(i) *Minimum Front Yard:* Five (5) feet.

(j) *Off-Street Parking Requirements.* (See Article 16 and 18 for additional parking regulations)

~~There shall be a minimum of one (1) space per dwelling unit for single-family detached, duplex and townhouse residential units. Multifamily units shall have a minimum of 1.5 spaces per unit, except for elderly housing which shall provide three (3) spaces for every four (4) units. One additional space shall be provided for any accessory dwelling unit.~~

No minimum requirements.

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(k) *Special Provisions.*

1. Affordable housing units shall not be considered as dwelling units for the purposes of calculating maximum density, provided the number of affordable units does not exceed eight (8) units per gross acre.
2. At least twenty-five percent (25%) of the net developable acreage of any project in the EAR-3 zone shall be open space.
3. Permitted schools shall not be located on a lot exceeding fifteen (15) acres in area.
4. No more than twenty-five percent (25%) of the required off-street parking for a multifamily residential development shall be located between the closest residential building and the right-of-way of any collector street.

(Code 1983, § 23A-7; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 108-2004, § 1, 5-25-2004; Ord. No. 60-2009, § 23, 5-7-2009; Ord. No. 112-2015, § 1, 10-8-2015; Ord. No. 166-2017, § 11(23A-7), 11-16-2017)

### **Sec. 23A-8. Transition Area (TA) Zone.**

(a) *Intent.* The intent of the Transition Area zone is to create an overlay district to be used in conjunction with an EAR zoning category to allow for the development of residential uses and civic, cultural, religious, and educational institutions on lands which are located immediately adjacent to Community Center zones.

(b) *Principal Uses.*

1. As for the underlying EAR zoning category.
2. Only when the Transition Area is included as an integral part of the development plan for adjacent land in the Community Center zone, then the following uses shall be permitted:
  - a) Nursing homes and personal care facilities.
  - b) Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  - c) Places of religious assembly.
  - d) Buildings and facilities for social or recreational purposes operated by a non-profit organization and which are generally open to the public and do not render a service customarily carried on as a business.

(c) *Accessory Uses.* As for the underlying EAR zoning category.

- (d) *Conditional Uses.* As for the underlying EAR zoning category.
- (e) *Prohibited Uses.* As for the underlying EAR zoning category.  
Lot, Yard, Height, and Density Requirements.
- (f) *Dwelling Unit Density.* As for the underlying EAR zoning category; except that when the property zoned TA is included as an integral part of the development plan for adjacent land in the Community Center zone, the density shall be as provided for the CC zone hereinbelow.
- (g) *Maximum Height of Building.* As for the underlying EAR category; except that when the property zoned TA is included as an integral part of the development plan for adjacent land in the Community Center zone, the maximum permitted height shall be forty-eight (48) feet.
- (h) *Floor Area Ratio.* As for the underlying EAR zoning category; except that when the property zoned TA is included as an integral part of the development plan for adjacent land in the Community Center zone, the FAR shall be as provided for the CC zone hereinbelow.
- (i) *Minimum Front Yard.* Five (5) feet
- (j) *Off-Street Parking Requirements.* (See Article 16 and 18 for additional parking regulations)
  - ~~1. Residential Uses. As per the underlying EAR category.~~
  - ~~2. Other Permitted Uses. Parking shall be as provided elsewhere in the Zoning Ordinance within the zone where the use is first permitted.~~
  - No minimum requirements.
  - Conditional Uses: The Board of Adjustment may establish additional requirements as needed.
- (k) *Special Provisions.*
  - 1. As per the underlying EAR zoning category.

(Code 1983, § 23A-8; Ord. No. 196-96 , § 1, 10-3-1996; Ord. No. 353-2000 , § 1, 11-16-2000; Ord. No. 166-2017 , § 11(23A-8), 11-16-2017)

### **Sec. 23A-9. Community Center (CC) Zone.**

- (a) *Intent.* The intent of this zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and nonresidential uses which serve the needs of the surrounding residential neighborhoods.
- (b) *Principal Uses.*
  - 1. As for EAR-3.
  - 2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
  - 3. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including but not limited to, real estate sales offices.
  - 4. Places of religious assembly.
  - 5. Libraries, museums, art galleries, and reading rooms.
  - 6. Medical and dental offices, clinics, and laboratories.

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7. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
  8. Community centers and private clubs.
  9. Nursing and personal care facilities, and rehabilitation homes.
  10. Computer and data processing centers.
  11. Ticket and travel agencies.
  12. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  13. Business colleges, technical or trade schools or institutions.
  14. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
  15. Restaurants, except as prohibited under Section 8-16(e)(14) and (15), which offer no live entertainment or dancing.
  16. Establishments for the retail sale of merchandise, including clothing; shoes; fabrics; yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products; paint and other interior or exterior care products; hobby items; toys; gifts; antiques; newspapers and magazines, stationery and books; flowers; music; cameras; jewelry and luggage; business supplies and machines; prescription and non-prescription medicines and medical supplies.
  17. Beauty shops, barber shops, shoe repair, self-service laundry, or laundry pick-up station, including clothes cleaning establishments of not more than 40 pounds capacity and using a closed system process.
  18. Automobile service stations, provided such use conforms to all requirements of Article 16.
  19. Repair of household appliances.
  20. Retail sale of plant nursery or greenhouse products, except as prohibited herein.
  21. Outdoor miniature golf or putting courses.
  22. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
  23. Carnivals, special events, festivals, and concerts on a temporary basis, and upon issuance of a permit by the Divisions of Planning and Building Inspection, which may restrict the permit in terms of time; parking; access; or in other ways to protect public health, safety, or welfare, or deny such if public health, safety, or welfare are adversely affected. A carnival, special events, festivals, and concerts may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  24. Indoor theaters.
  25. Rental of equipment whose retail sale would be permitted elsewhere in this zone.
  26. Arcades, including pinball, and electronic games.
  27. Athletic club facilities.

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28. Swimming pools; tennis courts; putting greens; hiking, bicycling and equine trails; and other similar commercial and non-commercial recreational uses.
  29. Brew-pub.
  30. Day shelters.
  31. Commercial farm markets.
  32. Market gardens.
  33. Banquet facilities.
  34. Offices of veterinarians, animal hospitals or clinics, provided that:
    - (a) All exterior walls are completely soundproofed;
    - (b) Animal pens are located completely within the principal building; and
    - (c) Boarding is limited to only animals receiving medical treatment.
- (c) *Accessory Uses.*
1. As for EAR-3.
  2. Storage, excluding outdoor storage, and provided that no building for such accessory use shall have openings other than stationary windows within one hundred (100) feet of any residential zone.
  3. The sale of malt beverages, wine, or alcoholic beverages when accessory to a restaurant permitted under Section 8-16(b)(3). Such accessory use shall not devote more than twenty percent (20%) of its public floor area exclusively to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.
  4. Parking lots and structures.
  5. Satellite dish antennas as further regulated by Section 15-7.
  6. One (1) or two (2) pool or billiard tables within an establishment.
- (d) *Conditional Uses.*
1. As for EAR-3.
  2. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.
  3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
    - a) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
    - b) That a reasonable degree of reclamation and proper drainage control is feasible; and
    - c) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
  4. Self-service car washes when accessory to a service station, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.

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5. A restaurant, without live entertainment or dancing, which devotes more than twenty percent (20%) of its public floor area exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.
  6. Restaurants offering live entertainment and/or dancing, cocktail lounges, or nightclubs, unless prohibited under Sections 8-14(e)(14) and (15). Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.
  7. Upholstery shop.
  8. Outdoor speakers and public address systems. Such systems shall only be permitted by the Board of Adjustment upon findings that the system would not constitute a public nuisance by creating excessive noise on the property and surrounding properties; and is a necessary adjunct to the proposed use and has been designed to serve only such need. The Board may limit such features as the location, power, and time of operation of such systems to ensure the protection of surrounding uses and properties.
  9. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
    - a. To check on all operating equipment;
    - b. To check fire suppression system(s);
    - c. To check the condition of the fire alarm(s);
    - d. To check for indications of fuel leaks and spillage;
    - e. To remove trash from the site;
    - f. To monitor the general condition of the site.
  10. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
  11. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or personal care facility. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
  12. Ecotourism activities to include zip line trails; tree canopy tours; fishing clubs; botanical gardens; natural preserves; and seasonal activities.
  13. Recreation vehicle and trailer campgrounds, but only when located within five hundred (500) feet of an interstate interchange.
  14. Hunting clubs, but only when located more than five hundred (500) feet from a residential zone.
- (e) *Prohibited Uses.*
1. As for EAR-3.
  2. As for A-R, except as expressly permitted herein.
  3. Any use dependent upon septic tanks or pit privies.
  4. Pawn shops.
  5. Golf driving ranges.

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6. Except when accessory to a permitted automobile service station, the above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas; and the above- or below-ground storage of more than five (5) gallons of gasoline.
  7. Greenhouses, plant nurseries, and garden centers.
  8. Establishments primarily engaged in agricultural sales and services.
  9. Warehouses, as well as storage uses, except as accessory uses herein.
  10. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; printing; electrical; sign painting; tile, mosaic and terrazzo work; electro-plating; drilling; excavating; wrecking; construction, and paving. This is not intended to prohibit the administrative offices of such.
  11. Manufacturing, compounding, assembling, bottling, processing and packaging and other industrial uses for sale or distribution other than as retail on the premises.
  12. Truck terminals and freight yards.
  13. Amusement enterprises, such as outdoor theaters, automobile racing, or horse racing.
  14. Kennels, outdoor runways or pens for animals.
  15. Establishments engaged in the display, rental, sales, service and major repair of automobiles, repair of motorcycles, boats, trucks, travel trailers, farm implements, contractor's equipment, mobile homes, and establishments primarily engaged in the sale of supplies and parts for any of the above-mentioned vehicles or equipment, except as permitted herein.
  16. Establishments for cleaning, dyeing, laundering and the like, other than self-service and pick-up stations; except for clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed system process.
  17. Hotel or motel.
  18. Wholesale establishments.
  19. Greenhouses, nurseries, hatcheries.
  20. Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
  21. Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
  22. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as:
    - (a) Depiction of human genitals in a state of sexual stimulation or arousal;
    - (b) Acts of human masturbation, sexual intercourse or sodomy; or
    - (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
  23. Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as:

- (a) Depiction of human genitals in a state of sexual stimulation or arousal;
  - (b) Acts of human masturbation, sexual intercourse or sodomy; or
  - (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
24. Pool or billiard halls.
25. Primitive campgrounds; farm tours; hayrides; corn mazes; outdoor rodeos; riding stables; horse shows; fishing lakes; hunting and trapping; sportsmen's farms; and zoological gardens.

Lot, Yard, Height, and Density Requirements.

- (f) *Dwelling Unit Density*. No limitation (See Special Provisions below).
- (g) *Maximum Height of Building*. Forty-eight (48) feet.
- (h) *Floor Area Ratio*. A maximum of 1.0; however, the FAR may be increased to 1.5, provided that the FAR in excess of 1.0 is used for affordable housing.
- (i) *Minimum Front Yard*. Five (5) feet.
- (j) *Off-Street Parking Requirements*. (See Article 16 and 18 for additional parking regulations.)

~~1. Residential Uses. As per EAR-3.~~

~~2. All other uses. Parking shall be as provided elsewhere in the Zoning Ordinance within the zone where the use is first permitted.~~

~~No minimum requirements.~~

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

- (k) *Special Provisions*.
  1. At least twenty-five percent (25%) of the net developable acreage of any development within a CC zone shall be open space.
  2. At least forty (40) percent of the aggregated floor area of buildings within a development in a CC zone shall be devoted to residential uses as permitted in EAR-3; schools, places of religious assembly and their accessory structures; and public buildings.
  3. No building shall exceed twenty thousand (20,000) square feet in floor area, except:
    - a. A building that contains a mix of residential and nonresidential uses; or
    - b. A building designed and intended to be used for a school, place of religious assembly or public building;
    - c. A building is designed and intended to be used principally as a store selling food, produce and other grocery items (not primarily general merchandise) and not exceeding eighty thousand (80,000) square feet; and
    - d. Up to two (2) additional buildings, which are designed and intended to be used primarily as stores selling general merchandise, which may include food, produce and other grocery items; but only under the following conditions:
      1. The proposed building shall be located within a CC zone containing at least thirty (30) net contiguous acres, and that has frontage on an interstate interchange;

2. The building shall be part of an integrated development governed for all contiguously zoned CC land (excluding right-of-way) by a single development plan; and
  3. Any building exceeding eighty thousand (80,000) square feet in size shall also adhere to the "Design Guidelines for 'Big-Box' Establishments," excluding guideline numbers 6 and 14, which are contrary to other provisions of the CC zone. Such design guidelines shall be met unless waived by the Planning Commission through its approval of a final development plan.
- e. The maximum number of buildings permitted over twenty thousand (20,000) square feet by Subsections (k)3.c and d of this section (above) shall be two.
4. Parking areas shall be designed so as to minimize the placement of parking between the buildings and the adjoining streets.
  5. Each development within a CC zone shall have access to a pedestrian accessway.
  6. Each development shall provide suitable facilities for the parking of bicycles.
  7. The development shall be screened from adjoining zones as for a business zone under Section 18-3(a)(1).
  8. Structures shall be sited to avoid the rear of the building facing a street (other than an alley) to the greatest extent practicable.

(Code 1983, § 23A-9; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 222-98, § 1, 8-27-1998; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 108-2004, § 1, 5-25-2004; Ord. No. 89-2005, § 1, 4-21-2005; Ord. No. 60-2009, § 24, 5-7-2009; Ord. No. 99-2011, § 13, 8-25-2011; Ord. No. 100-2011, §§ 11, 12, 8-25-2011; Ord. No. 122-2012, § 1, 10-11-2012; Ord. No. 125-2014, § 1, 10-9-2014; Ord. No. 68-2015, § 1(23A-9), 6-18-2015; Ord. No. 75-2017, § 1(23A-10), 5-25-2017; Ord. No. 166-2017, § 11(23A-9), 11-16-2017)

### **Sec. 23A-10. Economic Development (ED) Zone.**

- (a) *Intent.* The purpose of the Economic Development zone is to provide land within the Expansion Area for employment opportunities compatible with the overall character of development as provided in the Expansion Area Master Plan.
- (b) *Principal Uses.*
1. Offices for business, professional, governmental, civic, social, fraternal, political, religious and charitable organizations.
  2. Computer and data processing centers.
  3. Medical and dental offices, clinics and laboratories, and hospices.
  4. Research development and testing laboratories or centers, including agricultural research and experimentation facilities.
  5. Mail order businesses.
  6. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of articles of merchandise from the following previously prepared materials: asbestos, bone, canvas, cellophane, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semi-precious metals, precious and semi-precious stones, rubber, sheet metal (excluding large stampings), shell, textiles, tobacco, wax, wire, wood (excluding sawmills, planing mills), and yarn.

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7. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of such products as: bakery goods; billboards; candy; ceramics; cosmetics; drafting instruments; electrical parts; appliances; electric or neon signs; electronic instruments; food products; meat packaging; ice cream; medical and dental instruments; musical instruments; pharmaceuticals; pottery, china, or figurines; radios; record players; rubber and metal stamps; rubber products; scientific instruments and equipment; shoes; television receivers; toiletries, soaps and detergents; toys; and watches and clocks.
  8. Other industrial and manufacturing uses such as auto parts rebuilding; battery manufacturing; beverage manufacturing; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; caterers; cooperage; crematory; dextrin and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental) and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; stone monument works; tool manufacturing, welding, and other metal working shops.
  9. Regional medical campus consisting of an integrated complex of medical service providers and related support facilities on a campus of not less than fifty (50) gross acres governed by a single development plan. The development plan must demonstrate that the regional medical campus will contain hospitals and similar in-patient treatment facilities, which may include accessory cafeterias, pharmacies and gift shops. In addition, the following uses shall be considered part of a regional medical campus: outpatient clinics and treatment facilities, surgery centers, nursing homes, medically-supervised assisted living facilities, and extended-stay hotels.
  10. Colleges, universities, business colleges, technical or trade schools, and other schools and institutions for academic instruction.
  11. Offices of purchasers, processors, and handlers of agricultural products, limited to administrative uses only.
  12. Breweries, wineries, and distilleries.
  13. Nursing homes and assisted living facilities.
  14. Supportive uses, as further regulated by section 23A-10(j).
    - a. Adult day care centers.
    - b. Automobile service stations, and automobile and vehicle refueling stations, including the accessory retail sale of convenience type merchandise.
    - c. Banks, credit agencies, security and commodities brokers and exchanges credit institutions, savings and loan companies, holding and investment companies.
    - d. Beauty shops and barber shops.
    - e. Cable television system signal distribution centers and studios.
    - f. Community centers and private clubs.
    - g. Dwelling units, provided the units are not located on the first floor of a structure.
    - h. Hotels and motels.
    - i. Kennels, animal hospitals or clinics.
    - j. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

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- k. Libraries, museums, art galleries, and reading rooms.
  - l. Multi-family dwellings and townhouses, three (3) or more units.
  - m. Pharmacy and retail sale of medical equipment and supplies.
  - h. Restaurants, with or without drive-through facilities.
  - o. Studios for work or teaching of fine arts.
  - p. Telephone exchanges, radio and television studios, including line of sight relay facilities.
  - q. Television system signal distribution centers and studios, including line of sight relay facilities.
  - r. Ticket and travel agencies.

s. Shared parking court, as regulated by Article 16-5(b)(4), where depicted on a certified development plan.

(c) *Accessory Uses.*

- 1. Off-street parking areas and structures, and loading facilities.
- 2. A dwelling unit for watchmen or caretakers, provided that such facilities shall be located on the same premises as the permitted use.
- 3. Offices.
- 4. Recreational facilities, except as otherwise permitted herein.
- 5. Sale of finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than five percent (5%) of the total floor and storage area.
- 6. Storage and warehousing.
- 7. Meeting and conference centers.
- 8. Satellite dish antennas, as further regulated by Article 15-8. When located within 200 feet of the Urban Service Area boundary, satellite dish antennas shall be limited to:
  - a) A maximum height of four (4) feet above the highest point of the principal building on the lot.
  - b) If located on the ground, satellite dish antennas shall not be visible from the road, and shall be screened with landscape material.
- 9. For premises not permitted under 23A-10(b)(14) above, facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building. Mobile food unit vendors may also serve this purpose, and be parked outside of a building to serve employees and visitors, provided that the requirements of Section 15-11 of the Code of Ordinances are met.
- 10. Drive-through facilities for the provision of services otherwise permitted herein.

(d) *Conditional Uses.*

- 1. Kindergartens, nursery schools and childcare centers, where enrollment of children is sponsored and licensed by established places of religious assembly and non-profit community based groups; and/or where enrollment may be limited to children of employees and staff of an office, business or commercial establishment that is located within the contiguous ED zone as the proposed childcare facility. A fenced and screened play area shall be provided in an area located a minimum of ten (10)

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feet from a collector or arterial street, and shall contain not less than twenty-five (25) square feet per child.

2. Helistops and heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.
3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
  - a) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
  - b) That a reasonable degree of reclamation and proper drainage control is feasible; and
  - c) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
4. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
5. Ecotourism activities to include campgrounds; commercial hiking and bicycling trails; equine and zip line trails; tree canopy tours; canoeing and kayaking launch sites; recreational outfitters; fishing and hunting clubs; botanical gardens; nature preserves; and seasonal activities.
6. Market gardens.

(e) *Prohibited Uses.*

1. All uses listed as permitted or prohibited within the B-4, I-1 and I-2 zones, except as expressly permitted herein.
2. Radio, telephone or television transmitting towers.
3. Dormitories.

Lot, Yard, Height, and Density Requirements.

(f) *Maximum Height of Building.* 120 feet.

(g) *Floor Area Ratio.* A maximum of 1.0.

(h) *Minimum Front Yard.* Five (5) feet.

(i) *Off-Street Parking Requirements.* ~~(See Article 16 and 18 for additional parking regulations.) Parking shall be as provided elsewhere in the Zoning Ordinance within the zone where the use is first permitted.~~

~~Hospices. One (1) space for every two (2) beds; plus one (1) space for each employee on the maximum working shift, with a minimum of five (5) spaces.~~

No minimum requirements.

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(j) *Special Provisions.*

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1. At least 25% of the net developable acreage of any development within an ED zone shall be open space. Such open space may be clustered across multiple lots or tracts to facilitate the common use of the land.
  2. No structures other than sidewalks, transparent fences, or stone fences shall be located within five (5) feet of any public street right-of-way.
  3. No more than half of the ~~provided~~required off-street parking area shall be located between a building and any collector street.
  4. Each parcel in an ED zone shall have direct access to a pedestrian access way.
  5. The development shall be screened from adjoining zones and arterial highways as for an industrial zone under Section 18-3(a)(1).
  6. All principal uses, other than supportive uses, shall be conducted in a completely enclosed building, except for outdoor storage uses, which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.
  7. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no openings except stationary windows and doors that are designed and intended solely for pedestrian access.
  8. No buildings or structures in the ED zone, other than driveways, transparent fences and stone fences, shall be located in a Scenic Resource Area; however, the Scenic Resource Area may be used to calculate the required floor area ratio.
  9. No outdoor loudspeakers shall be permitted.
  10. No portion of a regional medical campus shall be located within one thousand (1,000) feet of the boundary of the Urban Service Area.
  11. There shall be no more than one extended-stay hotel for a regional medical campus that contains 100 acres or less; a second extended-stay hotel is permitted for a regional medical campus that contains more than 100 acres, provided that there shall be no more than two (2) extended-stay hotels in a regional medical campus. The extended-stay hotel shall be: a) a part of a building that also contains medical facilities permitted on the campus; or b) physically connected by interior access ways to facilities containing medical services permitted on the campus. Extended-stay hotels shall be internally oriented to the site (e.g. not located on adjoining arterial streets).
  12. Supportive uses shall be principal permitted uses, regulated subject to the following requirements:
    - a. Supportive uses shall not exceed a maximum of eighteen percent (18%) of the otherwise permitted floor area within a development, as identified on the associated final development plan. Mixed Use buildings shall count toward the maximum permitted floor area of supportive uses herein, but not count toward the residential use maximum identified below in Article 23A-10(j)(12)(b). Structures dedicated solely to residential use shall not count toward the supportive use maximum because they will be limited by Article 23A-10(j)(12)(b) and (d).
    - b. Residential land uses shall not exceed eight and one-half percent (8.5%) of the gross land area within a development, as identified on the associated final development plan.
    - c. A maximum of twenty percent (20%) of all supportive uses may be constructed prior to construction of other principal permitted uses listed in Article 23A-10(b). The allowable floor area for supportive uses shall be calculated based upon the total number of gross acres within the boundary of the final development plan and the permitted maximum Floor Area Ratio established in Article 23A-10(g).

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- d. The maximum density for townhouses (3 or more units attached) shall be 12 dwelling units per gross acre, not to exceed 360 total townhouses. The maximum density of multi-family dwellings shall be 24 dwelling units per gross acre, not to exceed 360 total multi-family dwellings.

(Code 1983, § 23A-10; Ord. No. 196-96, § 1, 10-3-1996; Ord. No. 353-2000, § 1, 11-16-2000; Ord. No. 6-2007, § 1, 1-25-2007; Ord. No. 60-2009, §§ 25, 26, 5-7-2009; Ord. No. 99-2011, § 14, 8-25-2011; Ord. No. 89-2013, § 2, 8-15-2013; Ord. No. 91-2013, § 2, 8-29-2013; Ord. No. 22-2017, § 5(23A-10), 3-2-2017; ; Ord. No. 73-2017, § 1, 5-25-2017; Ord. No. 166-2017, § 11(23A-10), 11-16-2017; Ord. No. 013-2021, § 1, 3-11-2021)

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## Article 28 MIXED USE ZONING CATEGORIES

### Sec. 28-1. Intent.

The intent of this Article is to permit the development of zoning categories which promote the proper locations and regulation of development which inherently permits the mixing of residential and nonresidential uses. Such mixing of uses in appropriate location and subject to appropriate restrictions can create a combination of functions compatible with abutting residential neighborhoods. This Article is intended to provide neighborhood-based employment opportunities; provide support services that enhance livability of neighborhoods; enhance the use of public transit and alternative modes of transportation; revitalize established neighborhood commercial centers; and promote quality infill and redevelopment potential in accordance with the adopted Comprehensive Plan.

(Code 1983, § 28-1; Ord. No. 307-2002 , § 1, 12-5-2002)

### Sec. 28-2. Creation of zones.

This Article hereby creates zoning categories Mixed use 1 (MU-1), Mixed use 2 (MU-2), and Mixed use 3 (MU-3) as specifically regulated hereinbelow.

(Code 1983, § 28-2; Ord. No. 307-2002 , § 1, 12-5-2002)

### Sec. 28-3. Mixed use 1: Neighborhood Node Zone (MU-1).

Mixed use 1: "Neighborhood Node Zone (MU-1)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-1 shall only be permitted on parcels which meet all of the following criteria:
1. The parcel must contain a combined total frontage of at least one hundred (100) feet of the intersection of two (2) streets, one (1) of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
  2. The parcel must contain at least five thousand (5,000) square feet and may not exceed a maximum of one-half ( $\frac{1}{2}$ ) acre.
  3. The parcel must be designated in a Medium, High, or Very High Density Residential, or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use.
- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-1 zone:
1. Dwelling units.

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2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be considered accessory uses in the MU-1 zone:
1. The accessory uses permitted in the P-1 and B-1 zone except for drive-through facilities.
- (d) *Conditional Uses.* The following shall be conditional uses in the MU-1 zone:
1. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
- (e) *Prohibited Uses.* The following uses shall be prohibited in an MU-1 zone:
1. The following principal uses in the B-1 zone: automobile service stations; parking lots and structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis; indoor theaters; arcades, including pinball and electronic games; pawnshops.
  2. The following accessory use in the B-1 zone: drive-through facilities, the rental of trucks (single rear axle, 28-foot maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone.
  3. All B-1 conditional uses.
  4. All uses listed as prohibited in the B-1 zone.
- (f) *Lot, Yard, and Height Requirements.* Lot, yard, and height requirements shall be as follows:
1. Floor Area Ratio: Maximum 1.0.
  2. Height: Thirty-five (35) feet Maximum.
  3. Front Yard: No limitation for first or second story; any third floor shall be set back at least fifteen (15) feet; also see Subsection (h)(5) of this section, below.
  4. Each Side Yard:
    - For one- and two-story structures, ten (10) feet.
    - For three-story structures, twenty (20) feet.
  5. Rear Yard: Ten (10) feet or thirty percent (30%) of lot depth, whichever is greater.
  6. Open Space: Ten percent (10%)
  7. Lot Coverage: No limitation.
- (g) *Parking Requirements.* ~~(See Article 16 and 18 for additional parking regulations.) Parking shall be required at the rate of 0.5 space per dwelling unit for residential uses, zero (0) space per mixed-income housing unit, and one (1) space per four hundred (400) square feet for nonresidential uses; except for restaurants, which shall provide the greater of one (1) space per two hundred (200) square feet or one (1) space per every four (4) indoor seats. Parking provided shall not exceed the minimum required number of spaces, plus fifty percent (50%) of the minimum.~~
- No minimum requirements.
- Conditional Uses: The Board of Adjustment may establish additional requirements as needed.
- (h) *Special Provisions.* Special provisions shall be as follows:
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1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses.
2. Only one (1) principal structure shall be permitted per MU-1 site.
3. All residential uses shall be required to be in the same structure as nonresidential uses.
- ~~4. When MU-1 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be permitted to remain.~~
45. Within the Infill and Redevelopment Area, at least sixty percent (60%) of the front building wall shall be required to be built at the zero-foot setback line. When the Planning Commission requires additional sidewalk or pedestrian areas the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement.
56. Signage shall be as permitted and restricted under Section 17-11(e) for a P-1 zone.

(Code 1983, § 258-3; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 134-2004, § 1, 6-24-2004; Ord. No. 59-2006, § 1, 3-9-2006; Ord. No. 129-2009, §§ 36—38, 7-2-2009; Ord. No. 99-2011, § 15, 8-25-2011; Ord. No. 015-2021, § 6, 3-18-2021)

#### **Sec. 28-4. Mixed use 2: Neighborhood Corridor Zone (MU-2).**

Mixed use 2: "Neighborhood Corridor Zone (MU-2)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-2 shall only be permitted on parcels that meet all of the following criteria:
  1. The parcel must be located within the Urban Service Boundary and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
  2. The parcel must contain at least one-half (½) acre and may not exceed a maximum area of four (4) acres.
  3. The parcel must be designated in a Medium, High, or Very High Density Residential or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial Residential Mixed use, Industrial Mixed use, or Retail Trade/High Density Land Use Category, the parcel does not have to meet the street frontage criteria listed in Subsection (a)1 of this section, above.
- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-2 zone:
  1. Dwelling units.
  2. The principal permitted uses of the P-1 and B-1 zone except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be accessory uses in the MU-2 zone:
  1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.

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- (d) *Conditional Uses:* The following shall be conditional uses in the MU-2 zone:
1. Drive-through facilities as an adjunct to a permitted use.
  2. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
- (e) *Prohibited Uses.* Prohibited uses shall be as for the MU-1 zone, except for drive-through facilities which are permitted as a conditional use.
- (f) *Lot, Yard, and Height Requirements.* Lot, yard, and height requirements shall be as follows:
1. Floor Area Ratio: Maximum 2.0.
  2. Maximum Building Height: Fifty-five (55) feet.
  3. Front Yard: No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; also see Subsection (h)(3) of this section, below.
  4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
  5. Rear Yard: Ten (10) feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
  6. Open Space: Ten percent (10%).
  7. Lot Coverage: Maximum seventy-five percent (75%).
- (g) *Parking Requirements.* ~~(See Article 16 and 18 for additional parking regulations.) Off-street parking shall be required at the rate of three (3) spaces for every two (2) dwelling units, or 0.9 spaces per bedroom (whichever is greater) for residential uses, zero (0) spaces per mixed-income housing unit; one (1) space per three hundred (300) square feet. Fifty percent (50%) of the parking provided for nonresidential uses may be counted to satisfy residential parking requirements. Parking provided shall not exceed the minimum required number of spaces, plus fifty percent (50%) of the minimum.~~
- ~~No minimum requirements.~~
- ~~Conditional Uses: The Board of Adjustment may establish additional requirements as needed.~~
- (h) *Special Provisions.* Special provisions shall be as follows:
1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-2 project has reached ten thousand (10,000) square feet of commercial use, additional commercial square footage will not be required.
  2. For any MU-2 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-2 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h)1 of this section, above.

3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. Where the Planning Commission requires additional sidewalk or pedestrian areas the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.
- ~~4. When MU-2 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be permitted to remain.~~
45. Signage within the MU-2 zone shall be as permitted and restricted under Section 17-11(n) of this Zoning Ordinance.

(Code 1983, § 28-4; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 134-2004, § 1, 6-24-2004; Ord. No. 59-2006, § 2, 3-9-2006; Ord. No. 15-2009, § 1, 2-12-2009; Ord. No. 60-2009, § 29, 5-7-2009; Ord. No. 129-2009, §§ 39–42, 7-2-2009; Ord. No. 99-2011, § 16, 8-25-2011; Ord. No. 015-2021, § 7, 3-18-2021)

### **Sec. 28-5. Mixed use 3: Mixed use Community Zone (MU-3).**

Mixed use 3: "Mixed use Community Zone (MU-3)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-3 shall only be permitted on parcels that meet all of the following criteria:
  1. The parcel must be located within the Urban Service Area and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
  2. The parcel must contain at least three (3) acres.
  3. The parcel must be designated in a Medium, High, or Very High Density Residential or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial Residential Mixed use, Industrial Mixed use, or Retail Trade/High Density Land Use Category, the parcel does not have to meet the street frontage criteria listed in Subsection (a)1 of this section, above.
- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-3 zone:
  1. Dwelling units.
  2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be accessory uses in the MU-3 zone:
  1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Subsection (e) of this section, below.

(d) *Conditional Uses.* The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.

(e) *Prohibited Uses.* The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: parking lots; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.
2. The following accessory uses in the B-1 zone: the rental of trucks (single rear axle, 28-foot maximum overall length), trailers, and related items in conjunction with the operation of an automobile service station, provided the service station abut a residential zone.
3. The following B-1 conditional uses; self-service car washes; animal hospitals or clinics; the rental of trucks (single rear axle, 28-foot maximum overall length), trailers and related items in conjunction with the operation of an automobile service station; gasoline pumps available to the public without an employee on site.
4. All uses listed as prohibited in the B-1 zone, except as permitted herein.

(f) *Lot, Yard, and Height Requirements.* Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Eighty (80) feet if a building is located at the intersection of a street classified as an arterial with another arterial or collector street: seventy (70) feet for all other buildings.
3. Front Yard: No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; see also Subsection (h)(3) of this section, below.
4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
6. Open Space: Fifteen percent (15%).
7. Lot Coverage: Maximum fifty percent (50%).

(g) *Parking Requirements.* ~~(See Article 16 and 18 for additional parking regulations.) Off-street parking shall be required at the rate of three (3) spaces for every two (2) dwellings, or 0.9 spaces per bedroom (whichever is greater) for residential uses; zero (0) parking spaces per mixed income housing unit; one (1) space per three hundred (300) square feet for other nonresidential uses. Fifty percent (50%) of the parking provided for nonresidential uses may be counted to satisfy residential parking requirements. Parking provided shall not exceed the minimum required number of spaces, plus fifty percent (50%) of the minimum.~~

No minimum requirements.

Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

(h) *Special Provisions.* Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen

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percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-3 project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.

2. For any MU-3 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-3 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h)1 of this section, above.
3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. Where the Planning Commission requires additional sidewalk or pedestrian areas, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.
- ~~4. When the MU-3 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be permitted to remain.~~
- ~~45.~~ Signage within the MU-3 zone shall be as permitted and restricted under Section 17-11(o) of this Zoning Ordinance.
- ~~56.~~ An Entertainment Mixed use Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, and recommended by the adopted Comprehensive Plan for mixed use or a nonresidential land use, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:
  - (a) Subdivision of land in an Entertainment Mixed use Project is permitted, subject to the following regulations:
    1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
    2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.
  - (b) At least twenty-five percent (25%) of the combined floor area of all buildings constructed within an Entertainment Mixed use Project shall be located on the second or higher floor.
  - (c) Where multiple principal structures are proposed within an Entertainment Mixed use Project:

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1. Mixing within a single structure shall not be required within the first forty percent (40%) of floor area for commercial use, or after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.
  2. The front building wall of at least fifteen percent (15%) of all buildings shall be required to be built at the zero-foot setback line.
- (d) Buildings within an Entertainment Mixed use Project may be a maximum of eighty (80) feet in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.
- (e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:
1. As Principal Permitted Uses:
    - a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of malt beverages, wine or alcoholic beverages.
    - b. Motels, hotels and extended-stay hotels.
    - c. Indoor amusements, such as billiards or pool halls, skating rinks, theaters, or bowling alleys.
    - d. Athletic club facilities.
    - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
    - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
    - g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
  2. As Accessory (clearly incidental and subordinate) Uses:
    - a. Outdoor patios, when accessory to any permitted restaurant.
    - b. Conference centers, banquet facilities and convention facilities, when accessory to a hotel or motel.
  3. As Conditional Uses:
    - a. Self-service car washes.
    - b. Gasoline pumps available to the public without an employee on site.

~~4. Off Street Parking shall be provided for the uses listed below:~~

~~Cocktail Lounges, Night Clubs, Conference Facilities, Banquet Facilities, Convention Facilities or Restaurants with live entertainment or dancing: One (1) space for every one hundred fifty (150) square feet of floor area.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements as needed.~~

~~Drive-in Restaurants, with or without fixed seats: One (1) space for every three hundred (300) square feet of floor area, or one (1) space for every four (4) fixed seats, whichever is greater.~~

~~Extended Stay Hotels: One (1) space for every dwelling unit.~~

~~Grandstands for Horse Race Tracks: One (1) space per five (5) seats.~~

~~Hotels and Motels: One (1) space per guest suite.~~

(Code 1983, § 28-5; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 134-2004, § 1, 6-24-2004; Ord. No. 59-2006, § 3, 3-9-2006; Ord. No. 15-2009, § 2, 2-12-2009; Ord. No. 60-2009, § 30, 5-7-2009; Ord. No. 129-2009, §§ 43—46, 7-2-2009; Ord. No. 227-2009, §§ 3—6, 11-5-2009; Ord. No. 015-2021, § 8, 3-18-2021)

## **Sec. 28-6. Provisions applicable to all mixed use zones.**

Provisions applicable to all mixed use zones shall be as follows:

- (a) *Development Plan Required.* All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the Planning Commission shall consider the following plan features in its review. Approval of a development plan for any mixed use zone shall require a finding that the development plan complies with the provisions of Subsections (b) through (g) of this section, below.
- (b) *Pedestrian Accommodation.* Pedestrian accommodation shall be as follows:
  - (1) At least one (1) primary street level entrance to a building that faces any public street shall be oriented toward the public street.
  - (2) For at least one (1) location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
  - (3) Where two (2) or more buildings are proposed, they shall be arranged in a manner that provides an open space area, such as a plaza, courtyard or similar feature.
  - (4) Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas.
  - (5) A six-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.
  - (6) For any development within the Downtown Streetscape Master Plan Area, the development shall adhere to the provisions of that plan.
- (c) *Building Features.* Shall be as follows:
  - (1) For every primary wall plane:
    - a. A change of at least five (5) feet in depth and eight (8) feet in length shall be made for every eighty (80) feet of length or fraction thereof; or

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- b. Implementation of a minimum of three (3) of the following for every sixty (60) feet of length or fraction thereof:
    1. A change of at least one (1) foot in depth for at least one (1) story;
    2. A change in wall height of at least two (2) feet;
    3. A change in exterior material type, style, or finish for at least one (1) story;
    4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.
  - (2) For every side or rear wall plane:
    - a. A change of at least eight (8) feet in length and five (5) feet in depth shall be made for every one hundred (100) feet in length; or
    - b. Implementation of a minimum of three (3) of the following for every eighty (80) feet of length or fraction thereof:
      1. A change of at least one (1) foot in depth for at least one (1) story;
      2. A change in wall height of at least two (2) feet;
      3. A change in exterior material type, style, or finish for at least one (1) story;
      4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.
  - (3) The primary wall plane shall provide at least one (1) of the following features at ground level:
    - a. A balcony at least four (4) feet by five (5) feet.
    - b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.
    - c. A covered entrance at least three (3) feet by three (3) feet.
    - d. A porch at least four (4) feet by six (6) feet, with a floor at least twelve (12) inches above grade.
    - e. A recessed entrance at least three (3) feet by five (5) feet.
  - (4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.
  - (d) *Location and Assignment of ~~Provid~~Required Off-Street Parking.* At least fifty percent (50%) of provided parking spaces shall be located so as to not project between any front building face and any adjoining street, ~~except an alley~~. The Planning Commission may require designation of certain spaces for use of residents ~~only~~ on the development plan.
  - (e) *Accessory Structures.* Shall be regulated as follows:
    1. The sides of any parking structure shall include one (1) or more of the following features:
      - a. First floor retail or office uses.
      - b. Murals or public art on at least fifteen percent (15%) of the building face.
      - c. Display cases on at least ten percent (10%) of the building face.
      - d. Landscaping in an area of at least five (5) feet in width, with plantings as specified in Article 18 for edges of vehicular use areas.

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2. Any garage doors shall meet one (1) of the following criteria:
    - a. The garage door shall face perpendicular to or away from any adjoining street.
    - b. The garage door shall be offset at least four (4) feet behind the primary wall plane.
    - c. If flush with the primary wall plane, the garage door shall not cover more than thirty percent (30%) of the surface area of the wall plane.
  - (f) *Parking for Bicycles.* For projects with three (3) or more dwelling units, four (4) bicycle rack spaces shall be provided per every three (3) units, with a maximum requirement of twelve (12) spaces.
  - (g) *Site Lighting.* Site lighting shall be restricted as follows:
    1. Wall mounted lamps that use the equivalent of one thousand, two hundred (1,200) lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.
    2. Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.
    3. Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.
    4. Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height, unless specifically used to light an outdoor recreation facility, such as a tennis court, ball field, or similar use.
    5. Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, and shall be shielded or equipped with cutoffs so as to prevent undue light spill onto adjoining properties.
  - (h) *Increased Setback for Building Height Differences.* In cases where the proposed mixed use structure(s) have a height differential of greater than ten (10) feet from immediately adjoining residential structures, the Commission may require the establishment of a 1:1 height-to-yard ratio for side yards, additional screening, or other mitigating measures as deemed appropriate to address compatibility of mixed use structures to the surrounding residential structures.
  - (i) *On-Street Parking.* The number of on-street parking spaces, calculated at one (1) space for every twenty-two (22) feet of curb length or the number of marked spaces, may reduce the number of off-street parking spaces required, as long as the reduction otherwise complies with Section 16-10 of this Zoning Ordinance.

(Code 1983, § 28-6; Ord. No. 307-2002, § 1, 12-5-2002; Ord. No. 129-2009, §§ 47, 48, 7-2-2009; Ord. No. 35-2015, § 1, 4-30-2015)

### **Sec. 28-7. Effect of historic zoning.**

In the event any Mixed use zone is created within an Historic District (H-1), the Board of Architectural Review shall perform its normal duties in the approval of a Certificate of Appropriateness. This shall include approval of specific details designed to accommodate the requirements of Sections 28-6(b), (c), (e), and (g), above.

(Code 1983, § 28-7; Ord. No. 307-2002, § 1, 12-5-2002)

Editor's note(s)—Ord. No. 59-2006, § 4, adopted March 9, 2006, repealed the former § 28-7 and renumbered § 28-8 as § 28-7 as set out herein. Former § 28-7 pertained to signage and derived from Ord. No. 307-2002, § 1, 12-5-2002.

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