

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS
- 151. FENCES
- 152. FLOOD DAMAGE PREVENTION
- 153. UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT
- 154. ZONING CODE  
APPENDIX A: SPECIFICATIONS FOR PAVING OF  
OFF-STREET PARKING AND LOADING  
OR UNLOADING AREAS
- 155. SUBDIVISION REGULATIONS
- 156. HISTORIC PRESERVATION

DAYTON - LAND USAGE

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

- 150.01 Adoption of Kentucky Building Code; Standards of Safety
- 150.02 Application of Kentucky Residence Code to single-family and two-family homes
- 150.03 Adoption of International Property Maintenance Code; Amendments

Permits

- 150.15 Building and wrecking permits required; exception
- 150.16 Building and wrecking permits fee schedule
- 150.17 Electrical permits
- 150.18 Zoning permits, appeals, applications

Electric

- 150.20 Definitions
- 150.21 Adoption of Uniform State Building Code
- 150.22 Authorization of Northern Kentucky Electric Authority
- 150.23 Licensing required
- 150.24 Reciprocity

Electric Inspection

- 150.30 Authority to make necessary inspections for code compliance
- 150.31 Fees
- 150.32 Official Inspector
- 150.33 Notification for inspection prior to completion of work
- 150.34 Responsibility of builder or contractor doing construction work
- 150.35 Use of electrical services prohibited before certified approval; exceptions
- 150.36 Liability

Fire Limits; Fire Prevention

- 150.50 Fire limits established
- 150.51 Inspection of buildings
- 150.52 Order to remove fire hazard; appeal
- 150.53 Officer may remedy fire hazard if owner fails to comply; expense
- 150.54 Owner to keep property safe from fire
- 150.55 Smoke detectors
- 150.56 Key lock box system

## Section

Blighted and Deteriorated Properties

- 150.65 State law adopted by reference
- 150.66 Vacant Property Review Commission; establishment

Urban Renewal

- 150.75 Urban Renewal and Community Development Agency; authority to condemn through legal means real property

Rental Units; Annual Inspections

- 150.80 Findings
- 150.81 Definition
- 150.82 Inspection requirement
- 150.83 Fee
- 150.84 Use of fee proceeds
- 150.89 Inspection penalties
  
- 150.98 Civil offenses
- 150.99 Penalty

## GENERAL PROVISIONS

§ 150.01 ADOPTION OF KENTUCKY BUILDING CODE; STANDARDS OF SAFETY.

The Kentucky Building Code, as contained in Chapter 7, Title 815 of the Kentucky Administrative Regulations; the Kentucky Plumbing Code, as contained in Chapter 20, Title 815 of the Kentucky Administrative Regulations; and the Kentucky Standards of Safety, as contained in Chapter 10, Title 815 of the Kentucky Administrative Regulations, together with any amendments as from time to time adopted, are hereby adopted by reference as if fully set forth in this code of ordinances. Copies of the above codes and any amendments thereto shall be placed on file in the office of the City Clerk/Treasurer where they shall be available for public inspection during normal business hours.  
(Am. Ord. 2009-3, passed 5-5-09) Civil offense, see § 150.98

§ 150.02 APPLICATION OF KENTUCKY RESIDENCE CODE TO SINGLE-FAMILY AND TWO-FAMILY HOMES.

The Kentucky Residence Code as contained in Chapter 7 Title 815 of the Kentucky Administrative Regulations together with any amendments as from time to time adopted by reference as if fully set forth in this code of ordinances. Copies of the above code and any amendments thereto shall be placed on file in the office of the City Clerk/Treasurer where they shall be available for public inspection

during normal business hours and is hereby declared applicable to single-family and two-family homes within the city.

(Ord. C.2, passed 6-2-87; Am. Ord. 2009-3, passed 5-5-09) Civil offense, see § 150.98

§ 150.03 ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE; AMENDMENTS.

(A) Adoption. That certain document, three copies of which are on file in the office of the city, being marked and designated as "The 2012 International Property Maintenance Code" as published by the International Code Council, Inc. (ICC) is hereby adopted as the property maintenance code of the city for the control of buildings and structures as herein provided; and each and all of the regulations of "2012 International Property Maintenance Code," are hereby referred to, adopted, and made a part hereof, as if fully set forth herein.

(B) Suits pending, etc. Nothing in this section or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this section.

(C) Amendments.

(1) Section PM-106.3 Prosecution of violation: is hereby amended as follows: Any person, firm, or corporation, who shall violate any provision of this code in addition to the penalties found in Dayton Code of Ordinances, Chapter 150, Section 150.98 shall, upon conviction thereof, be subject to a fine of not less than \$50, nor more than \$250, or imprisonment for a term not to exceed 30 days, or both, at the discretion of the court. The violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violations, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of the code or the order or direction made pursuant thereto. Any action taken by the city, its agents and assigns, on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

(2) Section PM-111.1 Application for appeal: is hereby amended as follows: Any person, firm or corporation affected by any notice which has been issued in connection with the enforcement of any provision of this code, or of any rule or regulation adopted pursuant

thereto, shall have the right to request and shall be granted a hearing on the matter before the Dayton Code Enforcement Board; provided that such person, firm or corporation shall file, in the office of the Board, a written petition requesting such hearing and containing a statement of the grounds therefore within 20 days after the date the notice was served.

(3) Sections PM-111.2 Membership of board, PM-111.2.1 Alternate members, Section PM-111.2.2 Chairman, Section PM-111.2.3 Disqualification of member, Section PM-111.2.4 Secretary, Section 111.2.5 Compensation of members, Section PM-111.3 Notice of meeting, Section PM-111.4 Open Hearing, Section PM-111.4.1 Procedure, Section PM-111.5 Postponed hearing, Section 111.6 Board decision, Section PM-111.6.1 Records and copies and Section PM-111.6.2 Administration are deleted.

(Ord. - - , passed 4-19-83; Am. Ord. 1990-7, passed 6-19-90; Am. Ord. 1996-14, passed 10-1-96; Am. Ord. 1997-6, passed 3-4-97; Am. Ord. 1997-17, passed 5-20-97; Am. Ord. 2005-5, passed 4-19-05; Am. Ord. 2010-9, passed 7-6-10; Am. Ord. 2014-10, passed 9-2-14) Civil offense, see § 150.98

#### PERMITS

#### § 150.15 BUILDING AND WRECKING PERMITS REQUIRED; EXCEPTION.

(A) It shall be unlawful to construct, enlarge, alter, remove, or demolish a building or to install or alter any equipment without first filing application with the City Inspector/Zoning Administrator and writing and obtaining the required permit therefor, except that ordinary repairs as defined in division (B) of this section shall be exempt from this provision.

(B) Ordinary repairs to buildings may be made without application or notice to the City Inspector/Zoning Administrator; but those repairs shall not include the removal or cutting away of any wall, partition, or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of ingress and egress, or the rearrangement of parts of a structure affecting the exitway requirements. Ordinary repairs shall not include addition to, alteration of, replacement of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electrical wiring, or mechanical or other work affecting public health and safety.

(Ord. 950.2, passed 2-9-76) Civil offense, see § 150.98

#### § 150.16 BUILDING AND WRECKING PERMITS FEE SCHEDULE.

The Campbell County building permit fee schedule, as amended from time to time, is hereby adopted by reference as if fully set forth in this code of ordinances. Copies of the fee schedules and any amendments thereto shall be placed on file in the office of the City Clerk/

Treasurer where they shall be available for public inspection during normal business hours. However, neither the city nor its agencies shall be required to pay any building permit fee established hereunder. (Ord. 950.2, passed 2-9-76; Am. Ord. 1993-1, passed 2-16-93; Am. Ord. 1996-20, passed 12-17-96; Am. Ord. 2005-9, passed 5-3-05; Am. Ord. 2005-19, passed 9-6-05; Am. Ord. 2009-2, passed 5-5-09)

§ 150.17 ELECTRICAL PERMITS.

(A) Electrical permits shall be obtained prior to the installation, addition, alteration, repair, relocation, or removal of electrical wiring.

(B) The cost of the permit for electrical installation, additions, alterations, repair, relocation, or removal shall be as set forth in § 150.16 above.

(C) All electrical permits shall be obtained from the City Inspector's Department.  
(Ord. 1990-17, passed 11-20-90; Am. Ord. 2005-19, passed 9-6-05)

§ 150.18 ZONING PERMITS, APPEALS, APPLICATIONS.

The following schedule for zoning permits, appeals, zoning applications, and other matters required under Chapter 154 is adopted as a fee schedule for the respective permits. The schedule applies in all situations where a permit is required with the exception that the city or any of its agencies is not required to obtain a permit nor pay a fee and does not apply to qualified buildings in the enterprise zone:

(A) Site Development Plan Review.

(1) Industrial, Commercial and Special Zones: I-1, I-2, NCD, CBD, RO, PUD, MLU.

(a) Rate (0-10,000 square feet of building) = \$0.20/sq. ft. (flat fee) + \$15.00/acre (land area) + \$100.00 inspection fee + \$15.00 Certificate of Land Use Restriction (CLUR).

(b) Rate (10,001 - 60,000 square feet of building) = \$0.25/sq. ft. (flat fee) + \$15.00/acre (land area) + \$100.00 inspection fee + \$15.00 CLUR.

(c) Rate (60,001 - 100,000 square feet of building) = \$0.30/sq. ft. (flat fee) + \$15.00/acre (land area) + \$100.00 inspection fee + \$15.00 CLUR.

(d) Rate (over 100,000 square feet of building) = \$0.35/sq. ft. (flat fee) + \$15.00/acre (land area) + \$100.00 inspection fee + \$15.00 CLUR.

(2) Zones: CO, R-1bC, R-1c, R-1d, R-1e, R-1g, R-1h, R-1jJ, R-2, R-3, R-4, RCD, RMHP. Rate = \$0.10/sq. ft. (flat fee) + \$15.00/acre (land area) + \$100.00 inspection fee + \$15.00 CLUR.

(3) Cellular/telecommunications tower site plan review: all zones. Rate = \$1,000.00 (flat fee).

(4) Minimum fee for all zones = \$250.00 + \$100.00 inspection fee (co-locations on cell towers).

(5) All zones:

<u>Item</u>	<u>Rate</u>
Extension of time of site plan construction work	\$50.00 (flat fee) plus \$75.00 inspection fee
Revision fee of approved site plans	50% of original fee
Any project started before obtaining a permit shall be charged double the regular permit rate, but still must comply with all the requirements of the county.	

(B) Subdivision Review.

<u>Item</u>	<u>Rate</u>
Preliminary Plat	\$500.00 (flat fee) plus \$10.00 per acre (land area) plus \$15.00 CLUR
Improvement Plan	\$500.00 (flat fee) plus \$10.00 per acre (land area) plus \$15.00 CLUR
Final Plat	\$400.00 (flat fee) plus \$10.00 per acre (land area)
Grading Plan	\$400.00 (flat fee) plus \$10.00 per acre (land area)
Waiver	\$400.00 (flat fee)
Resubmission or charges to above	50% of original fee
Conveyance	\$200 (flat fee)
Identification Plat	

(1) Inspection Fees. Improvement Plan Review.



(a) Earthwork, Grading, and Final Inspection for Street Inspections. Rate = \$1.50 per lineal foot along street centerlines.

(b) Storm drainage systems. Rate = \$0.75 per lineal foot of pipe.

(2) The Sanitation District No. 1 and the Northern Kentucky Water Service District shall inspect sanitary sewer and water systems construction and installation, respectively. Results of the inspection(s) shall be forwarded to the Planning Commission's duly authorized representative upon completion. Fire Access and hydrant installation shall be inspected by the governing Fire District Chief and/or Inspector. Approval from these three agencies must be received before Final Plat approval can be granted.

(3) (a) Construction Inspection fees shall be limited to improvement items to be dedicated for public use and maintenance and grading work on the site.

(b) Construction inspection fees shall be calculated by the applicant and verified by the Campbell County Planning Commission's duly authorized representative upon review of the submitted improvement drawings.

(4) Storm Drainage Systems (if part of the proposed Grading Plan). Rate = \$0.75 per lineal foot of pipe.

(5) (a) Construction inspection fees shall be limited to improvement items to be dedicated for public use and maintenance and grading work on the site.

(b) Construction inspection fees shall be calculated by the applicant and verified by Campbell County Planning Commission's duly authorized representative upon review of the submitted improvement drawings.

(c) One hundred percent of the total for inspection fees shall be submitted prior to approval of the grading plan. Grading plan fees that are paid in full are not required as part of the improvement plan and final plat review inspection fee unless changes are made to the grading and storm sewer plans.

(d) Any project started before obtaining a permit shall be charged double the regular permit rate, but still must comply with all the requirements of the county.

(C) Zone map amendment.

(1) Zones: CO, R-1bC, R-1c, R-1d, R-1e, R-1g, R-1h, R-1jJ, R-2, R-3, R-4, RCD, RMHP. Rate = \$1,000.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$10.00 per acre (land area) + \$15.00 CLUR.

(2) Zones: NCD, CBD, RO, PUD, MLU. Rate = \$1,200.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$10.00 per acre (land area) + \$15.00 CLUR.

(3) Zones: I-1,1-2. Rate = \$1,500.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$10.00 per acre (land area) + \$15.00 CLUR.

(4) Postponement or continuance of a zoning map amendment request or concept.

(5) Development plan approval requiring a new public hearing (when requested by the applicant and as a result of the applicant's action). Rate = 50% of the above flat fee + \$5.00 per adjoining property owner + \$100.00 publication fee.

(D) Board of Adjustment and Zoning Appeal Review.

(1) Appeals.

(a) Agricultural and Residential Zones = \$350.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$15.00 CLUR.

(b) All other zones. Rate = \$650.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$15.00 CLUR.

(2) Change of non-conforming use to another.

(a) Agricultural and Residential Zones. Rate = \$250.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$15.00 CLUR.

(b) All other zones. Rate = \$500.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$15.00 CLUR.

(3) Variance.

(a) Agricultural and Residential Zones. Rate (Each Variance) = \$350.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$15.00 CLUR.

(b) All other zones. Rate (Each Variance) = \$600.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$15.00 CLUR.

(4) Conditional use permit.

(a) Agricultural and Residential Zones. Rate = \$400.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$15.00 CLUR.

(b) All other zones. Rate = \$700.00 (flat fee) + \$5.00 per adjoining property owner + \$100.00 publication fee + \$15.00 CLUR.

(E) Zoning permit fees.

(1) In all Residential Zones.

(a) Building types.

<u>Building type</u>	<u>Rate</u>
Single Family	\$50.00 per unit
Two Family, Multi-Family	\$100.00 per unit
Manufactured Home	\$50.00 per unit
Accessory Structures	\$50.00 per unit

(b) Additions to existing buildings (excluding construction of new units, but including detached buildings).

<u>Item</u>	<u>Rate</u>
Increase in size up to 150 square feet	\$50.00
Each additional 1,000 square feet	\$10.00

(2) All other zones. New construction or additions to existing buildings.

<u>Item</u>	<u>Rate</u>
Up to 5,000 square feet of gross floor area	\$100.00
Each 1,000 square foot over 5,000 square foot of gross floor area	\$10.00
Each 1,000 square foot over 100,000 square foot of gross floor area	\$5.00

(3) General-All Zones.

Item	Rate
Change in Use/Occupancy, when zoning classification and building dimensions are not changed (a building inspection is required prior to occupancy).	\$75 (flat fee)

(4) Certificate of Occupancy.

Item	Rate
Conforming uses and structures	\$50.00 (flat fee)
Non-conforming uses and structures	\$50.00 (flat fee)

Note: A certificate of occupancy shall not be issued unless all construction items have been completed (including sidewalks, driveway aprons, decks, and all items required under the current building code).

(5) Sign permit review. All classes (1-9) = \$100.00 per sign.

(6) Swimming pool permit. All zones = \$50.00 (flat fee).

(7) Fence permit. All zones = \$50.00 (flat fee).

(8) Other accessory uses. All zones = \$30.00 (flat fee).

(9) Parking and Loading/Unloading areas. Off street parking and loading/unloading areas (when developed separately and not included in residential or commercial listings above) where total area is less than 5,000 square feet.

Item	Rate
0-5,000 square feet	\$50.00
Each 1,000 square feet over 5,000 square feet	\$5.00

(F) Fees not returnable. Fees required in any of the foregoing regulations or in any parts of this chapter shall not be returnable for any cause, regardless of the outcome of decision on any application. No fee or part thereof shall be refunded once an application has been advertised for public hearing.

(Ord. 1993-7, passed 4-20-93; Am. Ord. 1998-14, passed 11-17-98; Am. Ord. 2005-19, passed 9-6-05)

## ELECTRIC

§ 150.20 DEFINITIONS.

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

"ELECTRICAL." Pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

"ELECTRICAL CONTRACTOR." Any individual, partnership, or corporation that engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power.



**"ELECTRICAL INSPECTOR."** Any person certified by the Commissioner of Housing, Buildings and Construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky.

**"ELECTRICIAN."** Any person who is employed by an electrical contractor and is engaged in the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power.  
(Ord. 1990-18, passed 11-20-90)

§ 150.21 ADOPTION OF UNIFORM STATE BUILDING CODE.

The Uniform State Building Code as is established by the Board of Housing, Buildings and Construction of the State of Kentucky, is hereby adopted in full, and the same shall have the effect as if it were written fully herein, as a minimum standard for the construction, alteration and repair of any electrical wiring done within the effective area of this subchapter. These standards shall also be used by the electrical inspector in making his inspections.  
(Ord. 1990-18, passed 11-20-90)

§ 150.22 AUTHORIZATION OF NORTHERN KENTUCKY ELECTRIC AUTHORITY.

The formerly established Northern Kentucky Electric Authority, the examining and appeal board consisting of seven members as authorized in KRS 227.450 to 227.500, shall:

- (1) Administer electrical contractor's examinations which have been selected and approved by the Department of Housing, Buildings and Construction and administer electrician examinations;
- (2) Have the power to issue, renew, suspend and revoke electrical contractor and electrician licenses;
- (3) Have the power to require electrical contractors and electricians to pay reasonable fees for examinations, initial licenses and renewals;
- (4) Accept an electrical contractor examination certificate issued by the Department of Housing, Buildings and Construction as evidence that an applicant has met the examination requirements;
- (5) Have the power to require all electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation;

(6) Compile and submit to the Department of Housing, Buildings and Construction all disciplinary actions taken against licensed electrical contractors on a quarterly basis;

(7) Have all other powers authorized for a "local examining board" by KRS 227.450 et seq.  
(Ord. 1990-18, passed 11-20-90)

#### § 150.23 LICENSING REQUIRED.

It shall be unlawful for any person to engage in the business of installing, altering or repairing, within the limits of the city, any electrical wiring, devices or equipment unless such an individual is the holder of the electrical contractor's license or employed by a licensed electrical contractor and a holder of an electrician's license. Application for such license must be made in writing to the Board, stating the name, experience and qualifications of the applicant. Upon the applicant's complying with the requirements of this subchapter and passing an examination approved by the Northern Kentucky Electric Authority, a license shall be granted to the individual applying for the same.

(Ord. 1990-18, passed 11-20-90) Civil offense, see § 150.98

#### § 150.24 RECIPROCITY.

There is hereby established an agreement of reciprocity between the city and any other city and county in which there exists legislation basically containing the provisions of this subchapter and the Mayor and/or City Clerk are hereby authorized to execute an Interlocal Agreement(s) with any such city or county.

(Ord. 1990-18, passed 11-20-90)

### ELECTRIC INSPECTION

#### § 150.30 AUTHORITY TO MAKE NECESSARY INSPECTIONS FOR CODE COMPLIANCE.

A duly recognized Electrical Inspector operating within the Commonwealth of Kentucky is hereby designated and authorized to make necessary inspections in order to ascertain whether or not the electrical wiring in all new construction within the city is in full compliance with the National Electrical Safety Code and the National Electric Code as provided by the American Standards of Safety Association and the Standards of Safety as adopted by the Department of Insurance, Division of Fire Prevention and Rates of the Commonwealth of Kentucky, all of which have been adopted by the city.  
(Ord. 950.5, passed 2- -80; Am. Ord. 950.5A, passed 3-13-80) Penalty, see § 150.99

#### § 150.31 FEES.

The duly recognized Electrical Inspector shall have the right to charge a reasonable fee, which shall be full and complete compensation for services rendered to the making of those inspections, and the fee shall also include the rendering of a written report. The fee shall be paid by the contractor or the person performing or installing the electrical wiring or equipment, and rendered to the making of those inspections, and the fee shall also include



the rendering of a written report. The fee shall be paid by the contractor or the person performing or installing the electrical wiring or equipment, and no part thereof shall be paid by the city. The fees to be charged and paid for the inspections and issuing of the certificate of approval shall be in accordance with the recognized scale of fees charged for similar work and inspections of the duly recognized Electrical Inspector, and shall not be in excess thereof.

(Ord. 950.5, passed 2- -80; Am. Ord. 950.5A, passed 3-13-80) Penalty, see § 150.99

§ 150.32 OFFICIAL INSPECTOR.

A duly recognized Electrical Inspector shall be designated as the official inspector under this subchapter and is subject to withdrawal and cancellation at any time by the city.

(Ord. 950.5, passed 2- -80; Am. Ord. 950.5A, passed 3-13-80) Penalty, see § 150.99

§ 150.33 NOTIFICATION FOR INSPECTION PRIOR TO COMPLETION OF WORK.

It shall be the duty of the person, firm, or corporation installing electrical wiring or equipment or repairing or rearranging same to notify the duly recognized Electric Inspector, prior to the time the work is commenced, and also when the work is ready for inspection. It shall be unlawful for any person, firm, or corporation to conceal any electrical wiring or installation until after they have been reported and approved the wiring. The duly recognized Electric Inspector shall furnish and make available forms or blanks for the aforesaid purpose.

(Ord. 950.5, passed 2- -80; Am. Ord. 950.5A, passed 3-13-80) Civil offense, see § 150.98

§ 150.34 RESPONSIBILITY OF BUILDER OR CONTRACTOR DOING CONSTRUCTION WORK.

Any builder or contractor doing construction work within the city shall have the responsibility of having the electrical systems inspected and certified by a duly recognized Electrical Inspector which shall meet all the qualifications necessary for that position with the Commonwealth of Kentucky.

(Ord. 950.5, passed 2- -80; Am. Ord. 950.5A, passed 3-13-80) Penalty, see § 150.99

§ 150.35 USE OF ELECTRICAL SERVICES PROHIBITED BEFORE CERTIFIED APPROVAL; EXCEPTIONS.

It shall be unlawful for any person, firm, or corporation, including any electric light or power company to connect with or furnish current to any electrical installation within the corporate limits of the city, until after that electrical installation shall be inspected and approved by the duly recognized Electric Inspector, and a certified approval has been issued by it. Nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.

(Ord. 950.5, passed 2- -80; Am. Ord. 950.5A, passed 3-13-80) Penalty, see § 150.99

§ 150.36 LIABILITY.

This subchapter shall not be construed to relieve from or lessen the responsibility or liability of any person, firm, or corporation owning, operating, controlling, maintaining, or installing any electrical wiring devices, appliances nor shall the city be held as assuming any liability or responsibility by reason of the inspection authorized therein, or the certificate of approval issued as herein provided.

(Ord. 950.5, passed 2- -80; Am. Ord. 950.5A, passed 3-13-80) Penalty, see § 150.99

## FIRE LIMITS; FIRE PREVENTION

§ 150.50 FIRE LIMITS ESTABLISHED.

(A) For the purpose of this section, fire limits shall be established as being the same territory established under the city's zoning code as Business A and Business B Districts, and any territory within the boundaries of that business district, as may be hereafter created, extended, changed, or revised by subsequent amendment to the zoning code.

(B) Building construction within these districts shall conform to the Standards of Safety of the Division of Fire Prevention, Department of Public Safety, of the Commonwealth of Kentucky.

(Ord. 310.2, passed 4-18-67) Civil offense, see § 150.98

§ 150.51 INSPECTION OF BUILDINGS.

(A) The Chief of the Fire Department or any officer or member of the Department designated by him for that purpose, is authorized to inspect all property for the purpose of ascertaining and causing to be corrected any conditions likely to cause fire loss, or determining the cause or origin of any fire loss, or discovering any violation of a law or ordinance relating to fire prevention and protection. This authority shall apply to the interior of occupied, private dwellings only when a fire loss has occurred therein or when the officer has reason to believe that unsafe conditions exist in the building. Inspections of property in the territory served by the Fire Department shall be made as often as practicable or as often as the City Council may direct.

(B) A written report of each inspection shall be made and kept on file in the office of the Chief of the Fire Department. Reports of investigations of fire losses conducted by the Fire Department may, in the discretion of the Chief, be withheld from the public.

(KRS 227.370)

§ 150.52 ORDER TO REMOVE FIRE HAZARD; APPEAL.

(A) Whenever the Chief of the Fire Department or any officer or member of the Department designated by him for that purpose finds any

property which, for want of repairs, lack of sufficient fire escapes, age, dilapidated condition, or any other cause, is especially liable to fire loss, or whenever an officer finds in any property, combustible or explosive matter or inflammable materials likely to result in fire loss, he shall order it to be remedied. The order shall forthwith be conformed to by the owner of the property.

(B) The owner may appeal to the State Commissioner of Housing, Buildings, and Construction within ten days following receipt of the order. The Commissioner shall, within 20 days, review the order and file his decision. The order shall remain in full force until it is revoked or modified by the Commissioner.

(KRS 227.380)

§ 150.53 OFFICER MAY REMEDY FIRE HAZARD IF OWNER FAILS TO COMPLY; EXPENSE.

If any owner fails to comply with an order issued pursuant to § 150.52 or with an order as modified on appeal to the Commissioner of Housing, Buildings, and Construction, the officer may cause the property to be repaired, or removed if repair is not feasible, and all fire hazard conditions remedied, at the expense of the owner. Such expense may be enforced against any property of such owners and the officer and those employed to do the work or who furnish materials or equipment therefor shall have a lien for such expense on the real estate or property involved.

(KRS 227.390)

§ 150.54 OWNER TO KEEP PROPERTY SAFE FROM FIRE.

(A) No owner shall fail to furnish and use reasonable adequate protection and safeguards against fire loss, or fail to adopt and use processes and methods reasonably adequate to render such places safe from fire loss.

(B) No owner shall require or allow the public or any employee to go into or be in any property under his control which is not reasonably safe from the fire loss.

(KRS 227.400)

§ 150.55 SMOKE DETECTORS.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "DWELLING UNIT." Any group of rooms located within a building or structure, including mobile homes, and forming a single housekeeping unit with facilities which are used or designed to be used for living, sleeping, cooking or eating.

(2) "DWELLING." Any building which contains one or more dwelling units or any rooming unit, rooms or area designated or used

for sleeping purposes either as a primary use or use on casual occasions. "DWELLING" shall also include a rooming house, motels, tourist homes, school dormitories, and apartment buildings.

(3) "OWNER." Any corporation, company, partnership or other association or any natural person, who, alone, jointly, or with several others shall:

(a) Have all or part of the legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof, or shall have all or part of the beneficial ownership of any dwelling unit and a right to present use and enjoyment thereof, including a mortgage in possession; or

(b) Have charge, care, or control of any dwelling or dwelling unit as owner, executor, administrator, trustee, guardian of the estate, or duly authorized agent of the owner. Any such person thus representing the actual owner shall be bound to comply with the owner's obligations under this section.

(4) "ROOMING UNIT." Any room which is designed or used for sleeping purposes. A "ROOMING UNIT" may also include a room in a rooming house, a hotel, a motel, a tourist home, a school dormitory, or an apartment building which may, or may not have some additional facilities for eating or cooking contained therein.

(B) (1) Subject to such exceptions and conditions for compliance as stated herein, six months after the effective date of this section, smoke detectors shall be required in all dwellings privately owned or rented for occupancy. It shall be the responsibility of the owner of each new and/or existing occupied dwelling unit to install smoke detectors in each dwelling unit as hereinafter provided. Said smoke detectors shall be capable of sensing visible or invisible particles or combustion and providing a suitable audible (or visual for a deaf or hearing impaired person) alarm.

(2) This section shall apply to any and all dwellings or dwelling units, new or existing, which are not otherwise required to have smoke detectors located herein under the provisions of the currently adopted Kentucky Building Code and/or the currently adopted Life Safety Code (LSC 101).

(C) (1) In order to comply with this section, only ionization or photoelectric-type detectors approved by a nationally recognized testing laboratory shall be installed. As an alternative to self-contained smoke detectors, under certain limited conditions, an approved fire-detection system or a combination thereof may be installed. Each and every alternative system must be individually approved in written form by the Fire Chief or the Chief Fire Inspector of the City Fire Department.

(2) Smoke detectors in new residential dwellings shall be wired directly (hard wired) to the building. In existing buildings, it

is preferred that smoke detectors be wired directly to the power supply; however, said detectors may be powered by self-monitored battery or operated by an electrical plug-in outlet which is fitted with a plug restrainer device, provided that the outlet is not controlled by any switch other than the main power supply.

(3) Smoke detectors shall be placed in accordance with applicable National Fire Protection Act (N.F.P.A.) Standards. Detectors may be ceiling- or wall-mounted, provided, that if wall-mounted they shall be within 12 inches, but not closer than six inches to the ceiling.

(4) At least one smoke detector shall be installed to protect each sleeping area. A sleeping area is defined as the area or areas of the dwelling unit in which the bedrooms (or sleeping rooms) are located. Where bedrooms or rooms ordinarily used for sleeping are separated by other use areas (such as kitchens or living rooms, but not bathrooms or closets), they shall be considered as separate sleeping areas for the purposes of this section. In a dwelling unit which contains a well defined sleeping room separated from the other activity areas of the same unit, the detectors shall be located in the corridor within the unit or interior area giving access to the rooms used for sleeping purposes. Where sleeping areas are separated and/or where a single smoke detector will not adequately service all sleeping areas, there shall be a smoke detector installed adjacent to each sleeping area.

(5) In a rooming unit, the detector shall be centrally located on the ceiling.

(6) In a dwelling containing two or more dwelling units or any rooming unit, in addition to the requirements for individual smoke detectors in each dwelling unit or rooming unit, detectors shall be placed in centrally located common areas, so that smoke detectors will adequately service all sleeping areas.

(7) At least one detector shall be installed in or near each stairway leading up to an occupied area in such a manner as to assure that rising smoke is not obstructed in reaching the detector and the detector intercepts rising smoke before it reaches the occupied area.

(D) (1) The owner of a dwelling shall be responsible for supplying and installing in an operable condition the required detector(s) and for providing maintenance and testing in an owner-occupied residence; or for providing the manufacturer's maintenance and testing instructions to a tenant in the case of rental property.

(2) The owner of a dwelling shall be responsible for maintenance and testing of detectors, in accordance with the manufacturer's instructions, which are located in common areas and/or detectors in rooming units where the tenant usually has short periods of occupancy (hotels, motels, rooming or tourist homes).

(3) The tenant shall be responsible for maintaining and testing the detector, in accordance with the manufacturer's instructions, which are within his exclusive control during the life of the tenancy. The tenant shall be responsible for notifying the owner when a detector becomes inoperable, whereafter the owner has ten days in which to repair or replace in operable condition said detector(s). In the battery-operated detectors, battery replacement shall be the responsibility of the tenant.

(4) At every change of tenancy, it shall be the duty of the owner to test and ascertain that those detectors contained in the unit are in operable condition, and if not, the owner shall be responsible for placing them in operable condition.

(5) At every change of occupancy of every dwelling unit occasioned by or incidental to a sale, lease or sublease of said unit, it shall be the duty of the grantor thereof (i.e., the seller, lessor, or sublessor, as the case may be) to provide, before occupancy by the new occupant thereof, that all smoke detectors which are required by this section (and other applicable laws) are installed and in proper working condition. Failure to comply with this division shall be punishable as set forth herein, provided, however, that this division shall not be construed to violate or render void any contract, lease or sublease subject hereto.

(6) No smoke detector or alternative system shall be directly connected (permanently wired) to the electrical system of a structure without the proper electrical certification.

(E) This section is intended to be used with, and supplemented by, the applicable provisions of the National Fire Protection Standards 72-E and 74 (current edition) which are hereby incorporated herein; however, if there shall be any conflict between this section and the said supplemental standards, this section and any rules and regulations adopted pursuant thereto shall prevail. All amendments to or changes in N.F.P.A. Nos. 72-E and 74 are adopted and made a part hereof without further reference.

(F) (1) The Fire Chief or the Fire Inspector of the City Fire Department shall be primarily responsible for the enforcement of this section.

(2) The City Inspector shall assist the Fire Chief by making referrals to the Fire Chief as part of its regular inspection and enforcement of all city housing, building and safety codes. No building permits for remodeling or repair of a dwelling unit shall be issued for any dwelling unit not properly equipped with said detectors. No certificate of occupancy shall be issued for any new dwelling or dwelling unit not properly equipped with said detectors. Detectors must be operable for the final inspection of the City Inspector and the Fire Chief. Instructions/maintenance booklets must be provided to the

owner by the manufacturer as per N.F.P.A. No. 74, and said documentation displayed to the City Inspector or Fire Chief during the final inspection.

(Ord. 1990-4, passed 4-3-90)

§ 150.56 KEY LOCK BOX SYSTEM.

(A) The following structures shall be equipped with a key lock box system at or near the main entrance or at any other such location which may be required by the Fire Chief or any other representative of the Fire Department of Bellevue-Dayton:

(1) All newly constructed commercial and industrial structures and places of assembly protected by an automatic fire alarm system or automatic suppression system or any such structure secured in a manner that restricts access during an emergency;

(2) All newly constructed multi-family residential structures that have restricted access through locked doors and have a common corridor for access to the living quarters;

(3) All newly constructed health care facilities; and

(4) All existing structures undertaking additions, alterations or repairs which shall cause the same to conform with the then current provisions of any of the building or property maintenance codes adopted by the city.

(5) All existing structures as described above in this division (A) within three years from the effective date of this section whether or not undertaking additions, alterations or repairs. The Fire Chief shall give notice to the owners of such existing structures immediately upon adoption of this section.

(B) The Fire Chief may exempt any building from the operation of division (A) above upon written determination that such requirement is unreasonable due to design, geographical abnormalities, adequate substitute accommodations, cost or for other good cause shown.

(C) All structures subject hereto shall be required to install a key lock system prior to the issuance of any occupancy permit which shall then be functional at all times thereafter.

(D) The Mayor, by executive order, upon recommendation of the Fire Chief, shall designate the type(s) of key lock box system(s) to be implemented and shall have the authority to require all structures to use the designated system(s).

(E) The owner or operator of any structure subject hereto shall, at all times, keep a key in the lock box that will permit access to the structure.

(F) The owner or operator of any structure subject hereto shall notify the Fire Department of Bellevue-Dayton of any changes to the key lock box system.

(G) The Mayor, by executive order, upon recommendation of the Fire Chief or otherwise, is authorized to implement rules and regulations governing the use of any key lock box system.

(H) The Local Ordinance Code Specialist shall be responsible for the enforcement hereof and shall assist the Fire Department of Bellevue-Dayton by making referrals to them as part of its regular inspections and enforcement of all city housing, building and safety codes.

(I) No certificate of occupancy shall be issued for any structure subject hereto which is not properly equipped with the required key lock box system.

(J) Any such key lock box system must be operational for final inspection by the Local Ordinance Code Specialist and/or Fire Department of Bellevue-Dayton.

(K) Should any violation hereof occur, a written notice shall be given to the property owner mandating compliance. The Local Ordinance Code Specialist and/or Fire Department of Bellevue-Dayton shall thereafter re-inspect the structure to ensure compliance. Failure to allow the inspector re-entry for such purpose shall constitute prima facie evidence of a continued violation and the Local Ordinance Code Specialist shall cause a complaint to be filed against the property owner for the violation.

(Ord. 2007-23, passed 12-4-07) Civil offense, see § 150.98; Penalty, see § 150.99

#### BLIGHTED AND DETERIORATED PROPERTIES

##### § 150.65 STATE LAW ADOPTED BY REFERENCE.

(A) City Council hereby finds and declares that there exists in the city blighted or deteriorated properties and that there is need in the city for the exercise of powers, functions, and duties conferred by KRS 99.700 through 99.730.

(B) The provisions of KRS 99.700 through 99.730, an act adopted in 1984, are hereby adopted and made applicable by reference, as authorized in KRS 83A.060(5), to the corporate limits of the city.  
(Ord. 950.6, passed 12-4-84)

##### § 150.66 VACANT PROPERTY REVIEW COMMISSION; ESTABLISHMENT.

There is hereby established a Vacant Property Review Commission for the city which shall certify properties as blighted or deteriorated to the City Council. The Vacant Property Review Commission shall be



composed of the same membership as the Property Maintenance Code Appeals Board with the same qualifications and terms of appointees. However, no officer or employee of the city whose duties include enforcement of city housing, building, plumbing, fire, or related codes shall be appointed to the Commission.

(Ord. 950.6, passed 12-4-84)

#### URBAN RENEWAL

#### § 150.75 URBAN RENEWAL AND COMMUNITY DEVELOPMENT AGENCY; AUTHORITY TO CONDEMN THROUGH LEGAL MEANS REAL PROPERTY FOR APPROVED PROJECTS.

(A) The Urban Renewal and Community Development Agency of the city is hereby authorized and directed to undertake the condemnation through legal means of any and all needed real properties toward the accomplishment of any and all City Council approved projects within the city, at the total cost of the Agency.

(B) The Agency shall file those suits in the name of the city ex rel the Urban Renewal and Community Development Agency.

(C) This section shall be continuing in its authorization to the Agency so that separate resolutions shall not be necessary for each suit to be filed or for each City Council approved projects.

(Res. 940.13-R, passed 11-3-82)

#### RENTAL UNITS, ANNUAL INSPECTION

#### § 150.80 FINDINGS.

(A) A substantial number of citizens reside in rental dwelling units which are substandard and are detrimental to the safety, health and welfare of the persons living there as well as to neighboring properties, both attached and unattached;

(B) A substantial number of citizens conduct business, both as proprietors and as customers, in rental commercial units which are substandard and are detrimental to the safety, health and welfare of the persons conducting business there and neighboring properties, both attached and unattached;

(C) The continuation of substandard conditions causes a reduction in the property values in the city causing economic hardships for all of its citizens;

(D) The city desires to promote the health and safety of its citizens, and adopts this section to insure that all rental properties are safe, sanitary and suitable in accordance with the application provisions of the BOCA National Property Maintenance Code as adopted and other regulations of the city.

(Ord. 1996-10, passed 8-20-96)

§ 150.81 DEFINITION.

"RENTAL UNIT" is defined as any real estate or building or portion thereof for which a verbal or written agreement in the form of a rental contract, rental agreement, lease, lease with option to purchase or other agreement has been conveyed and consideration is given for use or occupation of said real estate, building, or portion thereof. Consideration includes payment in money or in kind, bartered goods or services, love and affection, goodwill or any other consideration. (Ord. 1996-10, passed 8-20-96)

§ 150.82 INSPECTION REQUIREMENT.

Each rental unit within the city may be inspected yearly by the City Inspector or other authorized city official to determine whether or not such unit meets the requirements of the BOCA National Property Maintenance Code as adopted by the city and other regulations of the city. The City Inspector shall schedule the inspection during normal business hours and, to the extent possible, at the convenience of the owner or owner's authorized agent and any affected tenants. The owner or the owner's authorized agent may accompany the City Inspector on said inspection. The owner or owner's authorized agent shall make all arrangements with tenants, managers or other necessary persons for the inspection.

(Ord. 1996-10, passed 8-20-96)

§ 150.83 FEE.

(A) The property owner or each rental unit within the city shall pay an inspection fee to the city in the amount of twenty dollars (\$20.00) per rental unit.

(B) The license tax shall be due and payable on or before May 30th of each year hereafter and shall be for one (1) full year commencing January 1st through December 31st of that year.

(Ord. 1996-10, passed 8-20-96)

§ 150.84 USE OF FEE PROCEEDS.

The proceeds of the fee levied and established by this section shall be used to defray the cost and general expense of maintaining city government and shall be placed in the General Fund of the city for that purpose.

(Ord. 1996-10, passed 8-20-96)

§ 150.89 INSPECTION PENALTIES.

(A) Any person found guilty of failing to allow an inspection as required herein shall be guilty of a Class B Misdemeanor and upon conviction, for each offense, shall be subject to a fine or not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) or to imprisonment for not more than ninety (90) days or both.

(B) Any person who fails to pay the inspection fee when due shall pay a penalty of twenty percent (20%) of the balance of the fee due, but the minimum penalty shall be twenty dollars (\$20.00).

(C) In addition to the penalty provided in paragraph (B) above, a person shall pay interest at the rate of twelve percent (12%) per annum on the amount of any inspection fee found to be due and unpaid after the date provided herein for payment, said interest to be calculated from the date such amount was due.

(Ord. 1996-10, passed 8-20-96)

§ 150.98 CIVIL OFFENSE.

(A) Violation of any provision of Chapter 150, §§ 150.01, 150.02 or 150.03, is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred dollars (\$200.00). Any person electing not to contest citation for said offense shall be fined two hundred dollars (\$200.00). Each day of violation shall constitute a separate offense.

(B) Violation of any provision of Chapter 150, §§ 150.15, 150.23, 150.33 or 150.50, is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred fifty dollars (\$250.00). Any person electing not to contest citation for said offense shall be fined two hundred fifty dollars (\$250.00). Each day of violation shall constitute a separate offense.

(C) Violation of any provision of Chapter 150, §§ 150.16, 150.17, 150.18, is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred fifty dollars (\$250.00). Any person electing not to contest citation for said offense shall be fined one hundred dollars (\$100.00). Each day of violation shall constitute a separate offense.

(D) Violation of any provision of § 150.56 is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred dollars (\$200.00). Any person electing not to contest citation for the offense shall be fined two hundred dollars (\$200.00). Each day of violation shall constitute a separate offense. (Ord. 1996-15, passed 10-1-96; Am. Ord. 1996-20, passed 12-17-96; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2002-3, passed 5-7-02; Am. Ord. 2004-3, passed 4-6-04; Am. Ord. 2006-18, passed 9-19-06; Am. Ord. 2007-23, passed 12-4-07)

§ 150.99 PENALTY.

(A) Any person, firm, or corporation violating any of the provisions of §§ 150.30 through 150.32 or §§ 150.34 through 150.36 shall be guilty of a misdemeanor and shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) plus costs of court, for each offense. Each day that a person, firm, or corporation violates these sections or any provision therein and each

day that any prohibited condition is allowed to continue as a result of the work performed or failed to be performed by any person, firm, or corporation, shall constitute a distinct and separate offense.

(Ord. 950.5 passed 2- -80)

(B) Any person, firm, or corporation violating any of the provisions of §§ 150.51 through 150.54 shall, upon conviction, forfeit and pay a fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for every day thereafter so long as the violation exists, and a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) for subsequent violation.

(Ord. 310.1, passed 10-15-57)

(C) (1) Any person, firm, or corporation violating any of the provisions of § 150.55 shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each violation. If violation(s) consist in a dwelling or a rooming unit as these are defined in § 150.55(A), each unit shall be deemed and considered a separate violation.

(2) Waiver provision. The above penalty for noncompliance with § 150.55 shall be waived if the dwelling or dwelling unit is brought into compliance with § 150.55 within thirty (30) days after notice of the original violation. The Fire Chief shall make a reinspection of the dwelling unit to confirm compliance after thirty (30) days from the date of notice of the original violation. Failure of the property owner through act or omission to allow re-entry shall constitute prima facie evidence of continued violation.

(D) Any person found in violation of § 150.56 shall be guilty of a violation and shall be subject to a fine of not more than two hundred fifty dollars (\$250.00). Each day of violation shall constitute a separate offense.

(Ord. 1990-4, passed 4-3-90; Am. Ord. 1992-4, passed 3-3-92; Am. Ord. 2007-23, passed 12-4-07)

CHAPTER 151: FENCES

Section

Chain Link Fencing

151.01 Height of fencing having barbed wire or similar devices;  
installation

151.99 Penalty

CHAIN LINK FENCING

§ 151.01 HEIGHT OF FENCING HAVING BARBED WIRE OR SIMILAR DEVICES;  
INSTALLATION.

(A) It shall be unlawful to erect or maintain anywhere in the city, chain link fencing equipped with or having barbed wire, spikes, or any similar device, within five feet of the ground level.

(B) All chain link fencing shall be installed in a manner as to have no sharp or protruding ends at the top if the fence is less than five feet in height.

(Ord. 930.2, passed 4-7-81) Penalty, see § 151.99

§ 151.99 PENALTY.

Any person, firm, or other entity violating any provision of § 151.01 shall be fined, upon conviction, a sum not less than \$25, nor more than \$100, for each violation thereof. Each day of violation shall be considered a separate offense.

(Ord. 930.2, passed 4-7-81)



CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

General Provisions

- 152.01 Statutory authorization
- 152.02 Findings of fact
- 152.03 Statement of purpose
- 152.04 Objectives
- 152.05 Definitions
- 152.06 Land to which this chapter applies
- 152.07 Basis for establishing the special flood hazard areas
- 152.08 Development permit required
- 152.09 Compliance
- 152.10 Abrogation and greater restrictions
- 152.11 Interpretation
- 152.12 Warning and disclaimer of liability

Flood Hazard Reduction

- 152.30 General construction standards
- 152.31 Specific standards
- 152.32 Standards for streams without established base flood elevations and/or floodways
- 152.33 Standards for shallow flooding zones
- 152.34 Standards for subdivision proposals
- 152.35 Standards for accessory structures in all zones beginning with the letter "A"
- 152.36 Critical facilities

Administration and Enforcement

- 152.50 Floodplain Administrator designated; duties and responsibilities
- 152.51 Establishment of development permit
- 152.52 Appeals and variance procedures
  
- 152.98 Civil offense; notice of citation and violation
- 152.99 Penalty

GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORIZATION.

The Legislature of the Commonwealth of Kentucky has, in KRS Chapter 100, delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council hereby adopts the following floodplain management regulations as set forth in this chapter.

(Ord. 2006-14, Art. 1, § A, passed 9-5-06)

§ 152.02 FINDINGS OF FACT.

(A) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise protected from flood damage.  
(Ord. 2006-14, Art. 1, § B, passed 9-5-06)

§ 152.03 STATEMENT OF PURPOSE.

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

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other areas.

(Ord. 2006-14, Art. 1, § C, passed 9-5-06)

§ 152.04 OBJECTIVES.

The objectives of this chapter are to:

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;



(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;

(F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood-blighted areas caused by flooding;

(G) Ensure that potential home buyers are on notice that property is in a special flood hazard area; and

(H) Ensure that those who occupy a special flood hazard area assume responsibility for their actions.  
(Ord. 2006-14, Art. 1, § D, passed 9-5-06)

#### § 152.05 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"A ZONE." Portions of the special flood hazard area (SFHA) in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A Zones, flood waters may move slowly or rapidly, but waves are usually not a significant threat to structures. Areas of 100-year flood, base flood elevations and flood hazard factors are not determined.

"ACCESSORY STRUCTURE (APPURTENANT STRUCTURE)." A structure located on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

"ACCESSORY USE." A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"ADDITION TO AN EXISTING STRUCTURE." Any walled and roofed expansion to the perimeter of a structure in which the addition is

connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

"A99 ZONE." That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a federal flood protection system under construction. No base flood elevations are determined.

"AE ZONE." Special flood hazard areas inundated by the 1% annual chance flood (100-year) flood. Base flood elevations (BFEs) are determined.

"AH ZONE." An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base flood elevations are shown.

"AO ZONE." An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are shown.

"APPEAL." A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or from the Floodplain Administrator's ruling on a request for a variance.

"AR/A1 - A30, AR/AE, AR/AH, AR/AO, AND AR/A ZONES." Special flood hazard areas (SFHAs) that result from the decertification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete these areas will still experience residual flooding from other flooding sources.

"AREA OF SHALLOW FLOODING." A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"BASE FLOOD." A flood which has a 1% chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this chapter.

"BASE FLOOD ELEVATION (BFE)." The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/IA, AR/AE, AR/A1-A30, AR/AH, and AR/AO that indicates the water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

"BASEMENT." Any area of a structure having its floor subgrade (below ground level) on all sides.

"BUILDING." See definition for "structure."

"COMMUNITY." A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

"COMMUNITY FLOOD HAZARD AREA (CFHA)." An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by flood waters that can adversely affect the public health, safety and general welfare. Included are areas downstream from dams.

"COMMUNITY RATING SYSTEM (CRS)." A program developed by the Federal Insurance Administration to provide incentives to those communities in the regular program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

"CRITICAL FACILITY." Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. Critical facilities include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

"D ZONE." An area in which the flood hazard is undetermined.

"DEVELOPMENT." Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

"ELEVATED STRUCTURE." For insurance purposes, a non-basement structure built to have the lowest floor elevated above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"ELEVATION CERTIFICATE." A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this chapter.

"EMERGENCY PROGRAM." The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

"ENCLOSURE." That portion of a structure below the lowest floor used solely for parking of vehicles, limited storage, or access to the structure.

"ENCROACHMENT." The physical advance or infringement of uses, plant growth, fill, excavation, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"EXISTING CONSTRUCTION." Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by a community.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

"FIVE-HUNDRED YEAR FLOOD." The flood that has a 0.2% chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

"FLOOD" or "FLOODING." A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(4) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

"FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)." A map on which the Federal Emergency Management Agency (FEMA) has delineated the areas of flood hazards and the regulatory floodway.

"FLOOD HAZARD BOUNDARY MAP (FHBM)." A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA).

"FLOOD INSURANCE RATE MAP (FIRM)." A map on which the Federal Emergency Management Agency (FEMA) has delineated special flood hazard areas and risk premium zones.

"FLOOD INSURANCE STUDY." The report provided by the Federal Emergency Management Agency (FEMA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

"FLOODPLAIN" or "FLOOD-PRONE AREA." Any land area susceptible to being inundated by flood waters from any source.

"FLOODPLAIN ADMINISTRATOR." The individual appointed by a community to administer and enforce the floodplain management ordinances.

"FLOODPLAIN MANAGEMENT." The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

"FLOODPLAIN MANAGEMENT REGULATIONS." This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"FLOODPROOFING." Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"FLOODPROOFING CERTIFICATE." A certification by a registered professional engineer or architect, on a FEMA-approved form in effect at the time of certification, stating that a nonresidential structure, together with attendant utilities and sanitary facilities, is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water, and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

"FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the "regulatory floodway."

"FLOODWAY FRINGE." That area of the floodplain on either side of the regulatory floodway.

"FRAUD AND VICTIMIZATION." As related in § 152.52, Appeals and variance procedures, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Board of Adjustments will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for 50 to 100 years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"FREEBOARD." A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. Freeboard must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, and the like.

"FUNCTIONALLY DEPENDENT USE FACILITY." A facility, structure, or other development which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"GOVERNING BODY." The local governing unit, i.e. the city that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

"HAZARD POTENTIAL." The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity, flood-routing capacity).

"HIGHEST ADJACENT GRADE." The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"HISTORIC STRUCTURE." Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

"INCREASED COST OF COMPLIANCE (ICC)." Increased cost of compliance coverage means under the standard flood insurance policy the cost to repair a substantially flood damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are floodproofing (nonresidential), relocation, elevation, demolition, or any combination thereof. ICC coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

"LETTER OF MAP CHANGE (LOMC)." An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs include the following categories:

(1) Letter of Map Amendment (LOMA). A revision based on technical data showing that a property was inadvertently included in a designated SFHA. An LOMA amends the current effective FIRM and establishes that a specific property is not located in an SFHA.

(2) Letter of Map Revision (LOMR). A revision based on technical data that, usually due to man-made changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

(3) Letter of Map Revision - Based on Fill (LOMR F). A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SFHA.

"LEVEE." A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"LEVEE SYSTEM." A flood protection system that consists of a levee or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"LIMITED STORAGE." An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood-resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

"LOWEST ADJACENT GRADE." The lowest elevation of the sidewalk, patio, attached garage, deck support, or basement entryway or grade immediately next to the structure and after the completion of construction.

"LOWEST FLOOR." The lowest floor of the lowest enclosed area including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a basement area is not considered a structure's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

"MANUFACTURED HOME." A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term "manufactured home" does not include a "recreational vehicle." (See "recreational vehicle.")



"MANUFACTURED HOME PARK OR SUBDIVISION." A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"MAP." The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

"MAP PANEL NUMBER." The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. The letter "A" is not used by FEMA, the letter "B" is the first revision.

"MARKET VALUE." The property value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. Market value of the structure can be established by independent certified appraisal, replacement cost depreciated by age of structure (actual cash value) or adjusted assessed values.

"MEAN SEA LEVEL (MSL)." The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the MSL is used as a reference for establishing various elevations within the floodplain as shown on a community's FIRM. For purposes of this chapter, the term is synonymous with either National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) of 1988.

"MITIGATION." Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

"MUDSLIDE" or "MUDFLOW." Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A mudslide or mudflow may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

"MUDSLIDE OR MUDFLOW AREA MANAGEMENT." The operation of and overall program of corrective and preventative measures for reducing mudslide or mudflow damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.

"MUDSLIDE OR MUDFLOW-PRONE AREA." An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

"NATIONAL FLOOD INSURANCE PROGRAM (NFIP)." The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

"NATIONAL GEODETIC VERTICAL DATUM (NGVD)." As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. Generally used as the vertical datum on the older FIRMs. Refer to FIRM legend panel for correct datum.

"NEW CONSTRUCTION." Structures for which the start of construction commenced on or after the effective date of floodplain management regulations and includes any subsequent improvements to such structures.

"NEW MANUFACTURED HOME PARK OR SUBDIVISION." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

"NONRESIDENTIAL." Structures that are not designed for human habitation, including but not limited to: small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than six months duration.

"NORTH AMERICAN VERTICAL DATUM (NAVD)." As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. Generally used on the newer FIRMs and Digitally Referenced FIRMs (DFIRMs). Refer to FIRM or DFIRM legend panel for correct datum.

"OBSTRUCTION." Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"ONE-HUNDRED YEAR FLOOD." The flood that has a 1% or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter "A" is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26% chance of experiencing such a flood with the SFHA. See also "base flood."

"PARTICIPATING COMMUNITY." A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

"POST-FIRM CONSTRUCTION." New construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

"PRE-FIRM CONSTRUCTION." New construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

"PROBATION." A FEMA imposed change in community's status resulting from violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

"PROGRAM DEFICIENCY." A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards.

"PUBLIC SAFETY AND NUISANCE." Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

"RECREATIONAL VEHICLE." A vehicle that is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable to a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"REGULAR PROGRAM." The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in an FIS.

"REGULATORY FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See "base flood."

"REMEDY A VIOLATION." The process by which a community brings a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impact of noncompliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the chapter or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

"REPAIR." The reconstruction or renewal of any part of an existing structure.

"REPETITIVE LOSS." Flood-related damages sustained by a structure on two or more separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damage occurred.

"REPETITIVE LOSS PROPERTY." Any insurable building for which two or more claims of more than one thousand dollars (\$1,000.00) were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than 10 days apart but, within 10 years of each other. A repetitive loss property may or may not be correctly insured by the NFIP.

"RIVERINE." Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

"SECTION 1316." That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

"SEVERE REPETITIVE LOSS STRUCTURE." Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

(1) Four or more separate claim payments of more than five thousand dollars (\$5,000) each (including building and contents payments); or

(2) Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

In either case, two of the claim payments must have occurred within 10 years of each other. Multiple losses at the same location within 10 days of each other are counted as one loss, with the payment amounts added together.

"SHEET FLOW AREA." See "AREA OF SHALLOW FLOODING."

"SPECIAL FLOOD HAZARD AREA (SFHA)." That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on an FHBM or FIRM as Zone A, AE, A1 - A30, AH, AO, or AR.

"START OF CONSTRUCTION." The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure, including manufactured home, on a site, such as the pouring of slabs or footings, the installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; or the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the structure. Includes substantial improvement and other proposed new development.

"STRUCTURE." A walled and roofed building including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"SUBDIVISION." Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two or more lots or parcels.

"SUBROGATION." A legal action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

"SUBSTANTIAL DAMAGE." Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT." Any reconstruction, rehabilitation, addition, alteration or other improvement of a structure, taking place during the a one year period in which the cumulative percentage of improvement equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are the minimum necessary to assure safe living; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(3) Any building that has been damaged from any source or is categorized as repetitive loss.

"SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS." Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

"SUSPENSION." Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP.

"UTILITIES." Includes, but it not limited to, electrical, heating, ventilation, plumbing, and air conditioning equipment that service the structure and the site.

"VARIANCE." Relief from some or all of the requirements of this chapter.

"VIOLATION." Failure of a structure or other development to fully comply with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"WATER SURFACE ELEVATION." The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"WATERCOURSE." A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

"WATERSHED." All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

"X (SHADED) AND B ZONES." Areas of the 0.2% annual chance (500-year) flood that are outside of the SFHA, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile, and areas protected by levees from the base flood.

"X (UN-SHADED) AND C ZONES." Areas determined to be outside the 500-year floodplain.

"ZONE." A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

(Ord. 2006-14, Art. 2, passed 9-5-06; Am. Ord. 2014-1, passed 2-4-14)

#### § 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas (SFHA) areas applicable to KRS 151.250, and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the City Council from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the City Council which may be subject to periodic inundation by flood waters that can adversely affect the public health, safety, and general welfare of the citizens of the city.

(Ord. 2006-14, Art. 3, § A, passed 9-5-06; Am. Ord. 2014-1, passed 2-4-14)

#### § 152.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Campbell County, dated September 30, 2004 and revised March 3, 2014, with the accompanying Flood Insurance Rate Maps (FIRMs), as amended by Federal Emergency Management Agency (FEMA) Letter of Map Revision (LOMR) dated July 31, 2007, other supporting data and any subsequent amendments thereto are adopted by reference and declared to be a part of these regulations. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the City Council by the Floodplain Administrator and are enacted by City Council pursuant to statutes

governing land use management regulations. This FIS and/or FIRM are permanent records of the city and are on file and available for review by the public during regular business hours at the city offices at 514 Sixth Avenue, Dayton, KY.

(Ord. 2006-14, Art. 3, § B, passed 9-5-06; Am. Ord. 2006-19, passed 9-19-06; Am. Ord. 2007-17, passed 9-4-07; Am. Ord. 2014-1, passed 2-4-14)

§ 152.08 DEVELOPMENT PERMIT REQUIRED.

(A) A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in the special flood hazard areas (SFHA). See § 152.51 for instructions and explanation.

(B) Application for a development permit shall be made on forms furnished by the Floodplain Administrator.

(Ord. 2006-14, Art. 3, § C, passed 9-5-06)

§ 152.09 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable state regulations. Violation of the requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. 2006-14, Art. 3, § D, passed 9-5-06)

§ 152.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2006-14, Art. 3, § E, passed 9-5-06)

§ 152.11 INTERPRETATION.

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

(A) Considered minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2006-14, Art. 3, § F, passed 9-5-06)



§ 152.12 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City Council, any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2006-14, Art. 3, § G, passed 9-5-06; Am. Ord. 2014-1, passed 2-4-14)

## FLOOD HAZARD REDUCTION

§ 152.30 GENERAL CONSTRUCTION STANDARDS.

In all special flood hazard areas the following provisions are required:

(A) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures;

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(I) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter shall meet the requirements of new construction as contained in this chapter; and

(J) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.  
(Ord. 2006-14, Art. 5, § A, passed 9-5-06)

#### § 152.31 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation data have been provided as set forth in § 152.07, the following provisions are required:

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

(1) In an AO Zone, the lowest floor shall be elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified. (The Commonwealth of Kentucky recommends that the lowest floor be elevated above the highest adjacent grade to a height higher than the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified.)

(2) In an A Zone, where no technical data has been produced by the Federal Emergency Management Agency, the Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include but are not limited to detailed hydrologic and hydraulic analyses, use of existing data available from other sources, approximate methods, use of historical data, best supportable and reasonable judgement in the event no data can be produced. The lowest floor shall be elevated no lower than one foot above such base flood elevation. Title 401 KAR Chapter 4, Regulation 060, Section 5(5)a, states as a part of the technical requirements for a state floodplain permit: The applicant shall provide cross-sections for determining floodway boundaries, and thereby base flood elevations,

at any proposed construction site where FEMA maps are not available. All cross-sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than  $\pm 0.5$  foot. Cross-section elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross-section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the Cabinet. If necessary to ensure that significant flood damage will not occur, the Cabinet may require additional cross-sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

(3) In all other zones, elevated two feet above the base flood elevation.

(4) Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, and verified by the community building inspection department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(B) Nonresidential construction. New construction and substantial improvement of any commercial, industrial, or nonresidential structure, including manufactured homes used for nonresidential purposes, shall be elevated to conform with division (A) of this section or together with attendant utility and sanitary facilities:

(1) Be floodproofed below an elevation two feet above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy and debris;

(3) A registered professional engineer or architect shall certify that the standards of this division are satisfied. Such certification along with the design and operational maintenance plans shall be provided Floodplain Administrator.

(4) Manufactured homes shall meet the standards in division (D) of this section.

(5) All new construction and substantial improvement with fully enclosed areas below the lowest floor (including basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be constructed of flood-resistant materials below an elevation two feet above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Opening sizes for meeting this requirement must meet or exceed the standards of § 152.31(C).

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

(1) Openings for complying with this requirement must either be certified by a professional engineer or architect and meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above foundation interior grade, which must be equal to in elevation or higher than the exterior foundation grade; and

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided they permit the automatic flow of flood waters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(3) The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms.

(4) The total floor area of all such enclosed areas shall not exceed 300 square feet.

(5) For enclosures greater than seven feet in interior height, where elevation requirements exceed six feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structures' originally approved design, shall be presented as a condition of issue of the final certificate of occupancy.

(D) Standards for manufactured homes and recreational vehicles.

(1) All new and substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:

- (a) On individual lots or parcels;
  - (b) In expansions to existing manufactured home parks or subdivisions;
  - (c) In new manufactured home parks or subdivisions;
  - (d) In substantially improved manufactured home parks or subdivisions;
  - (e) Outside of a manufactured home park or subdivision;
- and
- (f) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred substantial damage as the result of a flood.

(2) All manufactured homes must:

- (a) Be elevated on a permanent foundation; and
- (b) Have the lowest floor elevated no lower than two feet above the level of the base flood elevation, (the Commonwealth of Kentucky recommends at least one foot above the base flood elevation); and
- (c) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(3) Excepting manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

(a) The manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either:

1. The lowest floor of the manufactured home is elevated no lower than two feet above the level of the base flood elevation; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.

(b) All recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must either:

1. Be on the site for fewer than 180 consecutive days;
  2. Be fully licensed and ready for highway use;
- or
3. Meet the permit requirements for new construction of this chapter, including anchoring and elevation requirements for manufactured homes.

(c) A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Kentucky motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(E) Floodways. Located within areas of special flood hazard established in § 152.07, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation levels during occurrence of base flood discharge;

(2) If division (E)(1) above is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of §§ 152.30 through 152.36.

(Ord. 2006-14, Art. 5, § B, passed 9-5-06; Am. Ord. 2006-19, passed 9-19-06; Am. Ord. 2014-1, passed 2-4-14)

§ 152.32 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS.

Located within the special flood hazard areas established in § 152.07, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

(A) No encroachments, including fill material or structures, shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than

one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(B) New construction or substantial improvements of structures shall be elevated or floodproofed to elevations established in accordance with § 152.07.

(Ord. 2006-14, Art. 5, § C, passed 9-5-06; Am. Ord. 2014-1, passed 2-4-14)

§ 152.33 STANDARDS FOR SHALLOW FLOODING ZONES.

Located within the special flood hazard areas established in § 152.07, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(A) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above either the base flood elevation, or in Zone AO, the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(B) All new construction and substantial improvements of nonresidential structures shall:

(1) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(2) Together with attendant utility and sanitary facilities be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in § 152.31(B).

(Ord. 2006-14, Art. 5, § D, passed 9-5-06)

§ 152.34 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

(D) In areas where base flood elevation and floodway data is not available, base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall be provided;

(E) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator; and (Ord. 2006-14, Art. 5, § E, passed 9-5-06; Am. Ord. 2014-1, passed 2-4-14)

§ 152.35 STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER "A".

For all accessory structures in special flood hazard areas designated "A" the following provisions shall apply:

- (A) Must be non-habitable;
- (B) Must be anchored to resist flotation and lateral movement;
- (C) Must be provided with flood openings in accordance with the standards of § 152.31(C);
- (D) Must be built of flood resistant materials below a level two feet above the base flood elevation;
- (E) Must elevate utilities one foot above the base flood elevation;
- (F) Can only be used for storage or parking;
- (G) Must not be modified for a different use after permitting. (Ord. 2006-14, Art. 5, § F, passed 9-5-06; Am. Ord. 2014-1, passed 2-4-14)



§ 152.36 CRITICAL FACILITIES.

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

(Ord. 2006-14, Art. 5, § G, passed 9-5-06; Am. Ord. 2006-19, passed 9-19-06; Am. Ord. 2014-1, passed 2-4-14)

## ADMINISTRATION AND ENFORCEMENT

§ 152.50 FLOODPLAIN ADMINISTRATOR DESIGNATED; DUTIES AND RESPONSIBILITIES.

(A) The City Council hereby appoints the Mayor, or the Mayor's designee, to administer, implement, and enforce the provisions of this chapter by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

(B) The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this chapter. The Floodplain Administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

(C) The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

(1) Permit review. Review all development permits to ensure that:

(a) Permit requirements of this chapter have been satisfied;

(b) All other required state and federal permits have been obtained: review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(c) Flood damages will be reduced in the best possible manner;

(d) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

(2) Review and use of any other base flood data. When base flood elevation data has not been provided in accordance with § 152.07, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer §§ 152.30 through 152.36. Any such information shall be submitted to the City Council for adoption.

(3) Notification of other agencies.

(a) Notify adjacent communities, the Kentucky Division of Water, and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse;

(b) Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency (FEMA); and

(c) Assure that the flood-carrying capacity within the altered or relocated portion of said watercourse is maintained.

(4) Documentation of floodplain development. Obtain and maintain for public inspection and make available as needed the following:

(a) Certification required by § 152.51(B)(1) (lowest floor elevations) as shown on an accurately completed and certified elevation certificate. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 152.51(B)(2);

(b) Certification required by § 152.51(B)(2) (elevation or floodproofing of nonresidential structures) as shown on an accurately completed and certified floodproofing certificate. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with § 152.51(B)(2);

(c) Certification required by § 152.31(C);

(d) Certification of elevation required by § 152.34(A) (subdivision standards);

(e) Certification required by § 152.31(E) (floodway encroachments);

(f) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(g) Review certified plans and specifications for compliance;

(h) Remedial action. Take action to remedy violations of this chapter as specified in §§ 152.98 and 152.99.

(5) Map determinations. Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

(a) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 152.52(C)(1);

(b) When base flood elevation data or floodway data have not been provided in accordance with § 152.07, then the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of §§ 152.30 through 152.36;

(c) When floodproofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with § 152.31(B) a floodproofing certificate;

(d) All records pertaining to the provisions of this chapter shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

(6) Right of entry.

(a) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the Floodplain Administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the Administrator by this chapter.

(b) If such structure or premises are occupied, the Floodplain Administrator he or she shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, the Floodplain Administrator shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.

(c) If entry is refused, the Floodplain Administrator shall have recourse to every remedy provided by law to secure entry.

(d) When the Floodplain Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Floodplain Administrator for the purpose of inspection and examination pursuant to this chapter.

(7) Stop work orders. Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(8) Revocation of permits.

(a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this chapter, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Floodplain Administrator may revoke a permit upon determination by the Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(9) Liability. Any officer, employee, or member of the Floodplain Administrator's staff, charged with the enforcement of this chapter, acting for the applicable governing authority in the discharge of his or her duties, shall not thereby render the Floodplain Administrator personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of the Floodplain Administrator's duties. Any suit brought against any officer, employee, or member because of such act performed by him or her in the enforcement of any provision of this chapter shall be defended by the department of law until the final termination of the proceedings.

(10) Expiration of floodplain construction permit. A floodplain development permit, and all provisions contained therein, shall expire if the "start of construction" permit has not occurred within 180 calendar days from the date of its issuance.

(Ord. 2006-14, Art. 4, §§ A, C, passed 9-5-06; Am. Ord. 2014-1, passed 2-4-14)

§ 152.51 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be obtained before any construction or other development begins within any special flood hazard area established in § 152.07. Application for a development permit shall be made on forms furnished by Floodplain Administrator prior to any development activities and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Endorsement of the Administrator is required before a state floodplain construction permit can be processed. Specifically, the following information is required.

(A) Application stage.

(1) Proposed elevation in relation to mean sea level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade; or

(2) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

(3) All appropriate certifications from a registered professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 152.31 (B) and § 152.33(B);

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(B) Construction stage.

(1) Upon placement of the lowest floor, and before construction continues, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator and to the state a certification of the elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. In AE, A1-30, AH, and A Zones where the community has adopted a regulatory base flood elevation, said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(2) When floodproofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. 2006-14, Art. 4, § B, passed 9-5-06)

§ 152.52 APPEALS AND VARIANCE PROCEDURES.

(A) Nature of variances.

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

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

(B) Designation of variance and appeal board. City Council shall establish an Appeal Board consisting of the Board of Adjustments.

(C) Duties of variance and Appeal Board.

(1) The Appeal Board shall hear and decide requests for variances from the requirements of this chapter and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this chapter.

(2) Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the Campbell Circuit Court, as provided in Kentucky Revised Statutes.

(D) Appeals/variance procedures. In passing upon such applications, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and the:

(1) Danger that materials may be swept onto other lands to the injury of others;

(2) Danger to life and property due to flooding or erosion damage;

(3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

(4) Importance to the community of the services provided by the proposed facility;

(5) Necessity that the facility be located on a waterfront, in the case of functionally dependent facility;

(6) Availability of alternative locations which are not subject to flooding or erosion damage;

(7) Compatibility of the proposed use with existing and anticipated development;

(8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) Safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges and culverts.

(E) Conditions for variances.

(1) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(2) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard. Minimum necessary means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create a nuisance, as defined in § 152.05, "public safety and nuisance", cause fraud or victimization of the public, as defined in § 152.05, or conflict with existing local laws or ordinances.

(5) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

(7) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of divisions (D)(1) through (D)(5) above are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(F) Variance notification. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:



(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage, and;

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Campbell County Clerk and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(3) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance or denial, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(G) Historic structures. Variances may be issued for the repair or rehabilitation of historic structures (see definition in § 152.05) upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(Ord. 2006-14, Art. 6, passed 9-5-06; Am. Ord. 2006-19, passed 9-19-06; Am. Ord. 2014-1, passed 2-4-14)

§ 152.98 CIVIL OFFENSE; NOTICE OF CITATION AND VIOLATION.

(A) Civil offense. If, at any time, development occurs which is not in accordance with the provisions of this chapter, including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications, such development shall constitute a civil offense.

(B) Notice of violation. If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter, including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this chapter and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed.

(C) Notice of citation. If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter, including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

(Ord. 2006-14, Art. 3, § H (1)-(3), passed 9-5-06; Am. Ord. 2014-1, passed 2-4-14)

§ 152.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be guilty of a misdemeanor offense. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than five hundred dollars (\$500.00) or imprisoned for not more than one year, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2006-14, Art. 3, § H(4), passed 9-5-06)

CHAPTER 153: UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

Section

153.01 Adoption by reference

§ 153.01 ADOPTION BY REFERENCE.

The Uniform Residential Landlord and Tenant Act (hereafter called URLTA) as codified in KRS 383.505 through 383.715, enacted 1984 as amended, is hereby adopted and made applicable to all properties located within the territorial limits of the city. A copy of the URLTA applicable statutes is hereby made a part of the permanent records of the city.

(Ord. 930.4, passed 3-2-80; Am. Ord. 930.5, passed 1-8-85)



CHAPTER 154: ZONING CODE

Section

General Provisions

- 154.001 Authority
- 154.002 Purpose
- 154.003 Short title
- 154.004 Greater restrictions shall apply
- 154.005 Permit or license in violation
- 154.006 Definitions
- 154.007 Schedule of fees

Establishment of Zones

- 154.020 Classification of zones
- 154.021 Official zoning map
- 154.022 Rules for interpretation of zone boundaries
- 154.023 Areas not included within zones

General Use Regulations

- 154.035 Purpose
- 154.036 Applications of zoning regulations
- 154.037 Reduction in building site area
- 154.038 Interference with traffic signals
- 154.039 Vision clearance
- 154.040 Frontage on corner lots and double frontage lots
- 154.041 Utilities location
- 154.042 Railroad rights-of-way location
- 154.043 Excavation, movement of soil, tree removal, and erosion and sedimentation control
- 154.044 Unsightly or unsanitary storage
- 154.045 Junkyard location
- 154.046 Special requirements governing home occupations
- 154.047 Continuing existing uses and structures (nonconformance)
- 154.048 Exceptions and modifications
- 154.049 Conditional uses
- 154.050 Building regulations; water and sanitary sewer service
- 154.051 Moving buildings
- 154.052 Screening and dumpster area
- 154.053 Outdoor swimming pools
- 154.054 Site plan requirements
- 154.055 Plan requirements; stages I, II, and record plat
- 154.056 Air rights
- 154.057 Design and construction of improvements
- 154.058 Parking or storing of trailers, mobile homes, campers, and other such type equipment
- 154.059 Hillside development controls
- 154.060 General mobile home regulations
- 154.061 Phased zoning regulations
- 154.062 Cellular or wireless communications system

Section

Zones

- 154.075 CO Conservation Zone
- 154.076 R-O River Oriented Zone
- 154.077 R-1bC (Residential One-BC) Zone
- 154.078 R-1c (Residential One-C) Zone
- 154.079 R-1d (Residential One-D) Zone
- 154.080 R-1e (Residential One-E) Zone
- 154.081 R-1g (Residential One-G) Zone
- 154.082 R-1h (Residential One-H) Zone
- 154.083 R-1jJ (Residential One-JJ) Zone
- 154.084 RMHP (Residential Mobile Home Park) Zone
- 154.085 R-2 (Residential Two) Zone
- 154.086 R-3 (Residential Three) Zone
- 154.087 R-4 (Residential Four) Zone
- 154.088 PUD (Planned Unit Development) Overlay Zone
- 154.089 RCD (Residential Cluster Development) Overlay Zone
- 154.090 Central Business District (CBD) Zone
- 154.091 I-1 (Industrial One) Zone
- 154.092 Neighborhood Commercial District (NCD) Zone
- 154.093 I-2 (Industrial Two) Zone
- 154.094 MLU (Mixed Land Use) Zone
- 154.095 Historic Preservation Overlay (HP-O) Zone

Off-Street Parking and Access Control Regulations

- 154.105 Off-street parking facilities for storage or parking of motor vehicles
- 154.106 General requirements
- 154.107 Design and layout of off-street parking areas
- 154.108 Specific off-street parking requirements
- 154.109 Access control regulations

Off-Street Loading and Unloading Regulations

- 154.120 Off-street loading and unloading facilities
- 154.121 General requirements
- 154.122 Design and layout of off-street loading or unloading areas

Fences, Walls, and Obstruction to View Regulations

- 154.135 Vision clearance at corners and railroad crossings
- 154.136 Classification of fences and walls
- 154.137 Conservation and agricultural zones
- 154.138 Residential zones
- 154.139 Commercial and industrial zones
- 154.140 Measurement of fence or wall heights and locations
- 154.141 Height of barbed wire or sharp pointed fences
- 154.142 Height of fences atop retaining walls
- 154.143 Electrified fences
- 154.144 Permit required for erection of fences
- 154.145 Structural elements of fences

## Section

Sign Regulations

- 154.170 Scope
- 154.171 General rules, regulations, and limitations
- 154.172 Special signs
- 154.173 Sign permit required for erection of signs
- 154.174 Application for sign permit
- 154.175 Sign permit fees
- 154.176 Classification of signs
- 154.177 Permitted use and location of signs

Performance Standards for Industrial Zones

- 154.190 Application of performance standards
- 154.191 Time schedule for compliance of performance standards
- 154.192 Performance standards

Administration

- 154.205 Enforcing Officer
- 154.206 Zoning permits
- 154.207 Building permits
- 154.208 Certificate of occupancy
- 154.209 Complaints regarding violations
- 154.210 Intent concerning determinations involved in administration and enforcement of performance standards
- 154.211 City Inspector/Zoning Administrator; duties regarding performance standards

Amendment Procedure

- 154.225 Amendment procedure
- 154.226 Reserved
- 154.227 Reserved
- 154.228 Actions of local governmental units to be furnished to NKAPC

Board of Adjustment

- 154.240 Board of Adjustment; established
- 154.241 Meetings of Board
- 154.242 Procedure for all appeals to Board
- 154.243 Appeals from Planning Commission, Board of Adjustment, or City Council
- 154.244 Stay of proceedings
- 154.245 Powers of Board
- 154.246 Variances
- 154.247 Conditional use permits

## Section

- 154.248 Decisions of Board
  - 154.249 Actions of Board to be furnished to NKAPC
  
  - 154.998 Civil offense
  - 154.999 Penalty
- Appendix A: Specifications for paving of off- street parking and loading or unloading areas

GENERAL PROVISIONS§ 154.001 AUTHORITY.

The city, in pursuance of the authority of KRS 100.201 through 100.991, hereby ordains and enacts into law the following subchapters and sections of this code.

(Ord. passed 3-6-79)

§ 154.002 PURPOSE.

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

(Ord. passed 3-6-79)

§ 154.003 SHORT TITLE.

This chapter shall be effective throughout the city and shall be known, referred to, and recited to as the Official Zoning Ordinance of the City of Dayton, Kentucky.

(Ord. passed 3-6-79)

§ 154.004 GREATER RESTRICTIONS SHALL APPLY.

The provisions of this chapter shall be held to be the minimum requirements for the promotion of the public safety, health, and general welfare. Where this chapter imposes a greater restriction upon the buildings, structures, or premises, upon heights of buildings or



structures or requires larger open spaces than are imposed or required by any other ordinances, rules, codes, permits, or regulations, or by easements, covenants, deed restrictions, or agreements, the provisions of this chapter shall govern.  
(Ord. passed 3-6-79)

DAYTON - ZONING CODE

36B

§ 154.005 PERMIT OR LICENSE IN VIOLATION.

If any permit or license is issued in violation of any provision of this chapter or purports to authorize the doing of any act not permitted by any provision of the chapter, the permit or license shall be void. (Ord. passed 3-6-79)

§ 154.006 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ACCESSORY BUILDING OR USE, CUSTOMARY." One which:

- (1) Is subordinate to and serves the principal building or principal use;
- (2) Is subordinate in area, extent, or purpose, to the principal building or principal use served;
- (3) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
- (4) Is located on the same lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot with the building or use served.

"ACCESS POINT."

- (1) A driveway, a local street, or a collector street intersecting an arterial street;
- (2) A driveway or a local street intersecting a collector street; or
- (3) A driveway or a local street intersecting a local street.

"ADULT DAY CARE CENTER OR FACILITY." A facility which provides personal service care for adults for less than 24 hours per day, and because of age, slight mental or physical disability, or other reasons, must receive a supervised environment but who are mentally and physically capable of responding to an emergency situation with only minimal assistance.

(Am. Ord. 1988-4, passed 6-13-88)

"ADULT DANCING ESTABLISHMENT." A business wherein employees, agents, or independent contractors perform dance routines which include, but are not limited to any of the following: Any dancing which exposes to view by patrons or spectators on the premises at any time the bare female breast below a horizontal line across the top of the areola at its highest point, which shall include the entire lower portion of the

human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part, human genitals, pubic region or cleavage of the human buttocks, or human or simulated male genitals in a discernable turgid state, even if completely and opaquely covered, straddle dancing, lap dancing, face dancing, or any similar type of dancing known by any other name in which an employee, agent or independent contractor whether clothed or not, uses any part of his or her body whether directly or through a medium, to massage, rub, stroke, knead, caress or fondle the genitals or pubic area of a patron, while on the premises or placing the genitalia or pubic area of an employee in contact with, or approximate contact with, the face or any other area of the body of a patron, while on the premises. No general use descriptions set out elsewhere in Chapter 154 shall be deemed or construed to include such use.

"ADULT ENTERTAINMENT ESTABLISHMENT." A business, including but not limited to, motion picture theatre, massage parlor, adult book store or an adult dancing establishment, whose primary purpose is to offer adult oriented entertainment or matter as characterized by and emphasis on any of the following: less than completely and opaquely covered human genitals or pubic region, cleavage of the human buttocks, the bare female breast below a horizontal line across the top of the areola at its highest point, which shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part, human or simulated male genitals in a discernable turgid state, even if completely and opaquely covered, bestiality, erotic or sexual stimulation with object or mechanical devices, human genitalia in a state of sexual stimulation, arousal or tumescence, fondling or touching of human genitalia, pubic region, buttock, anus or female breast, act of human anilingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, sodomy, and any excretory functions as part of or in connection with any of the activities set forth above. No general use descriptions set out elsewhere in Chapter 154 shall be deemed or construed to include such use.

"AGRICULTURE." The use of land for agricultural purposes, including agriculture, dairying, farming, floriculture, horticulture, pasturage, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any accessory use shall be secondary to that of the normal agricultural activities.

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

"ALLEY." Public rights-of-way which normally afford a secondary means of access to abutting property.

"ALTERNATIVE CELLULAR ANTENNA TOWER STRUCTURE." Man-made trees, clock towers, bell towers, steeples, light poles and similar alternative-design mounting structures that accommodate, camouflage, or conceal the presence of cellular antennas or cellular antenna towers and that are constructed primarily for the purpose of accommodating cellular antennas or cellular antenna towers or are reconstructed for the purpose of accommodating cellular antennas or cellular antenna towers. This does not include structures erected for another primary purpose, but which subsequently have had cellular antennas attached to or located within them, without any reconstructions of the original structure.

"APARTMENT." A portion of a building consisting of a room or suite of rooms intended, designed, or used as a permanent residence by an individual or one family.

"APARTMENT HOUSE." See "DWELLINGS, MULTI-FAMILY."

"AUTOMOBILE LAUNDRY." A building or portion thereof, containing facilities for washing more than two automobiles, using production line methods. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this chapter, coin-operated devices, of the above nature, which are operated on a self-service basis shall be construed to be the same.

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

"AUTOMOBILE SERVICE CENTER." Any building or structure, where automotive service and repair is performed, providing all business activities are conducted within a completely enclosed building.

"BASEMENT." That portion of a building between floor and ceiling, which is so located that the vertical distance from the average level of the adjoining grade to the floor below is less than the vertical distance from the average level of the adjoining grade to the ceiling.

"BOARD OF ADJUSTMENT." The Board of Adjustment of the city.

"BUFFER AREA." Areas so planned or zoned which act as a buffering or separation area between two or more uses or structures not compatible, due to design, function, use or operation.

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

"BUILDING AREA" or "LOT COVERAGE BY BUILDING." That portion of a

lot or building site that can be legally occupied by the ground floor of the principal building or use and all permitted accessory uses.

"BUILDING DEPARTMENT." Employees of the city, including the City Inspector/Zoning Administrator, and necessary support staff.

"BUILDING PERMIT." A permit issued by the City Inspector/Zoning Administrator authorizing the construction or alteration of a specific building, structure, sign or fence.

"BUILDING SITE." One contiguous piece of land that meets all of the provisions of the city's ordinances, regulations, and codes for building on that site.

"BUILDING, ALTERATION OF." Any change, addition, or rearrangement in the walls, beams, columns, or girders of a building, or any addition to a building, or movement of a building from one location to another.

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

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

"BUILDING, HEIGHT OF." The vertical distance measured from average elevation of the finished grade adjoining the building at the front building line to the highest point of the roof surfaces, if a flat roof; to the deck line of a mansard roof; and to the average height level between eaves and ridge for gable, hip, and gambrel roofs.

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

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

"CANOPY" or "MARQUEE." A roof-like structure open on three sides serving the purpose of protecting pedestrians from rain, snow, sun, or hail, which structure projects from a building.

"CARPORT." See "GARAGE, PRIVATE."

"CELLULAR OR WIRELESS COMMUNICATION SERVICES." Personal communications accessed by means of cellular equipment and services.

"CELLULAR ANTENNA." Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional

antennas, such as whips, at frequencies on the electromagnetic spectrum as the FCC from time to time may designate, used for cellular telecommunications services and/or personal communications services, but not including such structures or devices when used for the broadcast of television or AM or FM radio stations or for citizens' band or amateur radio use. Examples of cellular telecommunications or personal communications services include, but are not limited to, cellular telephone, paging, public safety, data transmission, Specialized Mobile Radio, Enhanced Specialized Mobile Radio, and other commercial private radio services.

"CELLULAR ANTENNA TOWER." Any structure that is designed and constructed primarily for the purpose of supporting one or more cellular antennas. This includes guyed towers, lattice towers, monopoles, alternative cellular antenna tower structures, and towers taller than 15 feet constructed on the top of another building, along with any separate building on the lot used to house any supporting electronic equipment.

"CHILD DAY CARE CENTER." See "NURSERY SCHOOL."

"CITIZEN MEMBER." Any member of the Planning Commission or Board of Adjustment who is not an elected or appointed official or employee of the city.

"CITY INSPECTOR/ZONING ADMINISTRATOR." The official appointed by the City Council to administer and enforce the building codes.

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

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

"CLUB." An association of persons for some common objective usually jointly supported and meeting periodically.

"CO-LOCATION." Locating one or more cellular antennas for more than one provider on a single cellular antenna tower or alternative cellular antenna tower structure on a single lot.

"COMMISSION", "PLANNING COMMISSION", or "PLANNING AND ZONING COMMISSION." The City Planning and Zoning Commission.

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

(1) A statement of goals and objectives, principles, policies, and standards;

- (2) A land use plan element;
- (3) A transportation plan element;
- (4) A community facilities plan element; and
- (5) May include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, and others.

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

**"CONDITIONAL USE."** A use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location size, extent, and character of performance are imposed in addition to those imposed within this chapter.

**"CONDITIONAL USE PERMIT."** Legal authorization to undertake a conditional use, issued by the City Inspector/Zoning Administrator, pursuant to authorization by the Board of Adjustment, consisting of two parts:

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

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

**"CRITERIA."** Standards used as a means of judging or evaluating proposed development, site plans, and the like.

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

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

**"DISTRICT."** Synonymous with "ZONE."

**"DOCKAGE FACILITY."** A recreational facility along a river or other body of water that receives boats for recreational purposes, fueling or repairs.



"DORMITORY." A residence hall providing rooms for individuals or groups.

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

"DWELLING, ATTACHED, SINGLE-FAMILY." A dwelling unit which is attached to one or more dwelling units, each of which has independent access to the outside of the building to ground level and which has no less than two exterior walls fully exposed and not in common with the exterior walls of any other unit.

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

"DWELLING, MULTI-FAMILY." A residential building having three or more dwelling units, as separate housekeeping units.

"DWELLING, TRAILER." See "MOBILE HOME."

"DWELLING, TWO-FAMILY." A residential building designed, arranged, or used exclusively by two families, living independently of each other.

"DWELLING UNIT." A building or portion thereof providing complete housekeeping facilities for one person or one family.

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

"EATING ESTABLISHMENTS" or "RESTAURANTS." An establishment selling food items ordered from a menu and prepared on the premises for immediate consumption.

(1) "CARRY-OUT." A fast service restaurant which does not have sit-down eating arrangements and consumption of food on the premises is prohibited (or discouraged).

(2) "COMBINATION." A restaurant which provides any combination of sit-down, carry-out, or drive-in services.

(3) "DRIVE-IN." A restaurant where consumption of food on the premises is encouraged (in car, no seating facilities) and where food is provided by car-hop or self-service.

(4) "SIT-DOWN RESTAURANTS." Those restaurants which provide seating arrangements.

"ESSENTIAL SERVICES." The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply, or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety, or general welfare.

"FAMILY." Any number of persons living together in the same household, related by blood, marriage, adoption or personal affinity, who share common living facilities and who are self-sufficient or are attended to primarily by other members of the same household.

"FAMILY CHILD CARE HOME." An owner-occupied residence, whose owner is certified by the Commonwealth of Kentucky for the daytime care of up to and including 12 children, with or without compensation.

"FENCE." A structure made of wire, wood metal, masonry, or other material, including hedges.

"FILLING STATION." See "SERVICE STATION."

"FLOOD." A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters;
- (2) The unusual and rapid accumulation of runoff of surface waters from any source; and
- (3) Mudslides (such as mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

"FLOOD - 100-YEAR FREQUENCY." The highest level of flooding that, on the average, is likely to occur once every 100 years.

"FLOODPLAIN" or "FLOOD-PRONE AREA." Any normally dry land area that is susceptible to being inundated by water from any source.

"FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

"FLOODWAY ENCROACHMENT LINES." The lines marking the limits of floodways on the official zoning map.

"FLOOR AREA, GROSS."

- (1) The sum of the gross horizontal area of the several floors of a dwelling unit or units exclusive of porches, balconies, and garages, measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating dwelling units.

(2) For uses other than residential, the "GROSS FLOOR AREA" shall be measured from the exterior faces of the exterior walls or from the centerlines of walls or partitions separating those uses and shall include all floors, lofts, balconies, mezzanines, cellars, basements, and similar areas devoted to those uses.

(3) The "GROSS FLOOR AREA" shall not include floors used for parking space when that parking pertains to a residential, commercial, or office use in the same structure.

"FRATERNITY" or "SORORITY." A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of that institution.

"FRATERNITY/SORORITY HOUSE." A building used by a fraternity or sorority to provide living quarters for some or all members as well as to provide study, meeting, recreational, or other facilities.

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

"GARAGE, PRIVATE." A building used for the storage of vehicles and clearly accessory to the principal use permitted.

"HEIGHT, ANTENNA TOWER." The distance from the anchored base of the tower, whether on the top of another building or at grade, to the highest point of the structure, even if the highest point is the top of an antenna.

"HOME OCCUPATION." An accessory use customarily conducted entirely within a dwelling, as permitted herein and further meeting all requirements of this chapter.

"HOSPITAL (ANIMAL)." A building used by medical persons for treatment of animals generally on an in-patient basis and may have outside runs.

"HOSPITAL (HUMAN CARE)." A building used by medical persons for treatment of persons generally on an inpatient basis.

"HOTEL-MOTEL." A building to be used for the temporary abiding place for travels and transient guests.

"HOUSE TRAILER." See "MOBILE HOME."

"INOPERABLE VEHICLE." A vehicle not able to be used or operated, or function effectively including but not limited to, not having valid city, state, and insurance licenses or stickers.

"INTENSITY." The level or degree of activity in uses such as

residential, commercial, industrial, recreational, or parking. Intensity of measured by various characteristics, including, but not limited to: total area; number of items (such as chairs, occupancy, parking spaces, dwelling units, and the like); traffic generation; market (support) area; noise; and time (such as hours of operation, average length of stay, and the like).

"JUNK YARD." An open area where waste materials are bought, sold, exchanged, stored, shredded, baled, packed, disassembled, and the like, including, but not limited to, scrap metals, paper, rags, rubber tires, bottles, inoperative motor vehicles, and such.

"KENNEL." An establishment (building or area) where dogs or other animals are bred, trained, or boarded.

"LABORATORY, MEDICAL OR DENTAL." A building or a portion of a building used for providing bacteriological, biological, medical, x-ray, pathological, and similar analytical or diagnostic services to doctors or dentists.

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

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

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

"LOADING OR UNLOADING SPACE." A space used for the temporary standing, loading or unloading of vehicles.

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

"LOT AREA." The total area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by rights-of-way, the waters of any lake or river, and shall be in one zone only.

**"LOT, CORNER."** A lot situated at the intersection of two streets or on a curved street on which the interior angle of the intersection or curved street does not exceed 135 degrees.

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

**"LOT, DOUBLE FRONTAGE."** A lot other than a corner lot that has frontage on more than one street.

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

**"LOT LINE, FRONT."** The common boundary line of a lot and a street right-of-way line. In the case of a corner lot or a double frontage lot, the common boundary line and that street right-of-way line toward which the principal or usual entrance to the main building faces.

**"LOT LINE, REAR."** The boundary line of a lot which is most nearly opposite the front lot line of that lot. In the case of a triangular or wedge-shaped lot, for measurement purposes only, a line ten feet in length within the lot parallel to and at the maximum distance from the front lot line. In the case of a corner lot, providing that all requirements for yard space are complied with, the owner may choose either side not abutting a street as the rear lot line, even though it is not opposite the front lot line. Once the choice has been made, it cannot be changed unless all requirements for yard space can be complied with.

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

**"LOT OF RECORD."** A designated fractional part or subdivision of a block, according to a specific recorded plat or survey, the map of which has been officially accepted and recorded in the office of the appropriate county clerk.

**"LOT WIDTH."** The width of the lot as measured along the building front setback line.

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

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

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

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

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

**"MOBILE HOME."** Any coach, cabin, mobile home, or other mobile structure in a single unit which is intended, designed, and used for the fixed residence of a person, family, or a household, mounted upon wheels or supports, or supported or capable of being moved or transported by another vehicle. For the purpose of this chapter, the removal of wheels or the attachment of a foundation to the mobile structure shall not change its classification.

**"MOBILE HOME PARK."** Any lot, parcel, or premises, subdivided, designed, maintained, intended, or used to accommodate ten or more mobile homes, and meets the requirements as specified in this chapter. For the purpose of this chapter, any lot or premises used for the wholesale or retail sale of mobile homes shall not be included within this definition. Double width mobile structures, which are fabricated on individual chassis with wheels and are designed to be joined shall be considered a mobile home for purposes of this chapter.

**"MODULAR HOUSING."** Housing manufactured off-site, often mass-produced and designed so that sections are interchangeable. For purposes of this chapter, this definition shall not include mobile homes.

**"NKAPC."** Northern Kentucky Area Planning Commission.

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

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

**"NOXIOUS MATTER OR MATERIALS."** Matter or material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals as determined by the appropriate health department.

"NURSERY." Any building or lot or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

"NURSERY SCHOOL." Any building used for the daytime care or education of preschool age children with or without compensation, and including all accessory buildings and play areas.

"NURSING HOME." A health establishment which provides nursing care under the direction of a state-licensed physician to patients who, for reason of illness or physical infirmities, are unable to care for themselves properly.

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

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

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

"PARKING AREA, OFF-STREET." An open, surfaced area other than the rights-of-way of a street, alley, or place, used for temporary parking of motor vehicles.

"PARKING BUILDING OR GARAGE." A building or portion thereof designed, intended, and used exclusively for the temporary parking of motor vehicles which may be publicly or privately owned or operated.

"PARTICULATE MATTER." Any material, except uncombined water, which exists in a finely divided, suspended form as a liquid or solid at standard conditions.

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

"PERSONAL WIRELESS SERVICES." Commercial mobile services, unlicensed wireless services, and common-carrier wireless-exchange access services, including cellular services.

"PLANNED UNIT DEVELOPMENT (PUD)." A large scale, unified land development which permits a mixture of land uses, clustering of residential units of varying types, and common recreation/open spaces through flexible regulations which encourage creative design to preserve the natural features and foliage of the site.

"RAILROAD RIGHTS-OF-WAY." A strip of land within which the railroad tracks and auxiliary facilities for track operation are

normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

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

"REST HOME." Any building, institution, residence, or home used as a place of abode for the reception and care of three or more persons, who by reasons of age, mental, or physical infirmities are not capable of properly caring for themselves.

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

"SCHOOLS, PRIVATE." An institution or a place for instruction or education belong to and maintained by a private organization.

"SCHOOLS, PUBLIC." An institution or place for instruction or education belonging to and maintained under public authority and open to the public for their attendance.

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

"SERVICE STATION." Any building, structure, or land used for the dispensing, sale, or offering for sale at retail, of any automobile fuels, oils, or accessories and in connection with which is performed general automotive servicing other than body work.

"SIGN." Any combination of letters, pictures, characters, or other display used to identify or direct attention to some activity or direction.

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

(1) Only elsewhere than upon the premises where that sign is located or to which it is affixed; or

(2) As a minor and incidental activity upon the premises where the sign is located.

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



**"SIGN, BUSINESS."** A sign which directs attention to a business, profession, industry, to type of products sold, manufactured, or assembled, or to service or entertainment offered upon those premises and located upon the premises where that sign is displayed.

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

**"SIGN, FLAT."** Any sign which is attached directly, in rigid manner and parallel to the building wall.

**"SIGN, GROSS AREA OF."** The entire area within a single continuous perimeter enclosing the limits of a sign. However, the perimeter shall not include any structural elements lying outside the limits of the sign and not forming an integral part of the display.

**"SIGN, GROUND."** Any sign erected, constructed, or maintained directly upon the ground or upon uprights or braces placed in the ground, with a maximum permitted ground clearance of three feet.

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

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

**"SIGN, POLE."** Any sign affixed to a freestanding supporting pole, embedded in, and extending upward from the ground with a ground clearance exceeding three feet.

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

**"SIGN, WINDOW."** Any type of sign or outdoor advertising device which is attached to a window of any building, but shall not extend past the limits of the window. For the purpose of §§ 154.170 through 154.177, the word "WINDOW" shall be construed to mean any glass which comprises part of the surface of the wall regardless of its movability.

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

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

**"STORY, HALF."** A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of that story.

**"STREET, ARTERIAL."** Public thoroughfares which serve the major movements of traffic within and through the community as identified in the adopted Comprehensive Plan.

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

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

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

**"STREET, FRONTAGE ROAD"** or **"SERVICE OR ACCESS ROAD."** A street adjacent to a freeway, expressway, or arterial street separated therefrom by a dividing strip and providing access to abutting properties.

**"STREET, LOCAL."** Roadways which are designed to be used primarily for direct access to abutting properties and feeding into the collector street system.

**"STREET, PRIVATE."** A paved private roadway which affords access to abutting property for private users of that property. For the purposes of density calculations, a private street shall constitute the areas of its paved surface and sidewalks or the private right-of-way if designated on the recorded plat.

**"STREET, PUBLIC."** A public roadway, constructed within the boundaries of an officially deeded and accepted public right-of-way, which affords principal means of access to abutting property. For purposes of density calculations, a **"PUBLIC STREET"** shall constitute all of the area within the public right-of-way.

**"STRUCTURE."** Anything constructed or erected, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including such as: buildings, mobile homes, signs, fences, driveways, and the like.

**"SUBDIVISION."** The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a **"SUBDIVISION."** The

term includes "RESUBDIVISION" and when appropriate to the context shall relate to the process of "SUBDIVISION" or to the land subdivided.

"SWIMMING POOL, OUTDOOR."

(1) Any structure or device of any kind that is intended for swimming purposes, including but not limited to: any pool or tank of any material or type of construction, or any depression or excavation in any natural or constructed material, or any dike or berm of any material or type of construction; including all appurtenances to that structure or device and all appliances used in connection therewith; which structure or device is intended to cause, or would cause if completely filled, the retaining of water to a greater depth than 18 inches at any point. Any structure or device shall be deemed to be included within the meaning of the term structure as used in this chapter.

(2) Outdoor swimming pools shall be deemed to consist of the following classes: Private, semi-public, public, and commercial, as follows:

(a) "COMMERCIAL." A swimming pool operated for profit, open to the public upon payment of a fee.

(b) "PRIVATE." When consisting of any accessory structure appurtenant to a one-family or a two-family dwelling and used only as such by persons residing on the same lot and their private guests.

(c) "PUBLIC." A swimming pool operated by a unit of government for the general public.

(d) "SEMI-PUBLIC." When consisting of an accessory structure, appurtenant to a multiple dwelling, hotel, motel, church, school, club, and the like, and used only as such by persons who reside or are housed on the same lot or who are regular members of those organizations.

"TAVERN." Any establishment selling alcoholic and nonalcoholic beverages by the drink for consumption on the premises.

"TELECOMMUNICATIONS FACILITY." The lot, tract, or parcel of land that contains the telecommunications antenna, its support structure, any accessory buildings, and parking, and may include other uses associated with and ancillary to telecommunications transmission.

"TRAILER." See "CAMPING/VACATION MOBILE UNIT."

"USE, PERMITTED." A use which may be lawfully established, if permitted, in a particular zone provided it conforms with all requirements of that zone.

"VARIANCE." A departure from dimensional terms of the zoning regulation pertaining to the height, width, or location or structures, and the size of

yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

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

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

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

"ZONE." An established area within the city for which the provisions of this chapter are applicable. (Synonymous with the word "DISTRICT.") (Ord. passed 3-6-79; Am. Ord. 1998-7, passed 6-23-98; Am. Ord. 1998-12, passed 11-17-98; Am. Ord. 2000-12, passed 10-3-00; Am. Ord. 2002-14, passed 10-1-02; Am. Ord. 2003-18, passed 8-5-03)

§ 154.007 SCHEDULE OF FEES.

The city, by ordinance, shall establish a schedule of fees, charges, and expenses for applications, permits, appeals, and all other matters pertaining to the city's zoning ordinance. (Ord. 1978-15, passed 9-5-78; Am. Ord. 1993-9, passed 4-20-93)

Cross-reference:

Zoning permits, appeals, applications, § 150.18

ESTABLISHMENT OF ZONES

§ 154.020 CLASSIFICATION OF ZONES.

For the purpose of this chapter, the city may be divided into the following zones:

CO	Conservation Zone
R-O	River-Oriented Zone
R-1BC	Residential One BC Zone
R-1C	Residential One C Zone
R-1D	Residential One D Zone
R-1E	Residential One E Zone
R-1G	Residential One G Zone
R-1H	Residential One H Zone
R-1JJ	Residential One JJ Zone
RMHP	Residential Mobile Home Park Zone
R-2	Residential Two Zone

R-3	Residential Three Zone
R-4	Residential Four Zone
PUD	Planned Unit Development Overlay Zone
RCD	Residential Cluster Development Zone
CBD	Central Business District Zone
I-1	Industrial One Zone (Ord. 920.9, passed 10-7-80; Am. Ord. 1988-1, passed 1-19-88)
NCD	Neighborhood Commercial District Zone (Ord. 920.28, passed 4-21-87)
I-2	Industrial Two Zone (Ord. 1989-26, passed 1-2-90)
MLU	Mixed Land Use Zone (Ord. 1990-5, passed 5-15-90)

(Ord. passed 3-6-79)

§ 154.021 OFFICIAL ZONING MAP.

(A) The zones are bounded and defined as shown on the map entitled Official Zoning Map of the City of Dayton, Kentucky, and shall so remain on file in the offices of the Northern Kentucky Area Planning Commission (NKAPC). A copy shall also be on file in the office as designated by the City Council.

(B) Changes on zoning map.

(1) Where changes are made in zone boundaries in accordance with the provisions of this chapter and state statutes, these changes shall be made on the official zoning map promptly after the amendment to this chapter has been approved by the City Council. The NKAPC shall be provided a certified copy of the amendment to this chapter in order that the official zoning map may be changed.



(2) No changes of any nature shall be made on the official zoning map which are not in conformity with the procedures set forth in this chapter.

(C) In the event that the official zoning map becomes damaged, destroyed, lost, or is deemed necessary to be replaced due to the age of the map or major corrections in location of rights-of-way or subdivisions, the City Council may cause to have prepared and adopt a new official zoning map which shall supersede the prior official zoning map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereto.  
(Ord. passed 3-6-79)

§ 154.022 RULES FOR INTERPRETATION OF ZONE BOUNDARIES.

Rules for interpretation of zone boundaries shown on the official zoning map are as follows:

(A) Boundaries indicated as approximately following the rights-of-way of a street, alley, or other public way shall be construed to follow those rights-of-way lines and when the rights-of-way are officially vacated, the zones bordering those rights-of-way shall be extended out to the centerline of the vacated rights-of-way.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

(C) Boundaries indicated as approximately following political boundary lines shall be construed as following the boundary lines.

(D) Boundaries indicated as approximately following the rights-of-ways of railroad lines shall be construed as following the lines.

(E) Boundaries indicated as approximately following the centerlines of streets, streams, rivers, ditches, gullies, ravines, or other bodies of water shall be construed to follow the centerlines.

(F) Boundaries indicated as approximately following a topographic elevation, determined by the scale of the map shall be construed as following the ground elevation lines.

(G) Boundaries indicated as approximately parallel to features indicated in divisions (A) through (F) of this section, shall be construed as parallel to those features. Boundaries indicated as approximate extensions of features shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map, if an accurate legal description cannot be determined.  
(Ord. passed 3-6-79)

§ 154.023 AREAS NOT INCLUDED WITHIN ZONES.

(A) When an area is annexed to or otherwise becomes a part of the city, or in any case where property within the city has not been

included within a zone, either through error or omission, this property shall be officially included in the C-O Zone until otherwise classified.

(B) Within 60 calendar days after an annexed area officially becomes a part of the city, or an error or omission is recognized, the City Council shall take action to initiate a zone change review of the area in question, as per §§ 154.225 through 154.228, to insure its appropriate zoning classification in conformity with the officially adopted Comprehensive Plan.

(Ord. passed 3-6-79)

#### GENERAL USE REGULATIONS

##### § 154.035 PURPOSE.

General regulations shall apply to all districts.

(Ord. passed 3-6-79)

##### § 154.036 APPLICATION OF ZONING REGULATIONS.

(A) Except as herein provided, no part of any yard, or other open space, or off-street parking or loading or unloading space about or in connection with any building, structure, or use permitted by this chapter shall be considered to be part of a required yard, or other open space, or off-street parking or loading or unloading space for any other building, structure or use.

(B) Except as herein provided, every structure hereafter erected shall be located on a lot as herein defined and in no case shall there be more than one principal building and permitted accessory structure on one lot, nor shall any building be erected on any lot which does not abut a public right-of-way.

(C) Except as herein provided, accessory structures including utility buildings and storage sheds, and accessory uses shall not be permitted within any required minimum front yard or side yard (on each side of the lot) in any zone. Accessory structures including utility buildings and storage sheds, and accessory uses may be permitted to extend into the minimum rear yard areas, as defined herein, in all zones, provided that those structures are set back from the rear lot line a minimum of the distance equal to the distance of the side yard setback of the zone in which the property is situated, and required minimum side yard clearances are maintained. In addition, where rear yards are adjacent to an alley, garages shall be required to be set back only five feet from the rear lot line unless the side yard setback distance in the zone is less than five feet, and required minimum side yards are maintained. Location of off-street parking, loading, or unloading areas, fences, and signs are governed by their respective sections, as provided herein.

(D) Permitted obstructions in minimum required yards. Except as herein provided, the following shall not be considered to be obstructions when located in the required minimum yards specified:



(1) In all minimum required yards. Driveways as provided for in § 154.106(C); private walkways; steps four feet or less above grade projecting not more than four feet into the minimum required yards which are necessary for access to a lot from a street or alley; fire escapes and chimneys projecting not more than 178 inches into the minimum required yards; arbors and trellises; flag poles; bird baths; trees; plants; shrubberies; ornaments, utility poles and wires; and outdoor furniture; fences and walls, subject to the requirements in §§ 154.135 through 154.156, and off-street parking as provided for in §§ 154.105 through 154.110.

(2) In minimum front yard depths. Bay windows and ornamental porches (not more than three feet wide) projecting three feet or less into the minimum required yard; overhanging eaves and gutter projecting not more than three feet into the minimum required front yard; air conditioning equipment; and awnings and canopies extending not more than four feet into the minimum required front yard.

(3) In minimum rear yard depths. Bay windows, overhanging eaves, and gutters, and air conditioning equipment projecting not more than three feet into the minimum required rear yard; awning and canopies provided they not extend more than ten feet into the minimum required rear yards.

(4) In minimum side yard width. Air conditioning equipment, excluding compressor for central air conditioning unit; and overhanging eaves and gutters projecting not more than 18 inches into the minimum required side yard; awning and canopies providing that they extend not more than two feet into the minimum required side yard.

(E) Except as herein provided, no new use may be created nor may any land or building be used for any use other than those uses permitted in the zone in which the land or building is located.

(Ord. passed 3-6-79; Am. Ord. 1989-14, passed 9-5-89; Am. Ord. 1997-7, passed 2-4-97) Civil offense, see § 154.998

§ 154.037 REDUCTION IN BUILDING SITE AREA.

Except as herein provided, no lot, in any zone, may be reduced in area below the minimum lot area as specified herein for the zone within which that lot is located, except where reduction has been brought about by the expansion or acquiring of rights-of-way for a street. If, however, by some means (such as misinterpretation of law, erroneous lot descriptions, and the like) the lot area is reduced below the minimum required lot area as specified herein for the zone, all of the uses and structures contained on the remaining portion of the area shall be subject to compliance with all other provisions of this chapter. In the event that the uses and structures cannot comply in those circumstances, the property owner shall seek relief from the Board of Adjustment, as provided for in § 154.245.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.038 INTERFERENCE WITH TRAFFIC SIGNALS.

No sign, structure, tree, planting, or vegetation or any portion thereof shall protrude over or into any street so as to create confusion around, or otherwise interfere with, traffic signals of any kind.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.039 VISION CLEARANCE.

No type of structure, vehicle, tree, planting, vegetation, sign, or fence, or any type of obstacle or any portion thereof shall be placed or retained in a manner which would create a traffic hazard or would obstruct the vision clearance at corners, curb cuts, or railroad crossings in any zone, as determined by the City Inspector/Zoning Administrator.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.040 FRONTAGE ON CORNER LOTS AND DOUBLE FRONTAGE LOTS.

On lots having frontage on more than one street, the minimum front yard depth shall be provided for each street, in accordance with the provisions of this chapter.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.041 UTILITIES LOCATION.

Electrical transformer stations, gas regulator stations, sewage and water treatment plants, pumping stations, standpipes for public water supply, and other similar utility uses may be located in any zone subject to the approval of the Board of Adjustment, as set forth in § 154.049. The location of these facilities shall be in accordance with the state statutes, all other pertinent regulations, and the following requirements:

(A) These facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the element is a part.

(B) A building or structure, except an enclosing fence, shall be set back the necessary distance from any property line, as established by the Board of Adjustment, to ensure proper integration with surrounding development.

(C) These facilities shall be enclosed by a protective fence as regulated by §§ 154.135 through 154.156.

(D) Open spaces on the premises shall be suitably landscaped and maintained and a screening area according to § 154.052 may be required in and along any yard.

(E) The storage of vehicles and equipment on the premises, unless enclosed or screened, shall be prohibited.

(F) The surrounding area shall not be adversely affected by, and shall be protected from noise, odor, glare, dust, gas, smoke, and vibration by any suitable means and conditions as the Board of Adjustment may specify. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.042 RAILROAD RIGHTS-OF-WAY LOCATION.

Railroad rights-of-way, exclusive of those uses as marshalling yards, spur lines, passenger and freight terminals, maintenance shops, fueling facilities and round houses, may be located in any zone of this chapter providing the railroad rights-of-way meet the requirements of those sections of the state statutes and other pertinent state regulations.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.043 EXCAVATION, MOVEMENT OF SOIL, TREE REMOVAL, AND EROSION AND SEDIMENTATION CONTROL.

(A) No governmental entity or other person or entity shall strip, excavate, fill, or otherwise move soil, trees, or other vegetation except for minor changes such as: the filling of small depressions, removal of vegetation which is diseased or endangering the public safety, and the like without first insuring that all requirements of the subdivision regulations, if applicable, have been fulfilled and then obtaining a permit from the City Inspector/Zoning Administrator. All fill must be of suitable material and approved by the City Inspector/Zoning Administrator.

(B) The City Inspector/Zoning Administrator may issue the required permits after determining that the resulting change in grade or removal of trees and other vegetation in the affected area will be in conformance with all applicable provisions of this chapter. The provisions of this section shall not be construed to prohibit normal excavation or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this chapter.

(C) Erosion and sedimentation control. Erosion and sedimentation controls for excavation, movement of soil, and tree removal, shall be planned and applied according to the following:

(1) The smallest practical area of land shall be exposed at any one time during development.

(2) When land is exposed during development, the exposure shall be kept to the shortest practical period of time.

(3) Temporary vegetation or mulching shall be used to protect critical areas exposed during development.

(4) Sediment basins (debris basins or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.

(5) Provisions shall be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development.

(6) Permanent final vegetation and structures shall be installed as soon as practical in the development.

(7) The development shall be fitted to the topography and soils so as to create the least erosion potential.

(8) Wherever feasible, natural vegetation shall be retained and protected.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.044 UNSIGHTLY OR UNSANITARY STORAGE.

No rubbish, salvage materials, junk, or miscellaneous refuse shall be openly stored or kept in the open and weeds shall not be allowed to go uncut within any zones when the same may be construed to be a menace to public health and safety by the appropriate health department, or have a depressing influence upon property values in the neighborhood.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 1997-14, passed 5-6-97) Civil offense, see § 154.998

§ 154.045 JUNKYARD LOCATION.

No junkyards shall be permitted to locate within the city.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, § 154.998

§ 154.046 SPECIAL REQUIREMENTS GOVERNING HOME OCCUPATIONS.

Home occupations shall include the use of the premises for services rendered other than by direct contact with customers at that location (for example, where the bulk of the business is by telephone and actual work is performed in home and customer is contacted in other than that location). The following requirements shall apply to home occupations when permitted herein:

(A) No persons other than members of the family residing in the premises shall be engaged in the operation.

(B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 25% of the gross floor area of any one floor of the dwelling unit (including the basement or cellar) shall be used in the conduct of the home occupation.

(C) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling unit, except that a name plate as regulated by § 154.170 through 154.177, shall be permitted.

(D) No home occupation shall be conducted in any accessory building, nor shall there be any exterior storage of any materials on the premises.

(E) There shall be no commodity sold upon the premises in connection with the home occupation.

(F) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood.

(G) No equipment or process which creates noise, vibration, flare, fumes, odors, or electrical interference detectable to the normal senses off the lot, shall be used in the home occupation. In the case of electrical interference, no equipment or process which creates visual or

DAYTON - ZONING CODE

60B

audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises, shall be used. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.047 CONTINUING EXISTING USES AND STRUCTURES (NONCONFORMANCE).

(A) Nonconforming lots of record.

(1) Any lot of record which does not meet the requirements of this chapter shall be considered a nonconforming lot of record.

(2) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of that parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

(3) Where a single nonconforming lot of record exists having a lot area less than required by the particular zone district wherein the lot is located, development may be permitted on the lot, provided: the lot is located on an existing and improved public street; the lot is of separate ownership from all adjacent and contiguous parcels; the adjacent and contiguous parcels exist as developed building lots or dedicated street right-of-ways precluding acquisition of additional area to achieve conformity; and development proposed on the lot is in conformance with all other requirements of this chapter. Where a dimensional variance from any minimum yard, setback, and the like is necessary to develop on the lot, an application for dimensional variance shall be submitted for review and approval by the Board of Adjustment in accordance with §§ 154.240 through 154.249.

(B) Nonconforming uses.

(1) Continuance. Except as herein provided, the lawful use of any structure or land existing at the time of the adoption of this chapter may be continued although that use does not conform to the provisions of this chapter; it shall become a legal nonconforming use. However, no nonconforming use or structure may be enlarged or extended beyond its area or use at the time it becomes a legal nonconforming use, unless and until the use is brought into conformance with all provisions of this chapter.

(2) Change from one nonconforming use to another.

(a) The lawful use of a building or premises existing at the time of adoption of this zoning code may be continued, although such use does not conform to the provisions of such zoning code, except as otherwise provided herein.

(b) The Board of Adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the Board permit a change from one nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification. However, the Board may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

(KRS 100.253 (1), (2))

(3) Termination. In all cases, the Board of Adjustment shall hold a public hearing in accordance with the applicable requirements of § 154.242. Following that hearing, the Board may terminate the right to operate a nonconforming use based on any of the following conditions, and if the decision is to do so, the Board shall state its bases, in writing, for that determination.

(a) Nonoperative, nonused, or abandoned for a period of 12 consecutive months providing that the Board of Adjustment may allow the continuation of that nonconforming use if it is determined that reasons for the nonuse were beyond the owner's/operator's control.

(b) Whenever the structure, in which the nonconforming use is operated, is damaged in any manner whatsoever and the cost of repairing such damage exceeds 50% of the market value of that structure in which the nonconforming use is operated and a determination is made by the Board of Adjustment that this structure should not be reconstructed.

(c) Whenever the structure, in which the nonconforming use is operated, becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing that structure in lawful compliance with the applicable ordinance exceeds 50% of the market value of that structure as of the date of the official order under the applicable ordinance and a determination is made by the Board of Adjustment that this structure should not be reconstructed.

(d) Whenever the nonconforming use is determined to be detrimental or injurious to the public health, safety, or general welfare.

(4) Zone change. The foregoing provisions shall apply to uses which become legally nonconforming due to zone changes which take place thereafter.

(C) Nonconforming structures.



(1) Continuance. Except as herein provided, any lawful nonconforming structure existing at the time of adoption of this chapter, may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this chapter.

(2) Termination. In all cases the Board of Adjustment shall hold a public hearing in accordance with the applicable requirements of § 154.242. Following that hearing, the Board may terminate the right to operate a nonconforming structure based on any of the following conditions, and if the decision is to do so, the Board shall state its bases, in writing, for that determination.

(a) Whenever the nonconforming structure is damaged in any manner whatsoever and the cost of repairing such damage exceeds 50% of the market value of that structure and a determination is made by the Board of Adjustment that the structure should not be reconstructed.

(b) Whenever the nonconforming structure becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing the nonconforming structure in lawful compliance with the applicable ordinance exceeds 50% of the market value of the nonconforming structure as of the date of the official order under the applicable ordinance and a determination is made by the Board of Adjustment that the structure should not be reconstructed.

(c) Whenever a nonconforming structure is determined to be detrimental or injurious to the public health, safety, or general welfare.

(3) Zone change. The foregoing provisions shall apply to structures which become legally nonconforming due to zone changes which take place thereafter.

(D) Repairs and maintenance.

(1) On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement or nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the building, as it existed at the time of passage or amendment of this chapter which rendered it nonconforming, shall not be increased.

(2) Nothing in this chapter shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof declared to be unsafe by any official charged with protecting the public safety, except for the conditions as stated in divisions (B) (3) (b) or (C) (2) (b) of this section.

(E) Nonconforming signs.

(1) Continuance. Except as herein provided, any lawful nonconforming sign existing at the time of adoption of this chapter may be continued; however, no sign shall be changed in any manner unless it is changed in compliance with all provisions of this chapter.

(2) Termination. In all cases, the Board of Adjustment shall hold a public hearing in accordance with the applicable requirements of § 154.242. Following that hearing, the Board may terminate the right to operate a nonconforming sign based on any of the following conditions and, if the decision is to do so, the Board shall state its bases, in writing, for determination and the property owner shall be responsible to remove the sign at the owner's expense. If the sign is not removed within 30 days of the date of the Board's action to terminate the sign, the city may remove the sign and may bill the owner, or attach the cost of the service to the annual property tax bill:

(a) Not meeting the requirements for sign regulations, as regulated in §§ 154.170 through 154.177.

(b) Nonuse or abandonment of a nonconforming sign for a period of 12 consecutive months.

(3) Zone change. The foregoing provisions shall also apply to signs which become legally nonconforming due to zone changes which take place thereafter.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.048 EXCEPTIONS AND MODIFICATIONS.

(A) Exceptions to height limits. The height limitations of this chapter shall not apply to such things as: church spires, various types of towers, smoke stacks, other related structures and necessary mechanical appurtenances, and the like provided their construction is in accordance with existing or hereafter adopted ordinances of the city, and is acceptable to the Federal Aviation Agency and the Federal Communications Commission.

(B) Front yard variance. Where the average depth of existing front yards within 300 feet of the lot in question and within the same block front, is greater than the minimum front yard depth required by this chapter, the required minimum front yard depth on the lot shall be modified to be the average depth of the existing front yards.

(Ord. passed 3-6-79)

(C) Exception to area and yard regulations. Where existing or proposed development within the R-3 Zone is to be subdivided, the minimum area and yard requirements may be less than required by this chapter provided that:

(1) The maximum density of the zone is not exceeded or the minimum site for the total development must not be less than that required by the respective zone.

(2) A site plan, as required by the applicable requirements of § 154.054, including the proposed area and yard requirements for the development, is submitted for review and approval by the Planning Commission. (Am. Ord. 920-17, passed 9-18-84)

§ 154.049 CONDITIONAL USES.

(A) Determination. Subject to the requirements of § 154.247, the Board of Adjustment may authorize a conditional use to be located within any zone in which a conditional use is permitted, if the evidence presented by the applicant is such as to establish, beyond any reasonable doubt:

(1) That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community; and

(2) That the use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

(B) Conditional use permits. In accordance with KRS 100.237, the Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The Board of Adjustment may approve, modify, or deny any application for a conditional use permit. If it approves a permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any conditions shall be recorded in the Board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, the conditional use permit shall be recorded in the office of the County Clerk and one copy of the permit attached to the deed for the property for which it is issued. The Board shall have power to revoke conditional use permits, or variance 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 that cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this chapter, the building code, housing code, and other regulations of the city.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the Board or within 12 consecutive calendar months from date of issuance, a conditional use permit shall not revert to its original designation unless there has been a public hearing. Exercised as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement has been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or

completed. When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) (a) The City Inspector/Zoning Administrator shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permits.

(b) If the landowner is not complying with all of the conditions listed on the conditional use permit, the City Inspector/Zoning Administrator shall report the fact in writing to the Chairperson of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the Chairperson of the Board of Adjustment.

(c) The Board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the Board of Adjustment finds that the facts alleged in the report of the City Inspector/Zoning Administrator are true and that the landowner has taken no steps to comply with time between the date of the report and the date of the hearing, the Board of Adjustment may authorize the City Inspector/Zoning Administrator to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the Board of Adjustment has completed a conditional use permit and all the conditions required are of that type that they can be completely and permanently satisfied, the City Inspector/Zoning Administrator, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the County Clerk, as required in KRS 100.329. Thereafter the use, if it continues to meet the other requirements of this chapter, will be treated as a permitted use.

(Ord. passed 3-6-79)

§ 154.050 BUILDING REGULATIONS; WATER AND SANITARY SEWER SERVICE.

(A) Building regulations. All structures shall be designed, erected, or altered in accordance with the city's housing and building codes.

(B) Water and sanitary sewer service. No building may be constructed in any zone unless that building is connected to a public water and central sanitary sewer system of adequate capacity and design, and approved by proper authorities.

(C) Where existing buildings are presently unserved by a public sanitary sewer system and are located within a reasonable distance of an existing or newly extended sanitary sewer line, as determined by the City Council or the Northern Kentucky District Board of Health, that building shall be required to connect with the public sanitary sewer system and the private sewage disposal system shall be prohibited. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.051 MOVING BUILDINGS.

(A) Requirements. No building, structure, or improvement shall be moved or set from or upon land located in any area or transported upon any public street in the city, until and unless both:

(1) A building permit to move and set; and

(2) A transport permit has been obtained, and the building, structure, or improvement complies with the provisions of this section.

(B) Compliance. All buildings, structures, and improvements shall comply with the city's housing and building codes, and all other applicable codes and regulations.

(C) Procedure; permits. The applicant shall submit to the City Inspector/Zoning Administrator the following:

(1) An application for a building permit requesting an inspection of the building, structure, or improvement to be moved or set;

(2) A plot plan, footing and foundation plan, and construction plans for any new construction;

(3) A statement from the applicable legislative body insuring that all past and current taxes have been paid.

(4) Upon receipt of the foregoing items, the City Inspector/Zoning Administrator shall inspect the building, structure, or improvements, and the proposed location where same will be set within the city and determine if the proposed development will comply with all applicable codes and regulations.

(5) The move and set shall be referred to the City Inspector/Zoning Administrator for approval or denial of compliance with this chapter.

(6) Upon approval by the City Inspector/Zoning Administrator, a building permit to move and set shall be issued. The City Engineer shall then be notified of same and shall issue a transport permit. The City Engineer or his agent shall designate the route to be traveled.

The transport permit is good only for the date specified on permit. The transport permit will not be issued if 90 consecutive calendar days or more have lapsed from the date of inspection by the City Inspector/Zoning Administrator. The transport permit provided for in this section shall not be in lieu of any other permits which may be required by the city.

(7) No transport or building permit to move and set shall be issued until the applicant has first obtained the necessary permits from the telephone company, public utilities companies, railroad companies, and the Kentucky Department of Transportation, and the county road supervisor, whichever are applicable.

(D) Fees.

(1) There will be a building investigation fee as established by the City Council to cover the costs of investigation and inspection for determining the structural soundness of buildings, structures, or improvements to be moved, the fee is payable in advance and must accompany the application provided for herein. The inspection shall determine what will be necessary to bring buildings, structures, or improvements into compliance with all applicable codes and regulations should the building not comply. This fee is not returnable. If buildings, structures, or improvements are found to be in compliance with the city's applicable codes and regulations, a building permit to move and set will be issued and the fee will be based on the cost of new foundations and all work necessary to place the building or structure in its completed condition in the new location. This fee is in addition to the building investigation fee.

(2) No person, corporation, or company shall transport, move, or set any building, structure, or improvement in the jurisdiction of the City Council, until and unless that person, corporation, or company shall post with the City Inspector/Zoning Administrator a good and sufficient indemnity bond in the amount of \$5,000 in favor of the city. The bond shall be made by a surety corporation authorized to do business in the state.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.052 SCREENING AND DUMPSTER AREA.

Screening areas shall be provided for the purpose of minimizing the friction between incompatible land uses and improving the aesthetic and functional quality of new development.

(A) Screening area requirements. All screening areas shall be approved by the City Inspector/Zoning Administrator (or Planning Commission, where required by this chapter) according to a submitted site plan as regulated by the applicable requirements of § 154.054.

Screening areas shall be designed, provided, and maintained according to the following:

(1) Where vegetative or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question, every effort shall be made to retain those conditions. In those cases, additional screening may not be required, provided that provision is made for maintenance of the condition to the satisfaction of the City Council.

(2) Wherever screening is required in this chapter, all trees shall be evergreen.

(3) All trees shall be a minimum of ten feet in height when planted, unless otherwise required according to the submitted site plan.

(4) All hedges shall be a minimum of three feet in height when planted unless otherwise required according to the submitted site plan.

(5) All trees, shrubs, and other planting materials shall be living plants (not artificial) and shall be suitable to the Northern Kentucky area and the specific conditions of the site in question, such as but not limited to, soil conditions, slopes, reduction of noise pollution, maintenance necessary, and the type of screening needed. The City Council may require review of the proposed screening plan from the U.S. Soil Conservation Service, or the applicable County Agricultural Extension Service.

(6) Screening areas are to be provided within the required minimum yard setback as required in each district's regulations. In the case where property is located adjacent to another governmental jurisdiction, screening requirements shall be the same as if the zone in the adjacent legislative body (or a zone containing the most similar types of permitted uses as provided herein) were located within this city.

(7) In the case where a zoning map change occurs resulting in adjacency to a different zoning district than was previously the case, and where development has already occurred on property in the unchanged district, required additional setbacks and screening requirements (as required in each district's regulations) shall be provided for the property in the district where the zone change occurred.

(B) Provision and maintenance. Required screening areas shall be provided as a condition of development by the owner or developer. All required screening (including the planting of trees and other vegetation) shall be maintained by the property owner.

(C) Inclusion on site plan or subdivision improvement drawings. Areas to be set aside as screening areas shall be identified on the required site plans, as regulated in § 154.054, and where applicable, on the improvement drawings as regulated by the subdivision regulations. Sufficient bond, adequate to cover the required improvements as determined by the City Council, may be required to be posted. It shall be unlawful to occupy any premises unless the required screening has been installed in accordance with the requirements as provided herein.

(D) Dumpster screening. Dumpsters, including grease traps and compactors, shall be designed, constructed and maintained according to the following:

(1) Dumpsters shall be located behind the principal structure a minimum of two feet from the lot line.

(2) Dumpsters shall have an enclosing lid or cover.

(3) Dumpster location and details of construction shall be shown on site plans (see § 154.054).

(4) Dumpsters shall be located within an enclosure that meets the following design standards:

(a) The enclosure shall be a minimum of 12 feet by 12 feet in size.

(b) The pad of the enclosure shall be constructed of six inches of reinforced concrete pavement that shall extend six feet beyond the gate to support the front axle of a refuse vehicle.

(c) The enclosure shall be a minimum of three sides with a gate on the fourth side.

(d) The enclosure shall be provided with a self latching gate.

(e) The minimum height of the enclosure walls shall be six inches taller than the dumpster.

(f) The enclosure walls shall be solid and suitable for outdoor use. The enclosure design must be compatible with the principal structure.

(g) Bollards shall be installed at the opening to prevent damage to the enclosure.

(h) This does not apply to existing dumpsters, unless they are relocated.

(Ord. passed 3-6-79; Am. Ord. 2010-11, passed 9-7-10)



§ 154.053 OUTDOOR SWIMMING POOLS.

(A) Private swimming pools. All private swimming pools shall be regulated according to the following requirements:

(1) Except as herein provided, no swimming pool or associated equipment shall be permitted within any minimum front, side, or rear yard depth, nor within any public utility right-of-way easement. Above ground pools, including the apparatus and equipment pertaining to the operation of the swimming pool, shall be permitted within any minimum side or rear yard depth of the lot or easement; provided, however, that if at any time construction, repair, or maintenance is necessary within the easement, removal of the pool will be at the owner's expense.

(2) Swimming pools which are constructed in-ground shall be required to have a fence or wall, including a self-closing or self-locking door or gate around the pool or the property on which the pool is located. The fence or wall shall be at least four feet, but not more than seven feet in height (only classes 1, 2, 3, 4, or 5 fences are permitted, as regulated in §§ 154.135 through 154.145); these fences or walls shall be constructed in a manner so that a small child may not reach the pool from the street or any adjacent property without climbing the fence or wall or opening the gate or door.

(3) (a) Swimming pools which are located above ground shall be required to have a fence or wall, including a self-closing or self-locking door or gate around the pool or property upon which the pool is located. The fence or wall shall be at least four feet, but not more than seven feet in height (only classes 1, 2, 3, 4, and 5 are permitted as regulated by §§ 154.135 through 154.145). The fence or wall shall be constructed in a manner so that a small child may not reach the pool from the street or any adjacent property without scaling a fence or wall or opening the gate or door. The wall may be the wall of the above ground pool providing that the wall is at least four feet in height above the surrounding ground level.

(b) Any access to above ground pools by means of a ladder or stairway shall be provided with a self-closing or self-locking door or gate, or some other device that would prevent a small child from gaining access to the pool by means of a ladder.

(4) Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.

(5) All swimming pools and associated equipment shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the city. Water used in the swimming pool which is obtained from other than a public source, shall be approved by the Northern Kentucky District Health Department.

(6) All swimming pools existing at the time of adoption of this chapter which are unprotected by a surrounding fence or wall, including gates or doors, as regulated herein, shall be required to comply with the provisions of this chapter within 60 days after its adoption.

(B) Public, semi-public, and commercial swimming pools. All public, semi-public, and commercial swimming pools shall be regulated according to the following requirements:

(1) Except as herein provided, no swimming pool and associated equipment shall be permitted within any required yards or within the limits of any public utility right-of-way easement.

(2) The swimming pool or the property on which the pool is located shall be surrounded by a fence or wall, including a self-closing and self-latching door or gate (only classes 1, 2, 3, 4, and 5 fences are permitted, as regulated by §§ 154.135 through 154.145). The fence or wall shall be at least five feet in height, but not exceeding the height as permitted herein, and of that construction that a small child may not reach the pool from the street or from adjacent property without climbing the wall or fence or opening a door or gate.

(3) Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.

(4) All swimming pools and associated equipment of the swimming pool shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the legislative body. Water used in the operation of the swimming pool, which is obtained from a public source, shall be approved of by the Northern Kentucky District Health Department.

(5) No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent residential properties.  
(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2008-5, passed 4-15-08; Am. Ord. 2010-10, passed 9-7-10; Am. Ord. 2014-20, passed 12-2-14) Civil offense, see § 154.998

§ 154.054 SITE PLAN REQUIREMENTS.

(A) No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel in zones where a site plan is required, except in accordance with the regulations of this section and an approved site plan as hereinafter required. Before a permit is issued for construction, one copy of the site plan of the area at a scale no smaller than one inch to 100 feet shall be filed with the Northern Kentucky Area Planning Commission and one copy with the City Inspector/Zoning Administrator. The site plan shall identify and locate, where applicable, the information as listed in § 154.055(B).

(B) All site plans shall be reviewed by the Planning Commission or its duly authorized representative, and the factual determination approving or rejecting those plans shall be made in accordance with requirements of this and other applicable sections of this chapter, and the Comprehensive Plan for the city.

(C) All site plans approved shall be binding upon the applicants, their successors, and assigns and shall limit the development to all conditions and limitations established in those plans.

(D) Amendments to plans may be made in accordance with the procedure required by this chapter subject to the same limitations and requirements as those under which those plans were originally approved.

(E) After final approval, the subject area may be developed in phases, provided all of the procedures required by the Planning Commission or its duly authorized representative have been complied with.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.055 PLAN REQUIREMENTS; STAGES I, II, AND RECORD PLAT.

(A) Stage I - Plan Requirements. The Stage I Plan shall identify and provide the following information in this division (A).

(1) Plans of the subject property shall be drawn to a scale not smaller than one inch equals 100 feet showing:

(a) The total area in the project.

(b) The present zoning of the subject property and all adjacent properties.

(c) All public and private rights-of-way and easement lines located on or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned.

(d) Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed five feet.

(e) Delineation of all existing and proposed residential areas in the project with a statement indicating net density of the total project:

1. Detached housing. Location and approximate number of lots, including a typical section identifying approximate lot sizes and dimensions, and setback and height of buildings.

2. Attached housing. Location and description of the various housing types (such as townhouse, four-plex, garden apartment, and the like) including approximate heights of typical structures, and the approximate number of units by housing type.

(f) Delineation of all existing and proposed nonresidential uses in the project:

1. Commercial uses. Location and type of all uses including approximate number of acres, gross floor area, and heights of buildings.

2. Open space-recreation. The approximate amount of area proposed for common open space, including the location of recreational facilities, and identification of unique natural features to be retained.

3. Other public and semi-public uses. Location and type of all uses, including approximate number of acreage, and height of buildings.

(g) Location of proposed pedestrian walkways, identifying approximate dimensions.

(h) Location of proposed streets, identifying approximate dimensions of pavement, right-of-way widths, and grades.

(i) Location of all existing and proposed water, sanitary sewer, and storm drainage lines, indicating approximate pipe sizes. Indication should also be given regarding the provision of electric and telephone service.

(j) Certification from appropriate water and sewer agencies that services will be available.

(k) Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed methods of handling those problems.

(l) Other information that may be determined necessary for description or to insure proper integration of the proposed project in the area.

(m) A schedule of development, including the staging and phasing of:

1. Residential area, in order of priority, by type of dwelling unit;

2. Streets, utilities, and other public facility improvements, in order of priority;

3. Dedication of land to public use or set aside for common ownership; and

4. Nonresidential buildings and uses, in order of priority.

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

(B) Stage II - Plan Requirements. The Stage II Plan shall conform to the following requirements:

(1) Plans of the subject property shall be drawn to a scale of not smaller than one inch equals 100 feet, that identifies and provides the following information:

(a) The existing and proposed finished topography of the subject property shown by contours with intervals not to exceed five feet. Where conditions exist that may require more detailed information on the proposed topography, contours with intervals of less than five feet may be required by the Planning Commission.

(b) All housing units on the subject property:

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

2. Attached housing. Location, height, and arrangement of all buildings indicating the number of units in each building, and, where applicable, location, arrangement, and dimensions of all lots.

(c) Location, height, arrangement, and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions.

(d) Location and arrangement of all common open space areas, and recreational facilities, including lot dimensions, methods of ownership and operation and maintenance of those lands shall be identified.

(e) Landscaping features, including identification of planting areas and the location, type, and height of walls and fences.

(f) Location of signs indicating their orientation and size and height.

(g) All utility lines and easements:

1. Water distribution systems, including line sizes, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;

2. Sanitary sewer system, including pipe sizes, width of easements, gradients, type of pipes, invert elevations, location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances;

3. Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of retention or sedimentation basins, and data indicating the quantity of storm water entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of storm water generated by development of the subject area, and the quantity of storm water to be discharged at various points to areas outside the subject property; and

4. Other utilities (such as electric, telephone, and the like) including the type of service and the width of easements.

(h) Location of all off-street parking, loading or unloading, and driveway areas; including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking, and loading or unloading spaces.

(i) Circulation system.

1. Pedestrian walkways, including alignment, grades, type of surfacing, and width;

2. Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details, and typical cross sections.

(j) Provisions for control of erosion, hillside slippage, and sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction;

(k) A schedule of development, including the staging and phasing of:

1. Residential area, in order of priority, by type of dwelling unit;

2. Streets, utilities, and other public facility improvements, in order of priority;

3. Dedication of land to public use or set aside for common ownership; and

4. Nonresidential buildings and uses, in order of priority.

(2) The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated.

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

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.056 AIR RIGHTS.

Any proposed use of air rights as defined herein, shall be in the form of a site plan (as regulated in § 154.054) submitted to the

Planning Commission, or its duly authorized representative, for its review.  
(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see  
§ 154.998

§ 154.057 DESIGN AND CONSTRUCTION OF IMPROVEMENTS.

Any proposed development requiring the construction of streets (including curb and gutters), sidewalks, sewers (sanitary and storm), water lines, or other improvements, which does not constitute a subdivision, as herein defined, shall be required to be designed and constructed in accordance with the applicable articles and sections of the subdivision regulations, unless specifically waived.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see  
§ 154.998

§ 154.058 PARKING OR STORING OF TRAILERS, MOBILE HOMES, CAMPERS, INOPERABLE VEHICLES, AND OTHER SUCH TYPE EQUIPMENT.

(A) No motor vehicle which is inoperable shall be stored on any lot in any zone or parcel of ground unless it is in a completely enclosed building.

(B) It shall be unlawful for any person to live in any boat, automobile, camper, or truck, within the jurisdiction of the City Council, except houseboats may be permitted along the Licking and Ohio Rivers.

(C) The outside storage of any trailer, mobile home, recreational vehicle, camper, boat, or similar type equipment shall be restricted to the side or rear yard of any residence within the jurisdiction of the city, provided there is at least a five-foot clearance between the vehicle and any residential structure, and that screening shall be provided per § 154.052 when the vehicle is stored in a side yard. Storage shall be also be permitted in any structurally sound, enclosed garage or building capable of containing the vehicle.

(D) It shall be unlawful to park or keep any truck in excess of 6,000 pounds or more gross vehicle weight, as licensed by the County Auto Licensing Department, at any place on property located in a residential zone, except in a completely enclosed garage.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see  
§ 154.998

§ 154.059 HILLSIDE DEVELOPMENT CONTROLS.

(A) This section is designed to ensure, when development is proposed in those areas of the community which have physical characteristics limiting development (hillside slopes of 20% or greater) that the development shall occur in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and other natural hazards.

(B) Areas of land on which development is physically restricted due to excessive hillside slopes shall be limited according to the following requirements:



(1) Development proposed on land areas identified on the Comprehensive Plan as physically restrictive development areas and any other areas which have slopes of 20% or greater shall require approval before development may occur. In those areas which are identified in the Comprehensive Plan as physically restrictive development areas and containing slopes less than 20%, the requirements contained herein may be waived; if, after review of the proposed site plan by the engineer, it is determined that the development will not result in any significant hillside slippage or soil erosion.

(2) No excavation, removal, or placement of any soil, foundation placement, or construction of buildings, or structures of any nature within the area identified as physically restrictive development area in division (B)(1) above, may occur until plans and specifications for such work have been submitted in the form of a site plan as regulated by § 154.054. In addition to site plan requirements, the following shall also be submitted:

(a) Plans which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion sedimentation basins, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area.

(b) Information defining results of subsurface investigation of the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis. The investigation shall be made by a qualified, registered civil engineer and a geologist, indicating that any structural or physical changes proposed in the area will be completed in a manner which will minimize hillside slippage or soil erosion.

(3) The site plan and other information required in § 154.054 shall be reviewed by the engineer and the Northern Kentucky Area Planning Commission staff, who will recommend to the Planning Commission, or its duly authorized representative, what effect the proposed development will have on hillside slippage or soil erosion. After consideration of the recommendations, the Planning Commission, or its duly authorized representative, may authorize use of the site in accordance with the submitted plans.

(4) If, after review of the plans required by this section, the Planning Commission, or its duly authorized representative, determines that the proposed plans will not minimize hillside slippage, the Planning Commission shall deny a permit for the development of the land. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.060 GENERAL MOBILE HOME REGULATIONS.

The following regulations shall apply to all mobile homes located in a mobile home park. Requirements of the zone in which the mobile homes are permitted shall also apply:

(A) The mobile home shall, at a minimum, be equipped with plumbing and electrical connections designed for attachment to appropriate external systems.

(B) All health, sanitation (including sewers or private secondary sewage treatment plants approved by the Northern Kentucky District Health Department and the Sanitation District No. 1 of Campbell and Kenton Counties), and safety requirements applicable to a conventional dwelling, shall be equally applicable to a mobile home.

(C) The mobile home shall be set and adequately anchored on a concrete or hard surfaced slab in accordance with the Kentucky Mobile Home and Recreational Vehicle Park regulations and the open space between the ground and the floor of the mobile home shall be enclosed with some material such as concrete block, corrugated metal, or other durable and suitable material.

(D) Any person, firm, or corporation desiring to locate a mobile home shall apply for a zoning/building permit, and an occupancy permit. Applicable permits must be approved prior to the installation and occupancy of any mobile home. The proper permits must be displayed in a conspicuous location in each mobile home, signifying that all permits have been approved by the City Inspector/Zoning Administrator.

(E) All mobile homes shall meet the requirements of KRS 219.310 - 219.410.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

Cross-reference:

RMHP Residential Mobile Home Park Zone, see § 154.084

§ 154.061 PHASED ZONING REGULATIONS.

(A) Phased zoning is an overlay type regulation to be used in cases where the timing or phasing of the zoning of an area is especially critical to the implementation of the adopted Comprehensive Plan. The intent of the phased zoning regulations is to encourage redevelopment of a specified area for the use or density designated on the Comprehensive Plan when the necessary conditions for such development are realized (for example, demolition of existing buildings, relocation of displaced families, and completion of flood levee). Implicit in a phased zoning approach is the premise that until those conditions are realized, the type of development identified by the Comprehensive Plan is premature; the development would be prevented by temporarily zoning the area to generally conform with the predominant existing land use, with a clear stipulation of an intended future rezoning, which would be in compliance with the adopted Comprehensive Plan.

(B) The phased zoning regulations may be overlaid over any zoning classification as part of the adoption of this zoning code, or by means of a conventional zone change process. The use of the phased zoning regulations would indicate that the regulations of the overlaid zone are currently being enforced based upon the general existing land use, but upon attainment of all the requirements of the zone which corresponds to the adopted Comprehensive Plan for type of use or density, the area could be rezoned in direct compliance with the plan.

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

(D) The minimum size of any area to be rezoned as regulated by this section of the chapter is five acres, provided that all other provisions of this chapter and the subdivision regulations are adhered to. Development of a smaller tract adjacent to an existing zone being requested may be permitted if the proposed development conforms to and extends the original development as if the new area had been a part of the original development and provided further that the zone is in conformance with the Comprehensive Plan.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

#### § 154.062 CELLULAR OR WIRELESS COMMUNICATIONS SYSTEMS.

(A) Purpose. This section is intended to enable the Dayton Planning and Zoning Commission, its Duly Authorized Representative, and other agencies, departments, and personnel, to exercise its authority to the fullest extent permitted by law, including the federal Telecommunications Act of 1996 and KRS 100 to regulate cellular or wireless communication systems and antenna towers, and any other buildings or structures used in the provision of such service, including their maintenance and removal. Moreover, this section is further intended to:

(1) Accommodate the need for cellular or wireless communication towers and facilities for the provision of personal wireless services, while regulating their location and number within Dayton;

(2) Minimize the adverse visual effects of communication towers and support structures through proper siting, design, and screening;

(3) Avoid damage to neighboring properties from cellular or wireless communication towers and support-structure failure; and

(4) Encourage the joint use of any new and existing cellular or wireless communication towers and support structures to reduce their number in the future.

(B) Tower siting. Except as provided in this chapter, no person shall locate, erect, construct, reconstruct, change, alter, use, or enlarge any cellular or wireless communications tower, facility, building, or structure for the provision of cellular or wireless communication service.

(C) Antenna towers for cellular telecommunications services or personal communications services (cellular antenna towers or alternative cellular antenna tower structures). An antenna tower for cellular telecommunications services or personal communications services may be allowed in any areas zoned CO, RO, or I-1, or on any publicly owned property wherever situated within the City after receiving Planning Commission review and approval in accordance with the Planning Commission's filing procedures to ascertain its agreement with the Comprehensive Plan and the zoning district regulations and after being granted a Certificate of Public Convenience and Necessity, by the Public Service Commission. Co-location of service facilities is required unless extraordinary circumstances prevent it. Any request for review of a proposal to construct such an antenna tower shall be made only in accordance with this section.

(1) General provisions.

(a) Notice of filing.

1. Notice of any request filed under this section shall be sent by the applicant by first class mail to the owner of every parcel of property within 500 feet of the tower, to the owner of every parcel of property adjoining at any point on the property from which the applicant proposes to create the tower site, and to the owner of every parcel of property directly across the street from said property. Notice shall also be sent by the applicant to the Mayor, City Clerk/Treasurer, and City Inspector. Such notices shall include the Planning Commission Docket Number under which the request will be reviewed, the address and telephone number of the Planning Commission's office, and a statement that the recipient has the right to submit testimony to the Planning Commission, either in writing or by appearance at any Committee or Commission meeting scheduled for review of the request. Such notices by first class mail shall be mailed no sooner than the date of acceptance of the application by the Planning Commission and no later than two calendar days subsequent to that application. An attorney shall certify within five days of mailing that the required notices have been sent.

2. The applicant shall furnish to the Planning Commission at the time of filing of the request a copy of the notices required by (C) (1) (a) 1. above and the names and addresses of the owners of property and the governmental officials to whom the required notices will be sent. Records maintained by the Property Valuation Administrator may be relied upon to determine the identity and address of said owners. If the property is in a cooperative form of ownership or has co-owners, notice may be in the manner described in KRS 100.214(2) for such ownership. The applicant shall obtain the name and address of the applicable governmental officials from the City Inspector's Office.

3. Notice of the filing of the request shall be posted conspicuously in a visible location on the proposed site of the telecommunications facility and in a visible location on the nearest public road at the same time that notice by first class mail is sent. The applicant shall certify that the postings have been made. If the proposed site is adjacent to a public road, only a single sign shall be required. The notices shall remain until the Planning Commission issues its final decision or 60 days has passed since acceptance of the request by the Planning Commission, whichever occurs first. The posting shall, be as follows:

a. Each sign shall be at least two feet by four feet in size;

b. The sign posted on the proposed site shall state: "(Name of applicant) proposes to construct a telecommunications tower and/or facility on this site. If you have questions, please contact (name and address of applicant). Information on the Planning Commission's review of this proposal may be obtained by calling the Dayton City Inspector's Office at (606) 491-1600. Please refer to (assigned Planning and Zoning Case No.) in all inquiries."

c. The sign posted on the nearest public road shall state: "(Name of applicant) proposes to construct a telecommunications tower and/or facility near this site. If you have questions, please contact (name and address of applicant). Information on the Planning Commission's review of this proposal may be obtained by calling the City Inspector's Office at (606) 491-1600. Please refer to (assigned Planning and Zoning Case No.) in all inquiries."

d. In both posted notices, the words "proposes to construct a telecommunications tower and/or facility shall be printed in letters at least four inches in height, and the words "City Inspector's Office at (606) 491-1600" shall be printed in letters at least one inch in height. Both signs shall be constructed of durable, weatherproof material.

(b) Documentation. Any request filed under this Section for review of a proposal to construct an antenna tower SHALL include the following:

1. All information that the applicant is required by regulation to submit to the Commonwealth of Kentucky Public Service Commission;

2. A copy of the applicant's FCC license, or, if the applicant is not an FCC license holder, a copy of at least one letter of commitment from an FCC license holder to locate at least one antenna on the applicant's tower.

3. Unless co-locating, certification, supported by evidence, that co-location of the proposed telecommunications facility with an existing approved tower or facility cannot be accommodated. The applicant's certification shall include a listing of all existing towers and facilities, a description of each existing site, and a discussion of the ability or inability to co-locate on each existing site according to the following table:

a. For a tower proposed to be 200 or more feet tall, all towers and facilities within a 1 1/2 mile radius of the proposed site;

b. For a tower proposed to be at least 100 feet but less than 200 feet tall, all towers and facilities within a one mile radius of the proposed site; and

c. For a tower proposed to be less than 100 feet tall, all towers and facilities within a 1/2 mile radius of the proposed site.

4. Reasons for not co-locating on a site may include, but not be limited to, the following:

a. No existing towers or facilities are located within the above radius of the site;

b. Existing towers or facilities are not of sufficient height to meet the applicant's engineering requirements;

c. Existing towers or facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment;

d. Applicant's planned equipment would cause radio frequency interference with other existing or planned equipment of the tower or facility, or the existing or planned equipment of the tower or facility would cause interference with the applicant's planned equipment which cannot be reasonably prevented;

e. Unwillingness of the owner of the existing tower or facility to entertain a co-location proposal.

f. Existing towers or facilities do not provide an acceptable location for requisite coverage for the applicant's communications network.

5. Unless co-locating, certification, supported by evidence, that the proposed site is the only appropriate site within the immediate area for the location of the telecommunications facility. The applicant's certification shall include a listing of potential sites, a description of each potential site, and a discussion of the ability or inability of the site to host a telecommunications facility according to the following table:

a. For a tower proposed to be 200 or more feet tall, all potential sites within a 1-1/2 mile radius of the proposed site;

b. For a tower proposed to be at least 100 feet but less than 200 feet tall, all potential sites within a 1 mile radius of the proposed site; and

c. For a tower proposed to be less than 100 feet tall, all potential sites within a 1/2 mile radius of the proposed site.

6. Potential sites that should be considered (in order from most preferred to least preferred) include: street rights-of-way, existing utility towers, industrial districts, commercial districts, government buildings. Reasons for not locating on a potential site may include, but not be limited to, the following:

a. Unwillingness of the site owner to entertain a telecommunications facility;

b. Topographic limitations of the site;

c. Adjacent impediments that would obstruct adequate cellular telecommunications and/or personal communications transmission;

d. Physical site constraints that would preclude the construction of a telecommunications facility;

e. Technical limitations of the telecommunications system.

f. Existing potential sites do not provide an acceptable location for requisite coverage for the applicant's communications network.

7. As of July 1 of each calendar year, a listing of the present locations of the applicant's telecommunications towers and/or facilities in Dayton, and an "annual plan" covering the applicant's next year network build-out of telecommunications facilities within Dayton. With each application, the applicant shall provide any changes to the "annual" plan that have occurred since July 1 or verify the continued accuracy of the plan submitted.

8. A pictorial representation, such as a silhouette drawing, photograph, and the like, of the proposed

telecommunications facility from a point 400 feet from the facility in each of the four compass directions showing the relationship of the tower and/or facilities against the massing of surrounding structures, trees, and other intervening visual masses.

9. A justification statement demonstrating that the proposed construction is in agreement with the Comprehensive Plan.

(c) Guarantee.

1. To insure the removal of all improvements at any abandoned telecommunications facility, any applicant filing a request under this section shall, at the time of submittal of the list of existing towers and annual plan, deposit with the city and to the benefit of the city, a performance bond, or other security acceptable to the Planning Commission in the amount equal to the cost of the demolition and removal of the telecommunications tower. An applicant having multiple telecommunications facilities within Dayton may deposit a single guarantee in the amount equal to the cost of demolition and removal of the one telecommunications facility it owns which would cost the most to demolish and remove until such time as the number of its multiple telecommunications facilities exceeds four such facilities, both existing and projected within the current calendar year.

2. At such time as the approved number of one applicant's multiple telecommunications facilities exceeds four such facilities, the applicant shall increase the amount on deposit to an amount equal to the cost of the most costly demolition and removal times 25% of that applicant's total number of telecommunications facilities both existing and projected within the next calendar year. Any guarantee submitted shall be irrevocable and shall provide for the city to collect the full amount of the guarantee if the applicant fails to maintain the guarantee.

(d) Special expert consultants and costs. The city shall retain special expert consultants as it deems necessary to provide assistance in the review of site location alternatives analysis. Application fees may be established to cover the costs of staff and/or special expert consultant review of requests filed under this section.

(2) Design Standards. At the time of filing of a request under this section, the applicant shall provide information demonstrating compliance with the requirements listed below. Where the Planning Commission finds that the conditions or circumstances relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, or welfare, either at the time of application or in the foreseeable future, and that such special conditions and circumstances make one or more said requirements unduly burdensome, the Planning Commission may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.



(a) All structures, except fences, shall be located at least 50 feet from the property line of any residentially zoned property and shall, in all other circumstances, observe the yard requirements of the district in which they are located.

(b) The site shall be landscaped in accordance with the screening requirements Chapter 154. If the site is an easement, the easement boundaries, exclusive of that portion used strictly for vehicular traffic.

(c) Any monopole, guyed, lattice, or similar type cellular antenna tower and any alternative cellular antenna tower structure similar to these towers, such as light poles, shall be maintained in either galvanized steel finish or be painted light gray or light blue in color. Alternate sections of aviation orange and aviation white paint may be used ONLY when the FAA finds that none of the alternatives to such marking are acceptable.

(d) A cellular antenna tower or alternative cellular antenna tower structure may be constructed to a maximum height of 200 feet regardless of the maximum allowed height for the zone in which it is located. This also applies to any tower taller than 15 feet constructed on the top of another building, with the height being the overall height of building and tower together measured from the grade to the highest point. However, when any cellular antenna tower or alternative cellular antenna tower structure is taller than the distance from its base to the nearest property line, the applicant shall furnish the Planning Commission with a certification from an engineer registered in the Commonwealth of Kentucky that the tower will withstand winds of 70 miles per hour in accordance with current ANSI/EIAITIA standards. When a tower taller than 15 feet constructed on the top of another building results in the overall height of the building and tower, including any antenna, being greater than the distance from the base of the building to the nearest property line, the applicant shall furnish to the Planning Commission this same certification.

(e) A cellular antenna tower or alternative cellular antenna tower structure may be artificially lighted only with steady-burning red obstruction lights (FAA type L-864) or flashing red obstruction lights (FAA type L-864) flashing no faster than 20 flashes per minute. Flashing red obstruction lights (FAA type L-864) flashing faster than 20 flashes per minute, medium intensity flashing white obstruction lights (FAA type L-865 or L-866), high intensity flashing white lights (FAA type L-856 or L-857), or dual flashing red obstruction lights and medium intensity flashing white obstruction lights (FAA types L-864/L-865) may be used only when the FAA specifies that the specific lighting pattern is the only lighting pattern acceptable to promote aviation safety.

(f) The site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, access shall be only from access points approved by the applicable Works Department, and there shall be

provided on site an area sufficient to accommodate the parking of the service vehicle.

(g) The site shall be enclosed by an eight foot high security fence.

(h) Any site to be purchased or leased for the installation of a cellular antenna tower or alternative cellular antenna tower structure and ancillary facilities shall comply with the minimum lot size requirements of the zone in which the site is located.

(i) The applicant shall supply certification that the facility complies with the FCC's regulations concerning radio frequency emissions. To the extent that the facilities do not comply with the FCC's regulations, the Planning Commission may establish additional requirements on the basis of the environmental effects of radio frequency emissions. (See P.L. 104104, Sec. 704).

(j) If the use of any cellular antenna or cellular antenna tower or alternative cellular antenna tower structure is discontinued, the owner shall provide the Planning Commission with a copy of the notice to the FCC of intent to cease operations within 30 days of such notice to the FCC. If the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure will not be reused, the owner shall have 180 days from submittal of the FCC notice to the Planning Commission to obtain a demolition permit and remove the antenna or tower that will not be reused. If the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure is to be reused, the owner shall have no more than 12 months from submittal of the FCC notice to the Planning Commission in which to commence new operation of the antenna or tower to be reused. Upon failure to commence new operation of the antenna or tower that is to be reused within 12 months, the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure shall be presumed abandoned, and the owner shall immediately obtain a demolition permit and remove the antenna or tower that is presumed abandoned. If the owner fails to remove an antenna or tower in the time provided by this division, the Planning Commission may request that the city cause the demolition and removal of the antenna or tower and the city may recover its costs of demolition and removal from the guarantee deposited by the applicant pursuant to division (C)(1)(c) above.

(k) The only signs allowed shall be emergency information signs, owner contact information, warning or safety instructions, and signs required by a federal, state, or local agency. Such signs shall not exceed five square feet in area.

(D) Maintenance. Any owner of property used as a cellular or wireless communications site shall maintain such property and all structures in good condition and free from trash, outdoor storage, weeds and other debris. Any cellular or wireless communications tower that has discontinued its service for a period of 12 continuous months or more shall be removed, along with all accessory structures related thereto. "Discontinued" shall mean that the structure has not been

properly maintained, has been abandoned, become obsolete, is unused or has ceased the daily activities or operations that had occurred.

(E) Findings of fact. Before approving any application of site plan and certifying to the Public Service Commission that the cellular antenna tower or facility complies with the Comprehensive Plan and Chapter 154, the Planning Commission shall make the following findings of fact:

(1) There is a need for the proposed wireless telecommunications tower;

(2) The applicant has complied with all provisions of Chapter 154 regarding Site Plan requirements;

(3) The applicant has made a bona fide attempt to co-locate the proposed wireless communication tower or facility on an existing tower or structure, but co-location is not feasible because:

(a) There are no existing, appropriate facilities in the proposed service area; or

(b) There are existing, appropriate facilities in the proposed service area, but all attempts at co-location have failed for and/or all of the reasons contained in division (C)(1)(b)3. of this section.

(4) The proposed application is in compliance with the Comprehensive Plan.

(5) The proposed facility does not adversely affect the public health, safety, or welfare and will not cause a hazard or nuisance to the public.

(Ord. 1998, passed 11-17-98)

#### ZONES

#### § 154.075 CO CONSERVATION ZONE.

(A) Uses permitted.

(1) Agricultural uses, but not including the feeding of garbage to animals.

(2) Forestry.

(3) Public owned or operated parks or recreational areas, including public swimming pools.

(4) Recreational uses other than those publicly owned or operated such as golf courses, golf driving ranges, and country clubs including commercial swimming pools, fishing lakes, and bathing beaches.

(5) The following uses are permitted in connection with streams, rivers, lakes, or other bodies of water, providing that the development of all permitted facilities in or adjacent to navigable waters shall be approved by the Corps of Engineers, Department of the Army, and a statement of approval or denial shall be submitted to the Planning Commission at the time of submittal of the development plan.

(a) Recreational boat harbors and marinas. The following uses shall be permitted as accessory uses in connection with any boat harbor or marina and primarily intended to serve only persons using the boat harbor or marina. Advertising of any included or accessory uses shall be within the building and shall not be visible from outside the building:

1. Boat fueling, service, and repairs.
2. Sale of boat supplies.
3. Grocery store.
4. Restaurant.
5. Clubhouse and lockers.

(b) Public or private boat landing or launching facilities.

(c) Recreational dockage facilities.

(d) Off-street parking facilities and temporary parking of boat trailers including spaces large enough to accommodate automobiles pulling boat trailers.

(B) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Fences and walls, as regulated by §§ 154.135 through 154.145.

(3) Signs, as regulated by §§ 154.170 through 154.177.

(C) Temporary uses. No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses be permitted until and unless the location of that use and a temporary permit for the location and use shall have been applied for and approved by the Board of Adjustment and subject to any conditions or restrictions as may be deemed necessary by the Board to protect the surrounding development and to reasonably insure a reasonable and justifiable operation. The temporary permits shall be valid for only one year and may be renewed at the end of the first year only after approved by the Board of Adjustment.

(1) Extraction of minerals and other similar items.

(2) Sanitary landfill, provided such does not create a water diversion which would endanger adjacent areas and further provided that a sanitary landfill would not create any undesirable odors or any

DAYTON - ZONING CODE

80J

unsightly area to adjacent properties or buildings and further that a sanitary landfill, according to a registered civil engineer report, would not cause contamination of any body of water.

(D) Area, height, yard, and setback regulations. Requirements shall be as determined and approved by the Planning Commission in the form of a site plan.

(E) Other development controls.

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

(2) A site plan, as regulated by § 154.054, shall be required for any use in this zone.

(3) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(4) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed metal containers.

(5) No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right-of-way, or into any residential home.

(6) Where any yard of any use permitted abuts a residential zone, a minimum yard requirement of one hundred (100) feet for each side or rear yard which abuts this zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by § 154.052.

(7) No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.076 R-O RIVER ORIENTED ZONE.

(A) Purpose. The purpose of this zone is to permit those types of uses which are oriented toward the Ohio River.

(B) Uses permitted.

(1) The following uses are permitted in this zone only when those uses are developed in conjunction with boat harbors, marinas, or dockage facilities, including boat landing or launching facilities located along the Ohio River in the Conservation Zone. These uses shall have an unobstructed accessway connecting the permitted use with the Ohio River for the movement of equipment, materials, vehicles, and pedestrians.

(a) Sale of marine supplies and equipment, including service and repair.

(b) Sale of fishing equipment and supplies, including service and repair.

(c) Off-street parking facilities and temporary parking of boat trailers, including spaces large enough to accommodate automobiles pulling boat trailers.

(d) Restaurants

(2) Publicly owned or operated parks and recreational areas.

(3) Recreational uses other than those publicly owned or operated, such as golf courses, golf driving ranges, country clubs, including community swimming pools.

(C) Conditional uses.

(1) Kennels and catteries under the following conditions:

(a) Minimum parcel size for a kennel operation; one-quarter (1/4) acre;

(b) To be located in the River Oriented Zone;

(c) Six (6) foot high perimeter fence around pen enclosure;

(d) Minimum yard setback to nearest pen enclosure component; ten (10) feet;

(e) To be located in the rear yard;

(f) Daily cleaning and pen maintenance.

(g) Kennel to comply with all state regulations pertaining to kennels and the humane treatment of animals;

(h) Screening as regulated by § 154.052 adjacent to any abutting residential use.



(i) Other conditions as required by the Board of Adjustments.

(2) Temporary camping units and recreational vehicles as defined in KRS 291.320(11) under the following conditions:

(a) Camping units and recreational vehicles as defined in KRS 291.320(11) shall be located in the recognized campground as described on the approved site development plan only from March 1 through October 31 and shall only be inhabited from March 1 through October 31.

(b) Camping units and recreational vehicles as defined in KRS 291.320(11) shall be removed from the recognized campground as described on the approved site development plan from November 1 through February 28 (February 29 in leap years). However, camping units and recreational vehicles as defined in KRS 219.320(11) maybe stored, but shall not be inhabited, within the recognized storage area as described on the approved site development plan from November 1 through February 28 (February 29 in leap years).

(c) Area, height, yard, and setback regulations and requirements shall be as determined and approved by the Planning Commission in the form of a site plan, as regulated by § 154.054.

(d) Other conditions as required by the Board of Adjustments.

(D) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Fences and walls as regulated by §§ 154.135 through 154.145.

(3) Signs, as regulated by §§ 154.170 through 154.177.

(4) Dwelling unit facilities for the occupancy of the operation of the principally permitted use, providing the use is attached thereto.

(E) Area, height, yard, and setback regulations. Requirements for all permitted uses shall be as determined and approved by the Planning Commission in the form of a site plan, as regulated by § 154.054.

(F) Other development controls.

(1) Dwelling units are not permitted in this zone, except as provided for in division (D)(4) of this section.

(2) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 thorough 154.122.

(3) No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.

(4) No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right-of-way, or into any residential zone.

(5) Where any yard or any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by § 154.052.

(6) No use producing objectionable odors, noise, or dust, shall be permitted within five hundred (500) feet from the boundary of any residential zone.

(7) The Planning and Zoning Commission may approve, upon submission of a site plan, areas which may be used for outdoor storage of boats and recreational vehicles as defined in KRS 219.320(11). These boat and recreational vehicles must be parked on crushed stone lots according to load bearing requirements.

(8) A site plan, as regulated by § 154.054, shall be required for any use in this zone.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 1997-13, passed 5-6-97; Am. Ord. 2001-16, passed 8-21-01; Am. Ord. 2013-14, passed 11-5-13) Civil offense, see § 154.998

§ 154.077 R-1bC (RESIDENTIAL ONE-BC) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-1bC as outlined on the official zoning map.

(1) Single-family residential dwelling, detached.

(B) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Fences and walls, as regulated by §§ 154.135 through 154.145.

(3) Signs, as regulated by § 154.170 through 154.177.

(4) Home occupations, subject to the restrictions and limitations established in § 154.046.

(C) Area and height regulations for permitted uses.

(1) Minimum lot area: 15,000 square feet.

- (2) Minimum lot width at building setback line: 85 feet.
- (3) Minimum front yard depth: 35 feet.
- (4) Minimum side yard width: 11 feet on each side of the lot.
- (5) Minimum rear yard depth: 25 feet.
- (6) Maximum building height: 35 feet.

(D) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with § 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street or into any adjacent property.

(E) Conditional uses. The following uses or any customary accessory buildings or uses subject to the approval of the Board of Adjustment, as set forth in § 154.049 and 154.247:

- (1) Public-owned parks. (Am. Ord. 920.13, passed 3-6-84)

(F) Area and height regulations for conditionally permitted uses.

- (1) Minimum lot area: 22,500 square feet.
- (2) Minimum lot width at building setback line: 150 feet.
- (3) Minimum front, side (on each side of lot) and rear yards: 50 feet.
- (4) Maximum building height: 35 feet.  
(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.078 R-1c (RESIDENTIAL ONE-C) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-1c as outlined on the official zoning map:

- (1) Single-family residential dwelling, detached.

(B) Accessory uses.

- (1) Customary accessory buildings and uses.

(2) Fences and walls, as regulated by § 154.135 through 154.145.

(3) Signs, as regulated by § 154.170 through 154.177.

(4) Home occupations, subject to the restrictions and limitations established in § 154.046.

(C) Area and height regulations for permitted uses.

(1) Minimum lot area: 12,500 square feet.

(2) Minimum lot width at building setback line: 80 feet.

(3) Minimum front yard depth: 35 feet.

(4) Minimum side yard width: 10 feet on each side of the lot.

(5) Minimum rear yard depth: 25 feet.

(6) Maximum building height: 35 feet.

## (D) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.079 R-1D (RESIDENTIAL ONE-D) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-1D, as outlined on the official zoning map.

(1) Single-family residential dwellings, detached.

## (B) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Fences and walls, as regulated by §§ 154.135 through 154.145.

(3) Signs, as regulated by §§ 154.170 through 154.177.

(4) Home occupations, subject to the restrictions and limitations established in § 154.046.

## (C) Area and height regulations for permitted uses.

(1) Minimum lot area: 9,000 square feet.

(2) Minimum lot width at building setback line: 70 feet.

(3) Minimum front yard depth: 30 feet.

(4) Minimum side yard width: 10 feet on each side of the lot.

(5) Minimum rear yard depth: 25 feet.

(6) Maximum building height: 35 feet.

## (D) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

(E) Conditional uses. The following uses or any customary accessory buildings or uses subject to the approval of the Board of Adjustment, as set forth in §§ 154.049 and 154.247:

(1) Public-owned parks. (Am. Ord. 920.13, passed 3-6-84)

(F) Area and height regulations for conditionally permitted uses.

(1) Minimum lot area: 22,500 square feet.

(2) Minimum lot width at building setback line: 150 feet.

(3) Minimum front, side (on each side of lot) and rear yards: 50 feet.

(4) Maximum building height: 35 feet.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.080 R-1E (RESIDENTIAL ONE-E) ZONE.

(A) Permitted uses. These are the uses permitted on property zoned R-1E as outlined on the official zoning map:

(1) Single-family residential dwellings, detached.

(B) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Fences and walls, as regulated by §§ 154.135 through 154.145.

(3) Signs, as regulated by §§ 154.170 through 154.177.

(4) Home occupations, subject to the restrictions and limitations established in § 154.046.

(C) Area and height regulations for permitted uses.

(1) Minimum lot area: 7,500 square feet.

(2) Minimum lot width at building setback line: 60 feet.

(3) Minimum front yard depth: 30 feet.

(4) Minimum side yard width: 7 feet on each side of the lot.

(5) Minimum rear yard depth: 25 feet.

(6) Maximum building height: 35 feet.

(D) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.081 R-1G (RESIDENTIAL ONE-G) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-1G as outlined on the official zoning map:

(1) Single-family residential dwellings, detached.

(B) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Fences and walls, as regulated by §§ 154.135 through 154.145.

(3) Signs, as regulated by §§ 154.170 through 154.177.

(4) Home occupations, subject to the restrictions and limitations established in § 154.046.

(C) Area and height regulations for permitted uses.

(1) Minimum lot area: 5,000 square feet.

(2) Minimum lot width at building setback line: 50 feet.

(3) Minimum front yard depth: 20 feet.

(4) Minimum side yard width: 5 feet on each side of the lot.

(5) Minimum rear yard depth: 25 feet.

(6) Maximum building height: 35 feet.

(D) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right-of-way, or into any adjacent property.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.082 R-1H (RESIDENTIAL ONE-H) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-1H as outlined on the official zoning map:

(1) Single-family residential dwellings, detached.

(B) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Fences and walls, as regulated by §§ 154.135 through 154.145.

(3) Signs, as regulated by §§ 154.170 through 154.177.

(4) Home occupations, subject to the restrictions and limitations established in § 154.046.

(C) Conditional uses.

(1) Bed and Breakfast, with the following restrictions:

(a) The property must be a lawful, existing nonconforming use, i.e., a two or more family unit;

(b) The total number of guest units plus the owner's unit shall not exceed the existing, lawful nonconforming use in the total number of residential units;

(c) The owner shall live in the dwelling unit and operate the bed and breakfast establishment; only members of the owner's family residing on the premises may take part in the operation of the bed and breakfast business;

(d) Food service may be provided for resident guests only;

(e) No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms/units;

(f) Interior alterations should maintain the unique characteristics of the structure, if possible;

(g) One parking space per guests room/unit and two (2) parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards and new parking areas shall be screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation;



(h) A site plan as regulated by § 154.054 of this ordinance shall be required;

(i) An occupational license must be obtained to operate the bed and breakfast.

(D) Area and height regulations for permitted uses.

- (1) Minimum lot area: 4,000 square feet.
- (2) Minimum lot width at building setback line: 40 feet.
- (3) Minimum front yard depth: 20 feet.
- (4) Minimum side yard width: 5 feet on each side of the lot.
- (5) Minimum rear yard depth: 25 feet.
- (6) Maximum building height: 35 feet.

(E) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right-of-way, or into any adjacent property.

(Ord. passed 3-6-79; Am. Ord. 2001-3, passed 2-6-01) Civil offense, see § 154.998

§ 154.083 R-1JJ (RESIDENTIAL ONE-JJ) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-1JJ as outlined on the official zoning map:

- (1) Single-family residential dwellings, detached.

(B) Accessory uses.

- (1) Customary accessory buildings and uses.
- (2) Fences and walls, as regulated by §§ 154.135 through 154.145.
- (3) Signs, as regulated by §§ 154.170 through 154.177.
- (4) Home occupations, subject to the restrictions and limitations established in § 154.046.

(C) Conditional uses. The following uses or any customary accessory buildings or uses subject to the approval of the Board of Adjustment, as set forth in §§ 154.049 and 154.247:

(1) Churches and other buildings for the purpose of religious worship, provided they are located adjacent to an arterial or collector street.

(2) Fire and police stations, provided they are located adjacent to an arterial street.

(3) Governmental offices, including city buildings and city garages.

(4) Institutions for higher education, providing they are located adjacent to an arterial street.

(5) Clinic sanitariums, nursing homes, and homes for the aged, provided they are located adjacent to an arterial street.

(6) Nursery schools.

(7) Public and parochial schools.

(8) Publicly owned or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries.

(9) Recreational uses other than those publicly owned or operated, inclusive of swimming pools, but not including private swimming pools associated with a permitted use in this zone.

(10) Funeral homes, provided they are located adjacent to an arterial street.

(11) Art studio, art instruction, retail sales of art supplies or retail sales of art work, provided that the business shall comply with the following conditions:

(a) The Planning & Zoning Commission's review and approval of the proposed location must be obtained in addition to the Board of Adjustment's approval;

(b) The property must be located adjacent to Sixth Street and be located between O'Fallon and Main Streets;

(c) The property must be located adjacent to a commercial zone or be adjacent to other non-conforming or conditional uses;

(d) The space must be an existing "non-conforming nonresidential use" or previously a non-conforming nonresidential use which has been terminated but the space has remained vacant and has not actively reverted to a legal use;

(e) The space has been continuously vacant since January 1, 2000;

(f) Screening shall be provided to protect adjacent residential properties when conditions warrant screens as determined by the Board of Adjustments (§ 154.052 Screening Area);

(g) Off-street parking: The number of off-street parking spaces should equal the number of spaces that were provided during the most recent occupancy of the structure. If no spaces were provided, then no additional spaces shall be required for the new use as long as the proposed use is in the same category "Type of Uses" listed under § 154.108 Specific Off-Street Parking Requirements. If the proposed "type of use" is different from the previous "type of use" and requires additional parking spaces, the Board of Adjustments may consider fewer spaces as long as the neighborhood is not adversely impacted. Days of operation, time of day, the type of business and other pertinent information may be use to determine whether or not the neighborhood would be adversely impacted by insufficient off-street parking; and

(h) All other applicable requirements of Chapter 154 are met.

(12) Bed and breakfast, with the following restrictions:

(a) The property must be a lawful, existing nonconforming use, such as a two or more family unit;

(b) The total number of guest units plus the owner's unit shall not exceed the existing, lawful nonconforming use in the total number of residential units;

(c) The owner shall live in the dwelling unit and operate the bed and breakfast establishment; only members of the owner's family residing on the premises may take part in the operation of the bed and breakfast business;

(d) Food service may be provided for resident guests only;

(e) No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms/units;

(f) Interior alterations should maintain the unique characteristics of the structure, if possible;

(g) One parking space per guest room/unit and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards and new parking areas shall be screened from adjacent properties with a six foot high masonry or wood fence, or dense vegetation;

(h) A site plan, as regulated by § 154.054 shall be required;

(i) An occupational license must be obtained to operate the bed and breakfast.

(13) Family child care home with the following restrictions:

(a) There shall be a minimum of 35 square feet per child exclusive of kitchen, bathroom and storage areas;

(b) The facility will be kept clean and in good repair;

(c) Any portions of the building used for other than child care shall not interfere with the day care program;

(d) Play areas shall include either: (i) and outdoor play area with a minimum of 60 square feet per child in addition to the 35 square feet per child as provided in division (13)(a) above; or (ii) if no outdoor space is provided then a minimum of 60 square feet per child in addition to the 35 square feet minimum per child required in division (13)(a) above;

(e) The facility shall meet all state requirements and be certified as a family home child care Center by the Kentucky Cabinet for Families and Children or its successor agency.

(D) Area and height requirements for permitted uses.

(1) Minimum lot area: 2,500 square feet.

(2) Minimum lot width at building setback line: 25 feet.

(3) Minimum front yard depth: ten feet.

(4) Minimum side yard width:

(a) Total for both sides, six feet.

(b) Minimum on one side, three feet.

(c) In the case of a side yard which abuts a street (a corner lot) the yard shall be the average setback of adjacent structures along the same street frontage.

(5) Minimum rear yard depth: 25 feet.

(6) Maximum building height: 35 feet.

(Am. Ord. 1995-20, passed 12-19-95)

(E) (1) Area and height requirements for conditionally permitted uses.

<u>Use</u>	<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>	<u>Minimum Front Side and Rear Yards (One)</u>	<u>Maximum Bldg. Height</u>
Publicly owned and/or operated parks, playgrounds, recreation centers, including public swimming pools and libraries	5,000 square feet	50 feet	10 feet	35 feet
Nursery schools/day care centers	6,300 square feet	60 feet	10 feet	35 feet
Churches, fire 12, and police stations; governmental offices	500 square feet	80 feet	15 feet	40 feet
Clinic sanitarium nursing homes and homes for the aged; private recreational uses; funeral homes; city garages	1/2 acre	100 feet	25 feet	40 feet
Public and parochial schools; institutions (Am. Ord. 1988-8, passed 7-19-88)	1 acre	150 feet	25 feet	40 feet

(2) Any screening areas required by this chapter may be provided within the minimum yard requirements.

(F) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

(4) Where any yard of any conditional use permitted in this zone abuts property in a single-family residential zone, a ten-foot wide screening area, as regulated by § 154.052, shall be required.

(Ord. passed 3-6-79; Am. Ord. 1993-9, passed 4-20-93; Am. Ord. 1995-20, passed 12-19-95; Am. Ord. 2002-13, passed 10-1-02; Am. Ord. 2003-18, passed 8-5-03) Civil offense, see § 154.998

§ 154.084 RMHP RESIDENTIAL MOBILE HOME PARK ZONE.

## (A) Uses permitted.

(1) Mobile homes.

(2) All uses permitted under and as controlled by § 154.087 R-4 (Residential Four) Zone.

## (B) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Structures and uses related to and for the exclusive use of residents of the mobile home park, as follows, but excluding any commercial operations:

(a) Recreational facilities and areas.

(b) Rental or sales offices for lots in the mobile home park.

(c) Community center.

(d) Washing facilities.

(3) Fences and walls, as regulated by §§ 154.135 through 154.145.

(4) Signs as regulated by §§ 154.170 through 154.177.

(C) Area and height regulations for permitted uses. No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

(1) Minimum site for a mobile home park: Ten acres and the width of the park shall have a minimum distance of 500 feet, as measured along a deeded right-of-way.

(2) Minimum lot area: 6,500 square feet.

(3) Minimum lot width at minimum building setback line: 60 feet, and shall abut a deeded right-of-way.

(4) Minimum front yard depth: 20 feet.

(5) Minimum side yard width: 15 feet on the nonentrance side of the mobile home and 20 feet on the entrance side of the mobile home. In the event that the mobile home may have an entrance on both sides, there shall be required a side yard on each side of 20 feet.

(6) Minimum rear yard depth: 20 feet.

(7) Maximum building height: 25 feet.

(D) Other development controls:

(1) Minimum setback of all buildings and structures within mobile home parks at all park boundary lines: 50 feet.

(2) Patio. A patio slab of at least 180 square feet shall be provided on each mobile home lot and conveniently located at the entrance of each mobile home. The patio may extend five feet into the side yard.

(3) Streets.

(a) All streets within the mobile home park shall be within deeded and accepted public rights-of-way and constructed to required city specifications for subdivisions.

(b) Streets shall be provided and placed on the site where necessary to furnish principal traffic ways for convenient access to each mobile home and other important facilities in the area.

(4) Recreation area. There shall be required that not less than 10% of the gross area of the mobile home park be set aside, designed, constructed, and equipped as a recreational area. A minimum of one acre per recreation site shall be provided.

(5) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(6) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed metal containers.

DAYTON - ZONING CODE

92D



(7) No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right-of-way, or into any residential zone.

(8) Where any yard of any use permitted in this zone abuts any other residential zone, a ten-foot wide screening area, as regulated by § 154.052, shall be required.

(9) Mobile home parks shall be permitted in that area which is above the elevation of 493.3 feet (Mean Sea Level), but below the elevation of 497 feet (MSL), without requiring flood proofing or filling, as long as the mobile homes are not permanently anchored except that they shall be required to conform to all other provisions of § 154.056.

(10) A site plan, as regulated by § 154.054 shall be required for any use in this zone.

(11) Comply with general mobile home regulations as set forth in KRS 219.310 - 219.410.

(Ord. passed 3-6-79; Am. Ord. 1989-22, passed 11-8-89; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

Cross-reference:

General mobile home regulations, see § 154.060

§ 154.085 R-2 (RESIDENTIAL TWO) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-2 as outlined on the official zoning map:

- (1) Two-family residential dwellings.
- (2) Multi-family residential dwellings.

(B) Accessory uses.

- (1) Customary accessory buildings and uses.
- (2) Fences and walls, as regulated by §§ 154.135 through 154.145.
- (3) Signs, as regulated by §§ 154.170 through 154.177.

(C) Area and height regulations for permitted uses.

- (1) Minimum lot area: 20,000 square feet.
- (2) Maximum density:

(a) 9.0 dwelling units per net acre.

(b) In the case of this zone, more than one principal building, as defined herein, may be permitted on one lot.

- (3) Minimum lot width at building setback line: 100 feet.
- (4) Minimum front yard depth: 40 feet.
- (5) Minimum side yard width:
  - (a) One side: ten feet;
  - (b) Total both sides: 25 feet.
- (6) Minimum rear yard depth: 30 feet.
- (7) Maximum building height: 40 feet.

(D) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

(4) A site plan, as regulated by § 154.054, shall be required for any use permitted in this zone.

(E) Conditional uses. The following uses or any customary accessory buildings or uses subject to the approval of the Board of Adjustments, as set forth in §§ 154.049 and 154.247:

(1) Public schools.

(2) Buildings or structures owned and operated by the Dayton Board of Education.

(F) Area and height regulations for conditionally permitted uses. Area and height requirements for conditionally permitted uses listed in this section shall be the same as those similarly listed in Section 10.8 (E) R-1JJ, Area and Height Regulations for Conditionally Permitted Uses, of this Ordinance, except, reasonable additional requirements as to landscaping, lighting, screening, fencing, accessways and building setbacks may be imposed by the Board of Adjustments for the protection of the adjacent properties and future uses within the zone.

(Ord. passed 3-6-79; Am. Ord. 1988-10, passed 9-6-88; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.086 R-3 (RESIDENTIAL THREE) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-3, as outlined on the official zoning map:

- (1) Two-family residential dwellings.
  - (2) Multi-family residential dwellings.
- (B) Accessory uses.
- (1) Customary accessory buildings and uses.
  - (2) Fences and walls, as regulated by §§ 154.135 through 154.145.
  - (3) Signs, as regulated by §§ 154.170 through 154.177.
- (C) Area and height regulations for permitted uses.
- (1) Minimum lot area: 12,500 square feet.
  - (2) Maximum density:
    - (a) 20 dwelling units per net acre.
    - (b) In the case of this zone, more than one principal building, as defined herein, may be permitted on one lot.
  - (3) Minimum lot width at building setback line: 100 feet.
  - (4) Minimum front yard depth: 30 feet.
  - (5) Minimum side yard width:
    - (a) One side: ten feet.
    - (b) Total both sides: 25 feet.
  - (6) Minimum rear yard depth: 30 feet.
  - (7) Maximum building height: 40 feet.
- (D) Other development controls.
- (1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.
  - (2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
  - (3) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
  - (4) Where any yard of any use permitted in this zone abuts property in a single-family residential zone, a ten-foot wide screening area as regulated by § 154.052 shall be required.

(5) A site plan, as regulated by § 154.054, shall be required for any use permitted in this zone, except when development is proposed under the Planned Unit Development regulations, as regulated by § 154.088.

(E) Conditional uses. The following uses or any customary accessory buildings or uses subject to the approval of the Board of Adjustment, as set forth in §§ 154.049 and 154.247.

(1) Public schools.

(Ord. passed 3-6-79; Am. Ord. 920-18, passed 10-16-84; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.087 R-4 (RESIDENTIAL FOUR) ZONE.

(A) Permitted uses. These are the uses which are permitted on property zoned R-4 as outlined on the official zoning map:

(1) Multi-family residential dwellings.

(B) Accessory uses.

(1) Customary accessory buildings and uses.

(2) Fences and walls, as regulated by §§ 154.135 through 154.145.

(3) Signs, as regulated by §§ 154.170 through 154.177.

(4) Uses, as listed below, included within and entered from within any use permitted in this zone, primarily as a convenience and for the service of the occupants thereof, providing the accessory uses shall not exceed 10% of the gross floor area of the permitted uses in the building, and no exterior advertising displays for any accessory uses shall be visible from outside the building:

(a) Barber or beauty shop.

(b) Bookstore or newsstand.

(c) Pharmacy or drug store.

(d) Professional offices.

(e) Snack bar or coffee shop.

(f) Hobby shop.

(g) Flower shop.

(C) Special permitted uses.

(1) Municipal offices, when developed in conjunction with a permitted use in this zone.

## (D) Area and height regulations for permitted uses.

## (1) Minimum lot area:

(a) One acre.

(b) In the case of this zone, more than one principal building as defined herein may be permitted on one lot.

(2) Maximum density: 90 dwelling units per net acre.

(3) Minimum lot width at building setback line: 150 feet.

(4) Minimum front yard depth: 30 feet.

(5) Minimum side yard width on each side of lot: 25 feet.

(6) Minimum rear yard depth: 30 feet.

(7) Maximum building height: 120 feet.

## (E) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.

(3) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

(4) A site plan, as regulated by § 154.054, shall be required for any use permitted in this zone, except when development is proposed under the Planned Unit Development regulations, as regulated by § 154.088.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.088 PUD (PLANNED UNIT DEVELOPMENT) OVERLAY ZONE.

(A) Purpose. The purposes of the Planned Unit Development (PUD) Overlay Zone are to promote flexibility in design and permit planned diversification in the relationships between location of and types of uses and structures; promote the advantages of modern large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize those features in a harmonious fashion; provide for more usable and suitably located recreation facilities, other public and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

(B) General. A Planned Unit Development Overlay Zone may be permitted only to be superimposed over any of the Residential Zones, provided that all conditions or provisions of this section, the applicable requirements of the subdivision regulations, and any additional requirements as may be determined necessary to provide for the most efficient layout of the PUD and its proper integration with the surrounding development are met; and a public hearing is held on the PUD application.

(C) Application and processing. Applications for Planned Unit Development Overlay Zone shall be processed as follows in two stages:

(1) Stage I - Development Plan and Zoning Map Amendment. Application for amendment to PUD Overlay Zone shall include a development plan in accordance with the requirements of § 154.044, Stage I Plan requirements.

(a) The Planning Commission shall hold a public hearing on the proposed application in accordance with the requirements of KRS Chapter 424, and review the application with regard to its compliance with the stated purposes of the PUD Overlay Zone, the required elements of the Stage I Plan and other applicable requirements of this section. Upon holding a hearing, the Planning Commission shall make one of the following recommendations to the City Council: approval, approval with conditions, or disapproval. The Planning Commission shall submit along with their recommendations a copy of the Stage I Plan and the bases for their recommendation.

(b) The City Council shall, within 45 days after receiving the recommendations of the Planning Commission, review those recommendations and take action to approve, or disapprove the PUD application. This action may incorporate any conditions imposed by the City Council. However, should the City Council take action to impose different conditions than were reviewed and considered by the Planning Commission, then the conditions shall be resubmitted to the Planning Commission for further review and recommendation in accordance with division (C) (1) (a) above. Approval of the PUD Overlay Zone shall require that development be in conformance with the Stage I approved plan.

(c) The City Council shall forward a copy of the approved plan to the Planning Commission for further processing in accordance with the requirement for Stage II Plan and record plat.

(d) Zoning map amendment. Upon approval of the PUD Overlay Zone, the official zoning map shall be amended by adding the prefix "PUD" to the existing residential zone (such as, PUD-R-1B, PUD-R-1C, and so on) for the area as shown on the Stage I approved plan.

(2) (a) Stage II - plan and record plat. A Stage II Plan and record plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of § 154.055(B) and (C), and submitted to the Planning Commission for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of § 154.055(B) and (C) shall be substituted therefor. Those requirements not specifically waived by the Planning Commission shall conform with the subdivision regulations.

1. The Planning Commission shall review the submitted Stage II Plan with regard to its compliance with the required elements of § 154.055(B), for Stage II plans, other applicable elements of this chapter and other applicable regulations, and its conformity with the Stage I approved plan. The Planning Commission, in approving the Stage II plan, may authorize minor adjustments from the Stage II approved plan, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and pedestrian), or decrease the amount or usability of open space or recreation areas, or affect other applicable requirements of this chapter.

2. Upon Planning Commission approval of the Stage II plan, a copy of the plan shall be forwarded to the City Inspector/Zoning Administrator, who shall grant permits only in accordance with the Stage II approved plan and other regulations as may be required by this chapter.

(b) Upon approval of the Stage II plan, the Planning Commission shall review the submitted record plat with regard to its compliance with the required elements of § 154.055(C), for record plats, the applicable requirements of the subdivision regulations, and its conformance with the Stage II approved plan.

(c) Upon Planning Commission approval of the record plat, copies of the plat, certified by the Planning Commission, and suitable for recording, shall be forwarded by the Planning Commission to the office of the County Clerk to be recorded.

(D) Residential uses and densities. All types of residential housing units (attached or detached) may be permitted within a PUD Overlay Zone, including but not limited to single-family, two-family, and multi-family residential units. The density of dwelling units in a PUD shall be determined by the density (dwelling units per net acre) as calculated from the existing residential (R) zone superimposed by the PUD Overlay Zone. This density shall be applied to the total project area excluding that land devoted to commercial uses and streets (public and private).

(E) Area requirements. No PUD Overlay Zone shall be permitted on less than ten acres of land. However, development of a smaller tract adjacent to an existing PUD Overlay Zone may be permitted, if the proposed development conforms to and extends the original development as if the new area had been a part of the original development.

(F) Height, yard, and setback regulations. Requirements shall be as approved in the plan.

(G) Off-street parking and loading or unloading. Off-street parking and when applicable, loading or unloading facilities shall be provided in accordance with §§ 154.105 through 154.122.

(H) Fences, walls, and signs. The location, height, and type of all fences, walls, and signs shall be as approved in the plan.

(I) Erosion and sedimentation control. Effective erosion and sedimentation controls shall be planned and applied in accordance with § 154.043.

(J) Common open space, recreation area. At least 20% of the total acreage of the proposed PUD shall be retained as common open space and recreation area, and dedicated to a public or private entity for operation and maintenance. All open space and recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the PUD. Common open space and recreation area shall be that part of the total project exclusive of dwellings, streets, parking areas, single-family lots, commercial areas, and other non-open-space and non-recreationally-oriented facilities.

(K) Amendments. Any amendments to plans, except for the minor adjustments which may be permitted by the Planning Commission, shall be made in accordance with the procedure required by this chapter, subject to the same limitations and requirements as those under which such plans were originally approved.

(L) Expiration. Any amendment to the PUD Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of the time period and any extension thereto, the City Council may initiate a request for a public hearing by the Planning Commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether the PUD Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions apply:

(1) Stage II Plan has not been approved by the Planning Commission within a period of 24 consecutive months from the date of the Stage I approved plan and Overlay Zone amendment by the City Council; provided that an extension may be permitted upon approval of the City Council or their duly authorized representative if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

(2) Substantial construction has not been initiated within a period of 12 consecutive months from the date of approval of the Stage II Plan by the Planning Commission, provided that an extension may be permitted upon approval of the City Council or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.089 RCD (RESIDENTIAL CLUSTER DEVELOPMENT) OVERLAY ZONE.

(A) Purpose. The purposes of the Residential Cluster Development (RCD) Overlay Zone are to provide a means whereby clusters of attached and detached single-family residential units may be constructed in the R-1 Residential



Zones, and therein, through a development plan, permit a wide flexibility in the design, location, siting of the building, and yard and setback requirements in order to provide for, to the greatest extent possible, the preservation of hillside areas, and other natural geographic and topographic features, and to provide for more usable and suitably located recreation facilities and open space than would otherwise be provided under conventional R-1 residential land development procedures.

DAYTON - ZONING CODE

100B

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

(C) Application and processing. Applications for Residential Cluster Development Overlay Zone shall be processed as follows in two stages:

(1) Stage I - Development Plan and Zoning Map Amendment. Application for amendment to RCD Overlay Zone shall include a development plan in accordance with the requirements of § 154.055(A), Stage I Plan Requirements.

(a) The Planning Commission shall hold a public hearing on the proposed application in accordance with the requirements of KRS Chapter 424, and review the application with regard to its compliance with the stated purposes of the RCD Overlay Zone, the required elements of the Stage I Plan and other applicable requirements of this section. Upon holding a hearing, the Planning Commission shall make one of the following recommendations to the City Council: approval, approval with conditions, or disapproval. The Planning Commission shall submit along with their recommendations a copy of the Stage I Plan and the bases for their recommendation.

(b) The City Council shall, within 45 days after receiving the recommendations of the Planning Commission, review those recommendations and take action to approve or disapprove the RCD application. This action may incorporate any conditions imposed by the City Council. However, should the City Council take action to impose different conditions than were reviewed and considered by the Planning Commission, then the conditions shall be resubmitted to the Planning Commission for further review and recommendation in accordance with division (C)(1)(a) above. Approval of the RCD Overlay Zone shall require that development be in conformance with the Stage I approved plan.

(c) The City Council shall forward a copy of the approved plan to the Planning Commission for further processing in accordance with the requirement for Stage II Plan and record plat.

(d) Zoning map amendment. Upon approval of the RCD Overlay Zone, the official zoning map shall be amended by adding the prefix "RCD" to the existing residential (R-1) zone (such as RCD-R-1B, RCD-R-1C, and so on) for the area as shown on the Stage I approved plan.

(2) Stage II - Plan and record plat. A Stage II Plan and record plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of § 154.055(B) and (C), and submitted to the Planning Commission for its review and approval.

Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of § 154.055(B) and (C) shall be substituted therefor. Those requirements not specifically waived by the Planning Commission shall conform with the subdivision regulations.

(a) 1. The Planning Commission shall review the submitted Stage II Plan with regard to its compliance with the required elements of § 154.055(B), for Stage II Plans, other applicable elements of this chapter and other applicable regulations, and its conformity with the Stage I approved plan. The Planning Commission, in approving the Stage II Plan, may authorize minor adjustments from the Stage I approved plan, provided that the adjustments do not: change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), or decrease the amount or usability of open space or recreation areas, or affect other applicable requirements of this chapter.

2. Upon Planning Commission approval of the Stage II Plan, a copy of the Plan shall be forwarded to the City Inspector/Zoning Administrator, who shall grant permits only in accordance with the Stage II approved plan and other regulations as may be required by this chapter.

(b) 1. Upon approval of the Stage II Plan, the Planning Commission shall review the submitted record plat with regard to its compliance with the required elements of § 154.055(C), for record plats, the applicable requirements of the subdivision regulations, and its conformance with the Stage II approved plan.

2. Upon Planning Commission approval of the record plat, copies of the plat, certified by the Planning Commission, and suitable for recording, shall be forwarded by the Planning Commission to the office of the County Clerk to be recorded.

(D) Residential uses and densities. Attached and detached single-family dwellings may be permitted, including customary accessory uses to the permitted residential uses, within a RCD Overlay Zone. The density of dwelling units in a RCD shall be determined by the density (dwelling units per net acre) as calculated from the existing Residential R-1 Zone superimposed by the RCD Overlay Zone. This density shall be applied to the total project area excluding that land devoted to streets (public and private).

(E) Area requirements. Except as herein provided, no RCD Overlay Zone shall be permitted on less than five acres of land. Development of a smaller tract adjacent to an existing RCD Overlay Zone may be permitted, if the proposed development conforms to and extends the original development as if the new area had been a part of the original development. In addition, the RCD Overlay Zone may be permitted on less than five acres, if approved by the Planning Commission, according to the following criteria:

(1) The proposed development tract would be well integrated with adjacent development so that it would not adversely affect adjacent development;

(2) The limited size of the proposed development tract would not result in the creation of properties which would be unusable or which would be isolated by this development.

(3) The proposed development would connect to or extend existing circulation systems (vehicular and pedestrian) and not create a traffic hazard;

(4) The proposed development, including accessory uses would be designed so that any noise-creating activities or visually unattractive areas (such as dumpsters) would be buffered from adjacent properties; and

(5) The proposed development tract would be a logical parcel of land for development and not be a series of fragmented parcels intermixed with existing development.

(F) Height, yard, and setback regulations. Requirements shall be as approved in the plan.

(G) Off-street parking and loading or unloading. Off-street parking and when applicable, loading or unloading facilities shall be provided in accordance with §§ 154.105 through 154.122.

(H) Fences, walls, and signs. The location, height, and type of all fences, walls, and signs shall be as approved in the plan.

(I) Erosion and sedimentation control. Effective erosion and sedimentation controls shall be planned and applied in accordance with § 154.043.

(J) Common open space, recreation area. At least 20% of the total acreage of the proposed RCD shall be retained as common open space and recreation area, and dedicated to a public or private entity for operation and maintenance. The open space and recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the RCD. Common open space and recreation area shall be that part of the total project exclusive of dwellings, streets, parking areas, single-family lots, commercial areas, and other nonopen space and nonrecreationally oriented facilities.

(K) Amendments. Any amendments to plans, except for the minor adjustments which may be permitted by the Planning Commission, shall be made in accordance with the procedure required by this chapter, subject to the same limitations and requirements as those under which those plans were originally approved.

(L) Expiration. Any amendment to the RCD Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of the time period and any extensions thereto, the City Council may initiate a request for a public hearing by the Planning Commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether the RCD Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions apply:

(1) Stage II Plan has not been approved by the Planning Commission within a period of 24 consecutive months from the date of the Stage I approved plan and Overlay Zone amendment by the City Council; provided that an extension may be permitted upon approval of the City Council or its duly authorized representative if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

(2) Substantial construction has not been initiated within a period of 12 consecutive months from the date of approval of the Stage II plan by the Planning Commission; provided that an extension may be permitted upon approval of the City Council or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.090 CENTRAL BUSINESS DISTRICT (CBD) ZONE.

(A) Purpose. The purposes of the Central Business District (CBD) Zone are to:

(1) Provide for planned business district of special interest to the proper development of the city;

(2) Promote the revitalization of the existing business district of the city;

(3) Promote flexibility in the design and development of the business district, in a planned and coordinated fashion; and

(4) Provide for the neighborhood commercial-type needs of the city and the surrounding area.

(B) Criteria for evaluation of development in the CBD. In order to encourage and guide the development of the city's business district in a way that will result in a coordinated approach to the entire area and ensure its proper integration into the surrounding community, the following criteria shall be used as the basis to evaluate any new development, including expansions or changes to existing development, in the area zoned CBD (refer to Figure 1 of this section, which illustrates some of these criteria):

(1) High intensity retail/service (for example, high activity or traffic generators) uses shall be encouraged to locate adjacent to Sixth Avenue;

(2) Pedestrian access shall be encouraged/promoted along Sixth Avenue via the provision of continuous sidewalks, crosswalks, and pedestrian resting areas or shelter areas;

(3) Vehicular access shall be encouraged along the periphery of the CBD Zone boundaries (such as 5th, 7th, McKinney and Berry Streets, and the alleys);

(4) Curb cuts directly onto Sixth Avenue will be severely restricted in order to promote the pedestrian (mall-type) orientation of Sixth Avenue and to protect the design capacity of Sixth Avenue (State Route 8) as the major arterial street through the city. Access is to be encouraged from existing streets intersecting with Sixth Avenue, the alleys, or Fifth or Seventh Avenues.

(5) The existing alleys should be utilized for the provision of off-street parking or loading areas via the resurfacing and widening of the alleys.

(6) Pedestrian links should be provided from parking along the alleys or from off-street parking facilities to the primary activity areas.

(7) Those areas within the CBD Zone which are adjacent to existing residential development, specifically the areas abutting 5th and 7th Streets are transitional areas between the high intensity commercial development along Sixth Avenue and the residential development. Every effort should be made to utilize these areas for off-street parking facilities to provide a transition (or buffer area) as well as encourage access on the periphery of the business district. Any other type of development in these areas should be designed in a manner as to be beneficial to the business area and not be detrimental to those areas which are zone for residential uses.

(8) The façade treatment of buildings including the utilization of signs, in the CBD Zone should be relatively uniform in design and type of materials in order to improve the overall attractiveness of the business district.

(9) The orientation of commercial buildings should be towards the alley as well as towards Sixth Avenue (front, rear, or side entrance) in order to promote the best utilization of the alleys and the safety or ease of access for customers.

(10) Areas adjacent to existing residences should be landscaped to protect the existing residential development. Lighting should be provided for the safety of customers, but should not glare onto adjacent residences. Wherever possible, areas within the CBD Zone should also be landscaped to improve the attractiveness of the business district.

(11) Private off-street parking facilities shall be located within a reasonable walking distance of the use they are intended to serve.

(C) Permitted uses. These are the uses which are permitted on property zoned CBD as outlined on the official zoning map providing that they are in general conformance with the CBD plan:

## (1) Retail sales and service businesses as listed below:

6-13-88) Adult day care center or facility (Am. Ord. 1988-4, passed

Advertising agency  
Antique shop  
Apparel shop  
Art supplies  
Automobile service center  
Bait shop  
Bakery and bakery goods store where the products are  
sold exclusively on the premises  
Banks and other financial institutions including  
savings, loan, finance companies, and drive-in  
windows  
Barber shops  
Beauty shops  
Book, stationery, and gift shop  
Bus shelter  
Camera and photographic supplies  
Candy, soda fountain and ice cream stores  
Carpet and rug stores  
Ceramics shop  
Delicatessen  
Drug store  
Dry cleaners and laundromats  
Eating and drinking places  
Employment agencies  
Florist  
Food store  
Funeral home and parlors  
Furniture store including upholstery  
Garden supplies  
Glass, china, or pottery store  
Haberdashery  
Hardware store  
Health spas  
Hobby shops  
Household and electrical appliance store (including  
incidental repair)  
Interior design/decorating store  
Jewelry store (including repair)  
Leather goods and luggage store  
Locksmith shop  
Music, musical instruments, and records store  
(including incidental repair)  
Office appliances and supplies store  
Offices (such as realtors, private consulting firms,  
medical, dental, legal)  
Off-street parking lots and parking garages  
Opticians and optical supplies



Package liquor and alcoholic beverage store, including drive-in window  
 Paint and wallpaper store  
 Pet shops, excluding boarding and outside runs  
 Plant shop  
 Printing shop  
 Radio and television stores, including repair  
 Service station, including auto repair facilities  
 Shoe store and repair  
 Sporting goods  
 Studios for professional work on teaching of any form of fine arts, photography, music, drama or dance  
 Tailor shop  
 Toy store  
 Travel bureau  
 Variety store, including notions and five and ten stores.

(2) Public and semi-public uses as listed below:

- (a) Fire or police stations;
- (b) Civic building, community center, public administration building or public parks;
- (c) Library; and
- (d) Existing churches.

(3) Residential dwelling units, second and third floors or attached to the rear of a commercial use.

(4) Single family residences.

(D) Conditional uses: Child day care facilities.

(E) Accessory uses. The following uses shall be permitted as accessory uses in conjunction with a permitted use in the CBD Zone, providing they are in general conformance with the criteria for evaluation of development in the CBD:

(1) Fences and walls, as indicated on the required site plan and approved by the Planning Commission;

(2) Signs, as regulated by §§ 154.170 through 154.177; and

(3) Customary accessory buildings or uses.

(F) Area, height, and yard requirements. Requirements for all permitted and accessory uses shall be as approved by the Planning Commission, in the form of a site plan, as regulated by § 154.054 and provided that the proposed improvements are in general conformance with the criteria for evaluation of development in the CBD.

(G) Off-street parking and loading and unloading areas. Off-street parking and loading or unloading areas shall be provided in accordance with §§ 154.105 through 154.122, except for the following:

(1) Off-street parking and loading or unloading areas shall not be required to be located on the same zoning lot as the proposed improvement, but shall be located within the area zoned CBD and in general conformance with the criteria for evaluation of development in the CBD.

(2) The applicant/owner/developer of the proposed improvement shall provide the required number of off-street parking spaces as provided for in this chapter, except that a fee may be paid to the Dayton Parking Authority if approved by the Planning and Zoning Commission in lieu of all or part of the required number of spaces for the provision of public parking facilities.

(H) Zoning permit access.

(1) Application for a zoning permit to authorize any construction, reconstruction or alteration of any building or other improvement in the CBD Zone, shall be filed with the City Inspector/Zoning Administrator. The application shall be accompanied with a site plan, in accordance with § 154.054, indicating the proposed improvements to be made.

(2) The City Inspector/Zoning Administrator shall submit the site plan to the Planning Commission for their review, who shall make a determination whether or not the proposed improvements (new construction, an addition to existing development, accessory uses, parking, and the like) are in general conformance with the criteria for evaluation of development in the CBD. If it is determined that the proposed improvements are in general conformance with those criteria, and all other applicable requirements of this chapter are met, the Planning Commission shall approve the plan and authorize the City Inspector/Zoning Administrator to issue a zoning permit for the proposal.

(3) If the Planning Commission determines that the proposed improvements are not in general conformance with the criteria for evaluation of development in the CBD, it shall be disapproved and a zoning permit shall not be issued unless the site plan is revised, which would result in the proposed improvements becoming in general conformance with the criteria for evaluation of development in the CBD.

(I) Site plan variations to the criteria for evaluation of development in the CBD. When reviewing the site plan for a proposed improvement, the Planning Commission may approve a site plan that includes minor variations from the criteria for evaluation of development in the CBD provided that the variation does not adversely affect or negate other criteria.

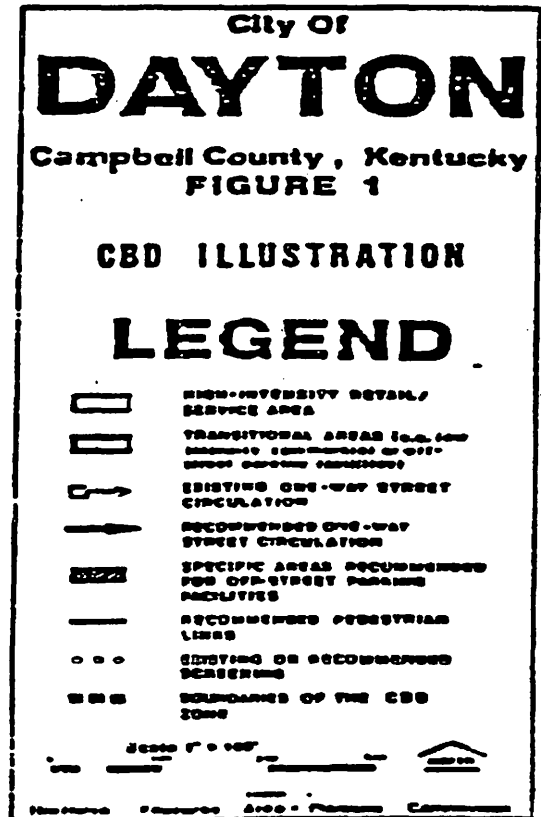
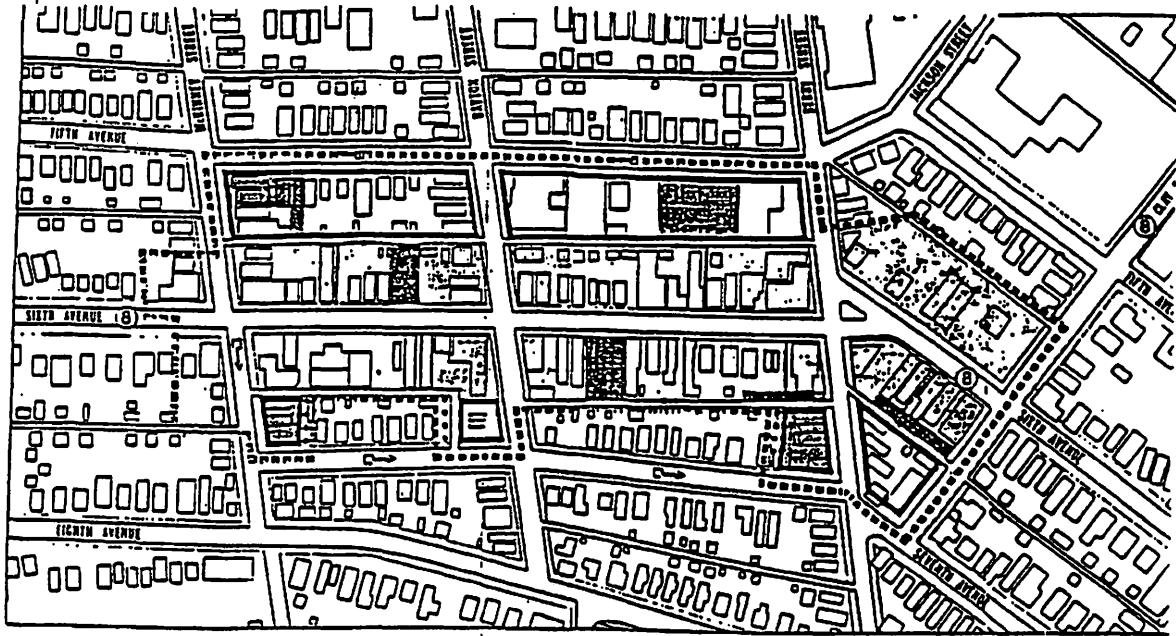
(J) Other development controls.

- (1) No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
- (2) No lighting shall be permitted which would glare from this zone onto any street or into any residential zone.
- (3) No use producing objectionable odors, noise, or dust, as determined by the Planning Commission, shall be permitted in this zone.
- (4) Screening areas shall be provided where necessary to protect adjacent residential uses and approved by the Planning Commission according to the required site plan.
- (5) All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading or unloading areas, gas pumps, and incidental minor auto repairs (such as changing tires).

DAYTON - ZONING CODE

108B

Figure 1.



(Ord. passed 3-6-79; Am. Ord. 154-09, passed 4-16-91; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 1997-24, passed 11-4-97; Am. Ord. 2000-4, passed 3-21-00; Am. Ord. 2002-1, passed 1-10-02; Am. Ord. 2003-1, passed 2-4-03; Am. Ord. 2013-8, passed 6-4-13; Am. Ord. 2014-19, passed 12-2-14) Civil offense, see § 154.998

§ 154.091 I-1 (INDUSTRIAL ONE) ZONE.

(A) Permitted uses. The following uses are permitted providing all permitted uses are in compliance with the performance standards set forth in §§ 154.190 through 154.192.

(1) The manufacturing, compounding, processing, packaging, repair or assembling of the following uses:

(a) Candy and confectionery products, food and beverage products, except the rendering or refining of fats and oils and excluding poultry and animal slaughtering and dressing.

(b) Cigars, cigarettes, and chewing tobacco.

(c) Cosmetics, pharmaceuticals, and toiletries.

(d) Animated or illuminated billboards and other commercial advertising structures.

(e) Electric appliances, television sets, phonographs, household appliances.

(f) Electrical and electronic machinery, equipment and supplies.

(g) Fountain and beverage dispensing equipment.

(h) Furniture and fixtures.

(i) Instruments of professional, scientific, photographic, and optical use.

(j) Metal products and metal finishing, excluding the use of blast furnaces or drop forges.

(k) Musical instruments, toys, novelties, jewelry, rubber or metal stamps.

(l) Office equipment.

(m) Pottery and figurines.

(n) Products from the following previously prepared materials: paper, glass, cellophane, leather, feathers, fur, precious or semi-precious metals, hair, horn, shell, tin, steel, wood, plastics, rubber, bone, cork, felt, fibers, yarn, wool, tobacco, stone, and clay.

(o) Textile products including asbestos products, canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope and twine.

(2) Bottling and canning works.

- (3) Body shops, service and repair of vehicles.
- (4) Industrial engineering consultant offices.
- (5) Laboratories, offices, and other facilities in research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private.
- (6) Laundries and dry cleaning plants, involving laundering and dry cleaning of articles delivered to the premises by commercial vehicles.
- (7) Machine shops.
- (8) Printing, engraving, and related reproduction processes.
- (9) Public utilities' right-of-way and pertinent structures.
- (10) Publishing and distribution of books, newspapers, and other printed material.

(B) Accessory uses.

(1) Customary accessory buildings and uses, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use, such as maintenance shops, power plants, and machine shops.

(2) Uses, as listed below, including within and entered from within any use permitted in this zone as a convenience to the occupants thereof, and their customers, providing accessory uses shall not exceed 10% of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building.

- (a) Cafeteria.
- (b) Coffee shops or refreshment stands.
- (c) Soda or dairy bars.
- (3) Fences and walls, as regulated by §§ 154.135 through 154.145.
- (4) Signs, as regulated by §§ 154.170 through 154.177.

(C) Conditional uses. The following uses or any customary accessory buildings or uses subject to the approval of the Board of Adjustment, as set forth in §§ 154.049 and 154.247: Churches.

(D) Area and height regulations, general. Any site proposed for development in this zone must have access to an approved "industrial street" (internal or collector) as provided for in Figure 1a. In addition all development must conform to the following:

(1) Minimum tract for industrial development. Three acres, except that development of a smaller tract adjacent to an existing three-acre tract may be permitted.

(2) Minimum lot area within minimum tract: One-quarter acre.

(3) Minimum lot width at building setback line: 80 feet.

(4) Minimum front yard depth: 10 feet.

(5) Minimum side yard width on each side of lot: 10 feet.

(6) Minimum rear yard depth: 10 feet, except that where the flood levee right-of-way forms the rear property line, no rear yard setback is required.

(7) Maximum building height: 40 feet or three stories.  
(Am. Ord. 1988-1, passed 1-19-88)

(E) Area and height regulations, small businesses. The Planning and Zoning Commission may designate a contiguous area not greater than 10% of the entire I-1 (Industrial One) Zone for Small Businesses. Any site proposed for development in this zone must have access to an approved "industrial street" (internal or collector) as provided for in Figure 1a. In addition all development must conform to the following:

(1) Minimum lot area within minimum tract: 6,600 square feet.

(2) Minimum lot width at building setback line: 60 feet.

(3) Minimum front yard depth: 10 feet.

(4) Minimum side yard width on each side of lot: 10 feet.

(5) Minimum rear yard depth: 10 feet, except that where the flood levee right-of-way forms the rear property line, no rear yard setback is required.

(6) Maximum building height: 40 feet or three stories.

(F) Other development controls.

(1) Off-street parking and loading or unloading shall be provided in accordance with §§ 154.105 through 154.122.



(2) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

(3) Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of 30 feet shall be provided, with a screening area, as regulated by § 154.052. For purposes of this subsection, the term "residential zone" shall not include any zone with the designation "Phased Industrial One [(P)I-1].

(4) A site plan, as regulated by § 154.054, shall be required for any use in this zone.

(5) When exterior modifications or additions are proposed in the I-1 Zone, a site plan shall be submitted to the Planning Commission for their review, who shall make a determination whether or not the proposed improvements (new construction, an addition to existing development, accessory uses, parking and the like) are in general conformance with the requirements for section 154.091. If it is determined that the proposed improvements are in general conformance with section 154.091, and all other applicable requirements of this chapter are met, the Planning Commission shall approve the plan and authorize the City Inspector/Zoning Administrator to issue a zoning permit for the proposal. Landscaping as approved by the Planning Commission, shall be required within the minimum front yard.

(6) Where development is proposed that abuts an existing street right-of-way, that has not been adequately or clearly recorded, the site plan for such development shall be required to indicate the dedication (or rededication) of the adequate width for said right-of-way.

(7) Where any streets or alleys are closed (as illustrated on Figure 1a) easements for utilities shall be provided, where applicable. (Ord. passed 3-6-79; Am. Ord. 920.9, passed 10-7-80; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 1997-25, passed 11-18-97; Am. Ord. 2000-2, passed 2-15-00; Am. Ord. 2000-15, passed 11-21-00; Am. Ord. 2001-4, passed 2-6-01; Am. Ord. 2003-25, passed 12-8-03; Am. Ord. 2008-6, passed 4-15-08) Civil offense, see § 154.998

§ 154.092 NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) ZONE.

(A) Purpose. The purposes of the Neighborhood Commercial District (NCD) Zone are to:

(1) Provide for planned business district of special interest to the proper development of the city;

(2) Promote the revitalization of the existing business district of the city;

(3) Promote flexibility in the design and development of the business district, in a planned and coordinated fashion; and

DAYTON - ZONING CODE

112B

(4) Provide for the neighborhood commercial-type needs of the city and the surrounding area.

(B) Criteria for evaluation of development in the NCD. In order to encourage and guide the development of the city's business district in a way that will result in a coordinated approach to the entire area and ensure its proper integration into the surrounding community, the following criteria shall be used as the basis to evaluate any new development, including expansions or changes to existing development, in the area zoned NCD (refer to Figure 1 of § 154.090, which illustrates some of these criteria):

(1) High intensity retail/service (for example, high activity or traffic generators) uses shall be encouraged to locate adjacent to Sixth Avenue;

(2) Pedestrian access shall be encouraged/promoted along, Sixth Avenue via the provision of continuous sidewalks, crosswalks, and pedestrian resting areas or shelter areas;

(3) Those areas within the NCD Zone which are adjacent to existing residential development, specifically the areas abutting 5th and 7th Streets are transitional areas between the high intensity commercial development along Sixth Avenue and the residential development. Every effort should be made to utilize these areas for off-street parking facilities to provide a transition (or buffer area) as well as encourage access on the periphery of the business district. Any other type of development in these areas should be designed in a manner as to be beneficial to the business area and not be detrimental to those areas which are zoned for residential uses.

(4) The façade treatment of buildings including the utilization of signs in the NCD Zone should be relatively uniform in design and type of materials in order to improve the overall attractiveness of the business district.

(5) The orientation of commercial buildings should be towards 5th Avenue as well as towards Sixth Avenue (front, rear, or side entrance) in order to promote the best utilization of 5th Avenue and the safety or ease of access for customers.

(6) Areas adjacent to existing residences should be landscaped to protect the existing residential development. Lighting should be provided for the safety of customers, but should not glare onto adjacent residences. Whenever possible, areas within the NCD Zone should also be landscaped to improve the attractiveness of the commercial district.

(7) Private off-street parking facilities shall be located within a reasonable walking distance of the use they are intended to serve.

(C) Permitted uses. These are the uses which are permitted on property zoned NCD as outlined on the official zoning map providing that they are in general conformance with the NCD plan:

(1) Retail sales and service businesses as listed below:

Advertising agency  
Antique shop  
Apparel shop  
Art supplies  
Automobile service center  
Bait shop  
Bakery and bakery goods store where the products are  
sold exclusively on the premises  
Banks and other financial institutions including savings,  
loan, finance companies, and drive-in windows  
Barber shops  
Beauty shops  
Book, stationery, and gift shop  
Bus shelter  
Camera and photographic supplies  
Candy, soda fountain and ice cream stores  
Carpet and rug stores  
Ceramics shop  
Delicatessen  
Drug store  
Dry cleaners and laundromats  
Eating and drinking places  
Employment agencies  
Florist  
Food store  
Furniture store including upholstery  
Garden supplies  
Glass, china, or pottery store  
Haberdashery  
Hardware store  
Health spas  
Hobby shops  
Household and electrical appliance store (including  
incidental repair)  
Interior design/decorating store  
Jewelry store (including repair)  
Leather goods and luggage store  
Locksmith shop  
Music, musical instruments, and records store  
(including incidental repair)  
Office appliances and supplies store  
Offices (such as realtors, private consulting firms,  
medical, dental, legal)  
Off-street parking lots and parking garages  
Opticians and optical supplies  
Package liquor and alcoholic beverage store, excluding  
drive-in window

Paint and wallpaper store  
Pet shops, excluding boarding and outside runs  
Plant shop  
Printing shop  
Radio and television stores, including repair  
Service station, including auto repair facilities  
Shoe store and repair  
Sporting goods  
Studios for professional work on teaching of any form of  
fine arts, photography, music, drama or dance  
Tailor shop  
Toy store  
Travel bureau  
Variety store, including notions and Five and Ten stores

(2) Residential dwelling units, second and third floors or attached to the rear of a commercial use.

(D) Accessory uses. The following uses shall be permitted as accessory uses in conjunction with a permitted use in the NCD Zone, providing they are in general conformance with the criteria for evaluation of development in the NCD:

- (1) Fences and walls as indicated on the required site plan and approved by the Planning Commission;
- (2) Signs as regulated by §§ 154.170 through 154.177;
- (3) Customary accessory buildings or uses.

(E) Area, height and yard requirements. Requirements for all permitted and accessory uses shall be as approved by the Planning Commission, in the form of a site plan, as regulated by § 154.054 and provided that the proposed improvements are in general conformance with the criteria for evaluation of development in the NCD.

(F) Off-street parking and loading or unloading areas. Off-street parking and loading or unloading areas shall be provided in accordance with §§ 154.105 through 154.122, except for the following: The applicant/owner/ developer of the proposed improvement shall provide the required number of off-street parking spaces as provided for in this chapter.

(G) Zoning permit process.

(1) Application for a zoning permit to authorize any construction, reconstruction, or alteration of any building or other improvement in the NCD Zone, shall be filed with the City Inspector/Zoning Administrator. The application shall be accompanied with a site plan, in accordance with § 154.054, indicating the proposed improvements to be made.

(2) The City Inspector/Zoning Administrator shall submit the site plan to the Planning Commission for their review, who shall make

a determination whether or not the proposed improvements (new construction, and addition to existing development, accessory uses, parking, and the like) are in general conformance with the criteria for evaluation of development in the NCD. If it is determined that the proposed improvements are in general conformance with these criteria, and all other applicable requirements of this chapter are met, the Planning Commission shall approve the plan and authorize the City Inspector/Zoning Administrator to issue a zoning permit for that proposal.

(3) If the Planning Commission determines that the proposed improvements are not in general conformance with the criteria for evaluation of development in the NCD it shall be disapproved and a zoning permit shall not be issued unless the site plan is revised, which would result in the proposed improvements becoming in general conformance with the criteria for evaluation of development in the NCD.

(H) Site plan variations to the criteria for evaluation of development in the NCD. When reviewing the site plan for a proposed improvement, the Planning Commission may approve a site plan that includes minor variations from the criteria for evaluation of development in the NCD provided that the variation does not adversely affect or negate other criteria.

(I) Other development controls.

(1) No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.

(2) No lighting shall be permitted which would glare from this zone onto any street or into any residential zone.

(3) No use producing objectionable odors, noise, or dust, as determined by the Planning Commission shall be permitted in this zone.

(4) Screening areas shall be provided where necessary to protect adjacent residential uses and approved by the Planning Commission according to the required site plan.

(5) All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading or unloading areas, gas pumps, and incidental minor auto repairs (such as changing tires).

(Ord. 920.28, passed 4-21-87; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2000-4, passed 3-21-00; Am. Ord. 2013-8, passed 6-4-13; Am. Ord. 2014-19, passed 12-2-14) Civil offense, see § 154.998

§ 154.093 I-2 (INDUSTRIAL TWO) ZONE.

(A) Permitted Uses. The following uses are permitted, providing all uses are in compliance with the performance standards set forth in §§ 154.190 through 154.192.

(1) The manufacturing, compounding, processing, packaging or assembling of sand and gravel including storage.

- (2) Carpet and rug cleaning and dry cleaning.
- (3) Building materials sales yards.
- (4) Enclosed storage.
- (5) Contrators' offices and accessory storage yards, including storage of general construction equipment and vehicles.
- (6) Crating services.
- (7) Industrial engineering consultant offices.
- (8) Laboratories, offices and other facilities for research both basic and applied, conducted by or for an industrial organization or concern, whether public or private.
- (9) Public utilities rights-of-way and pertinent structures.
- (10) Railroad facilities, including passengers and freight terminals, marshalling yards, maintenance shops and roundhouse.
- (11) Schools for industrial or business training.
- (12) Wholesale and retail stores.
- (13) Restaurants.
- (14) Profit or nonprofit recreational business.
- (15) Laundries, involving laundering of articles delivered to the premises by commercial vehicles.

(B) Accessory uses.

- (1) Customary accessory buildings and uses, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use, such as maintenance shops power plants, and machine shops.
- (2) Fences and walls, as regulated by §§ 154.135 through 154.145.
- (3) Signs as regulated by §§ 154.170 through 154.177.

(C) Area and height regulations.

- (1) Minimum tract for industrial development: one-fourth acre, except where area restrictions are less, as identified in the adopted comprehensive plan; however, development of a smaller tract adjacent to an existing approved site may be permitted providing the proposed development conforms to an extends the original development as

if the site has been a part of the originally approved site plan layout.

- (2) Minimum lot area within minimum tract: one-fourth acre.
  - (3) Minimum front yard depth: 10 feet.
  - (4) Minimum side yard width: 10 feet.
  - (5) Minimum rear yard depth: 10 feet, except that no rear yard is required where a rail spur forms the rear property line.
  - (6) Maximum building height: 40 feet.
- (D) Other development controls.

(1) Off-street parking and loading and/or unloading shall be provided in accordance with §§ 154.105 through 154.122.

(2) No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

(3) Where any yard or any use permitted in this zone abuts a residential zone, a minimum requirement of ten (10) feet for each side, front or rear yard.

(4) A site plan, as regulated by § 154.054 shall be required for any use in this zone.

(Ord. 1989-26, passed 1-2-90, Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2000-4, passed 3-21-00; Am. Ord. 2001-15, passed 7-26-01; Am. Ord. 2013-8, passed 6-4-13) Civil Offense, see § 154.998

§ 154.094 MIXED LAND USE (MLU) ZONE.

(A) Purpose. The purpose of the Mixed Land Use (MLU) Zone is to provide for the combining of offices, hotels and motels, retail and service uses, and residential uses within a planned development. Such development is intended to be designed to provide for an internally oriented group of activities which are functionally integrated relative to land uses, vehicular and pedestrian circulation and the arrangement of structures. In addition, the intent of the zone is to promote flexibility in design and planned diversification in the relationships between location of and types of uses and structures; promote the advantages of modern large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and amenities, and to utilize such features in a harmonious fashion; provide for more usable and suitably located open space facilities and common facilities than would otherwise be provided under conventional land development procedures but always with the intention of furthering the public health, safety, and general welfare.



(B) General. An MLU Zone may be permitted provided that all conditions or provisions of this section, the applicable requirements of the city's subdivision regulations, and any additional requirements as may be determined necessary to provide for the most efficient layout of the MLU Zone and its proper integration with the surrounding development are met; and a public hearing is held on the MLU application.

(C) Application and processing. Applications for the MLU Zone shall be processed as follows in two stages:

DAYTON - ZONING CODE

118B

(1) Stage I. Applications for a map amendment to zone an area for MLU shall be accompanied by a development plan, in accordance with the Stage I plan requirements, provided for within § 154.055. If an area, however, is currently zoned MLU, the submission of the Stage I development plan for review by the Planning Commission and the legislative body, shall not be required until the area is proposed to be developed.

(a) The Planning Commission shall hold a public hearing on the proposed application (development plan Stage I and, where applicable, the zoning map amendment), in accordance with the requirements of KRS Chapter 424, and review said application with regard to its compliance with the stated purposes of the MLU Zone, the required elements of the Stage I plan and other applicable requirements of this section. Upon holding such hearing, the Planning Commission shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The Planning Commission shall submit, along with their recommendations, a copy of the Stage I plan and the bases for their recommendation.

(b) The legislative body shall, within 45 days after receiving the recommendations of the Planning Commission, review said recommendations and take action to approve, or disapprove said MLU application. Such action may incorporate any conditions imposed by the Planning Commission. However, should the legislative body take action to impose different conditions than were reviewed and considered by the Planning Commission, then said conditions shall be resubmitted to the Planning Commission for further review and recommendation, in accordance with division (C)(1)(a). Approval of the MLU Zone shall require that development be in conformance with the Stage I approved plan. The legislative body shall forward a copy of the approved plan to the Planning Commission for further processing, in accordance with the requirement for Stage II plan and record plat.

(c) Zoning map amendment. Upon approval of the MLU Zone, the official zoning map shall be amended by adding the area as identified in the application or as shown on the Stage I approved plan.

(2) Stage II Plan and Record Plat. A Stage II plan and record plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of § 154.055(B) and (C), and submitted to the Planning Commission for its review and approval. Except for the manner of submission and processing the subdivision regulations may be waived, where applicable, and the requirements of § 154.055(B) and (C) shall be substituted therefore. Those requirements not specifically waived by the Planning Commission shall conform with the subdivision regulations.

(a) The Planning Commission shall review the submitted Stage II plan with regard to its compliance with the required elements of § 154.055(B), for Stage II plans, other applicable elements of this section and other applicable regulations, and its conformity with the Stage I approved plan. The Planning Commission, in approving the Stage II plan, may authorize minor adjustment from the Stage I approved plan,

provided that the adjustments do not change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian) or decrease the amount and/or visibility of open space or recreation areas, or conflict with other applicable requirements of this section, for example, parking requirements.

(b) Upon Planning Commission approval of the Stage II plan, a copy of said plan shall be forwarded to the city's Zoning Administrator, who shall grant permits only in accordance with the Stage II approved plan and other regulations, as may be required.

(c) Upon approval of the Stage II plan, the Planning Commission shall review the submitted record plat, if applicable, with regard to its compliance with the required elements of § 154.055(C), for record plats, the applicable requirements of the subdivision regulations, and its conformance with the Stage II approved plan. Upon Planning Commission approval of the record plat, copies of said plat, certified by the Planning Commission, and suitable for recording, shall be forwarded by the Planning Commission to the office of the County Clerk to be recorded.

(D) Permitted uses. One or more of the following uses may be permitted. Said uses shall be clearly delineated on the Stage I and II plans:

(1) Offices.

(2) Hotels and motels.

(3) Restaurants, eating and drinking places, including entertainment facilities, excluding drive-ins.

(4) Residential, including single-family attached and detached, two-family, and multi-family.

(5) Boat marinas and related uses.

(6) Health clubs, swimming pools and related uses.

(7) Convention center and related activities.

(8) Retail and service uses:

(a) Apparel shop, clothing store and tailor shop.

(b) Art and art supplies.

(c) Bakery and bakery goods store, provided the products are sold exclusively on the premises.

(d) Banks and other financial institutions, including savings, loan and finance companies.

- (e) Book, stationery or gift shops.
- (f) Camera and photographic supplies.
- (g) Candy store, soda fountain, ice cream or yogurt store.
- (h) Drug store.
- (i) Florist shop.
- (j) Glass, china or pottery store.
- (k) Hobby shop.
- (l) Interior decorating studio, paint and wallpaper store.
- (m) Jewelry store, including repair.
- (n) Leather goods and luggage store.
- (c) Music, musical instruments, and records, tapes, compact discs and the like, including incidental repair.
- (p) Opticians, optometrists and optical goods.
- (q) Package liquor and wine store.
- (r) Shoe store with incidental shoe repair.
- (s) Sporting goods.
- (t) Toy store.
- (u) Delicatessen.
- (v) Dry cleaning and laundry pick-up station.
- (w) Food stores and supermarkets.
- (x) Furniture store.
- (y) Garden supplies.
- (z) Hardware store.
- (aa) Household and electric appliances, radio and television stores, including repair.
- (bb) Adult dancing establishments and adult entertainment establishments.

(cc) Gun shops

(dd) Tattoo/body piercing shops

(ee) Retail sales and services businesses not listed above, but which are determined by the Zoning Administrator to be of a similar use or activity in relation to the above permitted uses.

(E) (1) Accessory uses. Customary accessory buildings and uses.

(2) Retail and service uses, as listed below, may be included as part of the development provided said uses are entered from within any of the permitted uses listed above or are developed as an integral part of the proposed development. Said uses shall be internally oriented to the development and shall serve as a convenience to any of the occupants thereof, their patients, as a convenience to the client or customers, and further provided that no exterior advertising signs shall be visible from outside the area of the approved development:

(a) Barber and beauty shops.

(b) Health spas.

(c) Studios for professional work or teaching of any form of fine arts, photography, music, drama or dance.

(d) Swimming pools.

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

(1) Schools (nursery, elementary and secondary).

(2) Churches.

(3) Community centers, including day care facilities.

(4) Country clubs.

(5) Libraries.

(6) Fire or police stations.

(7) Open space/recreation areas.

(8) Governmental offices (including post office branch).

(G) (1) Area requirements. No MLU Zone shall be permitted on less than five (5) acres of land. However, an area of less than five (5) acres may be zoned MLU, provided it is adjacent to an area within an existing approved Stage I development plan and is currently zoned MLU.

(2) The minimum area for submission of a Stage I development plan, within an existing MLU Zone, shall be not less than two (2) acres.

However, a Stage I development plan may be submitted for an area of less than two acres, provided it is adjacent to and extends the existing approved Stage I development plan and conforms to the requirements of the MLU Zone.

(H) Access. Access shall be provided to the site via a major arterial or collector street, as identified within the locally adopted Comprehensive Plan.

(I) Height, yard and setback regulations. Requirements shall be as approved in the plan.

(J) Off-street parking and loading and/or unloading. Off-street parking and, when applicable, loading and/or unloading facilities, shall be provided in accordance with §§154.105 through 154.122.

(K) Fences, walls, and signs. The location, height, and type of all fences, walls, and signs shall be as approved in the plan.

(L) Erosion and sedimentation control. Effective erosion and sedimentation controls shall be planned and applied in accordance with § 154.043.

(M) Open space/recreation area. At least 20% of the total acreage of the proposed MLU development shall be retained as open space or recreation areas. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all activities within the MLU development. Open space and recreation areas shall be that part of the total project exclusive of buildings, parking areas, access drives and streets. At such time as the Stage II development plan for a particular development is submitted to the Planning Commission, notwithstanding § 154.093(C)(2)(a), open space requirements of less than 20% may be considered for development if: unusual topographic conditions exist, unique treatment of parking areas is provided for, and unique conditions and circumstances exist on or adjacent to the site.

(N) Criteria. Evaluation of the proposed development plan shall be based upon the following criteria:

(1) Agreement with the various elements of the Comprehensive Plan and, where applicable, any KRS Chapter 99 approved Urban Renewal Development Plan.

(2) Extent to which the proposed development plan is consistent with the purpose of the MLU Zone.

(3) Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (based on topography, natural features, streets, relationship of adjacent uses, and so on).

(4) Nature and extent of the proposed uses in relation to the unique characteristics of the site; the current or anticipated need for such use(s) and the specific size and locale of the market area from which the specific uses of the site will draw or serve.

(5) Extent to which the proposed design, as indicated in the Stage I plan, is compatible and coordinated with the existing and/or proposed development contiguous to the site. Compatibility and coordination with existing and/or proposed development shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding areas, including coordination of vehicular and pedestrian circulation, the scale (i.e., height and mass of structures), of the proposed development; location of open spaces and size of setbacks; provisions of screening areas or utilization of natural features; the transition of land use types based on the proposed design; and the impact of the proposed development on adjacent uses, such as noise, visual impact, hours of operation, traffic circulation, and so on.

(6) Amount of traffic that would be generated by the proposed operation and the ability of the existing highway system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies should be considered.

(7) Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.

(8) Extent to which all necessary public utilities and facilities are available to service the development, including police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies should be considered.

(O) Amendments. Any amendments to plans, except for the minor adjustments which may be permitted by the Planning Commission, shall be made in accordance with the procedure required by division (C).

(P) Expiration. Development plans within the MLU Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period and any extensions thereto, the legislative body may initiate a request for a public hearing by the Planning Commission in accordance with the requirements of KRS Chapter 100, for the purpose of determining the appropriateness of the approved development plan. A public hearing may be initiated if either of the following conditions apply:

(1) Stage II plan has not been approved by the Planning Commission within a period of 24 consecutive months from the date of the Stage I approved plan, except as agreed upon for the phasing of development by the legislative body; provided that an extension may be permitted upon approval of the legislative body or their duly authorized representative, if sufficient proof can be demonstrated that



prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

(2) Substantial construction has not been initiated within a period of twenty-four (24) consecutive months from the date of approval of the Stage II plan by the Planning Commission; provided that an extension may be permitted upon approval of the legislative body or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approval plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.

(Ord. 1990-5, passed 5-15-90; Am. Ord. 1997-7, passed 3-4-97; Am Ord. 1998-7, passed 6-23-98; Am. Ord. 1999-17, passed 12-21-99; Am. Ord. 2000-13, passed 11-8-00; Am. Ord. 2001-2, passed 1-16-01) Civil offense, see § 154.998

§ 154.095 HISTORIC PRESERVATION OVERLAY (HP-O) ZONE.

(A) Purpose. To preserve the structures, buildings appurtenances and places which are basic and of vital importance for the development of culture, because of their association with history, because of their unique architectural style and scale including color, proportions, form and architectural details; or because of their being a part of or related to a square, park or area of cultural, historical, or architectural importance to the city. This section is also intended to complement Chapter 156.

(B) Permitted uses. Any principal permitted uses allowed in the underlying zone and that do not destroy or alter the exterior architectural features of the building or structure in accordance with the purpose of this zone are permitted.

(C) Conditional uses. Any permitted conditional uses allowed in the underlying zone that do not destroy or alter the exterior architectural features of the building or structure in accordance with the purpose of this zone are permitted.

(D) Accessory uses. Any permitted accessory uses allowed in the underlying zone and that do not destroy or alter the exterior architectural features of the building or structure in accordance with the purpose of this zone are permitted.

(E) Area, height and yard requirements. Per the underlying zone.

(F) Other development controls.

(1) No exterior alterations that are visible to the public, new construction, demolition or relocation shall be permitted unless a certificate of appropriateness is obtained first.

(2) Off-street parking and loading or unloading areas. Per the underlying zone.

(3) No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.

(4) No lighting shall be permitted which would glare from this zone onto any street or into any adjacent property.  
(Ord. 2011-10, passed 9-13-11)

#### OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS

#### § 154.105 OFF-STREET PARKING FACILITIES FOR STORAGE OR PARKING OF MOTOR VEHICLES.

In all zones, off-street parking facilities for the storage of parking of motor vehicles for use of occupants, employees, and patrols of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this chapter, shall be provided and maintained as herein prescribed. However, where a building permit has been issued prior to the date of adoption of this chapter and provided that construction has not begun within ninety (90) consecutive calendar days of that effective date, off-street parking facilities in the amounts required by this chapter shall prevail.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

#### § 154.106 GENERAL REQUIREMENTS.

(A) Computation of parking spaces. In determining the number of parking spaces required, if spaces result in fractional parts thereof, the number of the spaces required shall be construed to be the next highest whole number.

(B) Additional parking spaces to be provided. Whenever the intensity of use of any building, structure, or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, change of use, or other units of measurement specified herein, additional parking spaces shall be provided in the amounts hereafter specified for that use, if the existing parking space is inadequate to serve that increase in intensity of use.

(C) Location of off-street parking facilities.

(1) Off-street parking facilities shall be located as follows:

(a) Single family residential zones (R-1bC, R-1c, R1D, R-1e, R-1g, R-1h, R-1jJ). Off-street parking may be permitted in driveways in front, side and rear yards of permitted uses in these zones, provided all requirements of this chapter are met. Additionally,

off-street parking areas may be located in the minimum rear yard. Off-street parking areas, including driveways, located in the front yard in a single-family residential zone, may not be greater than ten feet wide unless the ratio of unpaved area to paved area (grass area to parking and driveway areas) in the front yard is at least two to one. However, the Board of Adjustment may grant a variance to the two-to-one ratio if it determines that construction of the paved area will not adversely affect adjacent property owners.

(b) Multi-family residential and mobile home park zones (R-2, R-3, R-4, RMHP). Off-street parking is permitted in minimum required side or rear yards of permitted uses in these zones. Off-street parking may be permitted in minimum required front yards, only if approved by the Planning Commission according to the required site plan.

(c) Special development zones (RCD, PUD, MLU). Off-street parking shall be located as designated on the approved site plan.

(d) Commercial and industrial zones (CBD, IP). Except as herein provided, off-street parking may be permitted in minimum required front, side, and rear yards of these zones in accordance with a site plan that is approved by the Planning Commission.

(2) All off-street parking facilities shall be located on the same lot as the building served except for the following:

(a) Permitted uses locating within multi-family and industrial zones may supply off-street parking within 300 feet from the lot served, upon approval of the City Inspector/Zoning Administrator, providing that the off-street parking facilities are unable to be provided on the same lot or contiguous to the same lot as the building being served. In addition, the off-street parking shall be located in the same zone as the use being served.

(b) Existing single, two, or multi-family dwellings, which are permitted uses herein and occupy a lot of such size that off-street parking could not be provided on the same lot as the use being served, the off-street parking may be permitted to locate within a distance not to exceed 300 feet from the dwelling upon approval of the City Inspector/Zoning Administrator. In addition, the off-street parking lot shall be located in the same zone as the use being served.

(c) Off-street parking, as required for conditional uses may be permitted to locate on another lot than the building or use being served is located, when approved by the Board of Adjustment, provided that the parking is located within reasonable walking distance of the use or building being served and available at all times without restrictions for those purposes.



(d) Off-street parking facilities for uses permitted in the CBD Zone may be located on another zoning lot provided that it is located within the boundaries of the CBD Zone and approved by the Planning Commission.

(D) Collective parking provision. Collective off-street parking facilities may be provided; however, the area for parking facilities shall not be less than would otherwise be individually required except as provided under division (E) below.

(E) Shared parking provision.

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

Shared Parking Credit Table  
Time of Operation

Land Use Type	<u>Weekday</u>		<u>Weekend</u>		<u>Nighttime</u>
	Daytime <u>6am-6pm</u>	Evening 6pm- <u>Midnight</u>	Daytime <u>6am-6pm</u>	Evening 6pm- <u>Midnight</u>	Midnight- <u>6am</u>
Office/ Industrial	100%	10%	10%	5%	5%
Retail/Personal Service	60%	90%	100%	70%	5%
Hotel, Motel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Indoor Theater/ Commercial Recreational Establishment	40%	100%	80%	100%	10%

(2) The following requirements shall apply to any shared parking facility for mixed use development.

(a) The shared parking facility must be located within 500 feet walking distance of the entrance to the establishment to be

served. Said walkway access shall provide a safe means of pedestrian access to and from the establishment being served.

(b) Reserved spaces shall not be shared.

(c) It shall be determined at the time of parking facility plan approval that shared parking is possible and appropriate at the location proposed. Particular attention is needed to assure that sufficient and convenient short-term parking will be available to commercial establishments during the weekday daytime period. The short-term shared parking spaces must be located in the most convenient and visible area of the parking facility nearest the establishment being served.

(d) Any subsequent change in use shall require the issuance of a new zoning permit and proof that minimum parking requirements, per these regulations, will be met.

(e) Shared parking may be utilized for other uses, which are not shown in the parking credit table. The applicant shall prepare a similar calculation for the proposed uses, indicating the estimated percentage of each time period, based upon current parking information. Documentation shall be submitted by the applicant to demonstrate that the normal and regular operating hours of the uses proposing a shared parking arrangement do not coincide or overlap in any manner.

(F) Driveways not computed as part of required parking area. Entrances, exits, or driveways shall not be computed as any part of a required parking lot or area, except in the case of single-family residential zones, where access driveways may be used for parking.

(G) Off-street parking space to be used for parking only. Any vehicle parking space shall be used for parking only. Any other use of such space, including repair work or servicing of any kind other than in an emergency, or the requirement of any payment for the use of that space, shall be deemed to constitute a separate commercial use in violation of the provisions of this chapter.

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

(I) Parking plan approval required. Plans for all parking lot facilities, including parking garages, shall be submitted to the City Inspector/Zoning Administrator for review and for compliance with the provisions of this chapter and any other pertinent ordinances of the city. These plans shall show the number of spaces and arrangements of parking aisles, location of access points onto adjacent streets, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location

of shelters for parking attendant, locations of signs, typical cross sections of pavement, including base and subbase, proposed grade of parking lot, storm drainage facilities, location and type of lighting facilities, and any other information or plans as the circumstances may warrant. Where parking plans include provisions for access points to adjacent streets, then those plans shall also be prepared in accordance with the requirements of § 154.108.

(Ord. passed 3-6-79; Am. Ord. 1990-5, 5-15-90; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 1154.107 DESIGN AND LAYOUT OF OFF-STREET PARKING AREAS.

(A) Size of off-street parking spaces. For the purposes of this chapter, one parking space shall be a minimum of 162 square feet in area, exclusive of access drives or aisles, and shall be a minimum of nine feet in width and eighteen feet (18') in length. However, a maximum of fifteen percent (15%) of the number of required parking spaces may be a minimum of 128 square feet in area, exclusive of access drives or aisles, and a minimum of eight feet (8') in width and sixteen feet (16') in length so long as each such parking space is designated in plain view as for use of compact cars only. The parking space shall have a vertical clearance of at least seven feet.

(B) Width of access drives.

(1) All off-street parking areas shall be laid out with the following minimum aisle or access drive widths.

(a) Ninety (90) degree (perpendicular) parking: twenty two feet (22') (either one or two-way circulation);

(b) Sixty (60) degree (angle) parking: fifteen (15) feet (one way circulation only);

(c) Forty-five (45) (angle) parking: twelve (12) feet (one-way circulation only);

(d) Thirty (30) degree (angle) parking: eleven (11) feet (one-way circulation only);

(e) Zero degree (parallel) parking: 12 feet (one-way circulation).

(2) When any combination of these types of parking is used (facing the same aisle), the most restricted aisle or access drive width requirements shall prevail. In addition, a two-foot (2') overhang may be permitted on the external sides of a parking area. If the width of the parking space is increased over nine feet (9'), the drive aisle width can be decreased two feet (2') in width in drive the aisle per one foot increase in space width, except that a drive aisle for two-way traffic may not be decreased below twenty feet

(20') in width and a drive aisle for one-way traffic may not be decreased below eleven feet (11') in width.

(C) Access to off-street parking spaces. Each required parking space shall be connected with a deeded public right-of-way by means of aisles or access drives as required by division (B) of this section. The parking area shall be so designated to ensure that all maneuvering into and out of each parking space shall take place entirely within property lines of lots, garages, or storage areas.

(D) Off-street parking areas in multi-family, commercial, or industrial zones. All such parking areas shall have a protective wall or bumper blocks around the perimeter of the parking area and shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic. All parking shall be effectively screened on each side adjoining or fronting on any property situated in a zone permitting single-family residential development, by a solid wall, fence or densely planted compact hedge as regulated by § 154.052. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

(E) Lighting. Any lighting used to illuminate off-street parking areas shall not glare upon any right-of-way or adjacent property.

(F) Paving of new off-street parking area. All new off-street parking areas shall be paved with asphalt concrete or Portland cement concrete and shall be designed and constructed in accordance with the applicable standards adopted by the city council.

(Ord. passed 3-6-79; Am. Ord. 920.11, passed 10-4-83; Am. Ord. 1989-19, passed 10-3-89; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.108 SPECIFIC OFF-STREET PARKING REQUIREMENTS.

(A) The amount of off-street parking space required for uses, buildings, or additions and/or changes in intensity of uses thereto shall be determined according to the following requirements, and the space so required shall be stated in the application for a zoning and building permit and shall be reserved for that use. Where more than one use is located in the same building, each individual use shall be in accordance with the off-street parking requirements of this section of the chapter.

<u>Types of Uses</u>	<u>Required Number of Parking Spaces</u>
Airport, railroad passenger stations and bus terminals.	One parking space per each four seating accommodations for waiting passengers, plus one parking space per each two employees on shift of largest employment.



Types of UsesRequired Number of Parking Spaces

Automobile serve stations  
(gas stations, filling  
stations).

One space for each gas pump  
island, plus two spaces for each  
working bay, plus one parking space  
for each employee on largest shift.

Beauty parlors or barber  
shops.

Two parking spaces per barber  
or beauty shop operator.

DAYTON - ZONING CODE

120L

<u>Type of Uses</u>	<u>Required Number of Parking Spaces</u>
Bowling establishments	Five parking spaces for each lane; plus one space for each two employees on shift of largest employment.
Car wash	One parking space for each employee, plus one space per owner or manager and reservoir space equal to five times the capacity of car wash.
City or county government offices	One parking space for each 300 square feet of gross floor area.
Commercial or trade schools	One parking space for each two students based on design capacity of school, plus one parking space for each employee.
Dance halls, pool and and billiard halls, and exhibition halls without fixed seats	One space for each four persons based on design capacity, plus one space for each two employees on shift of largest employment.
Dormitories, fraternities, sorority houses, and other group housing	One parking space per each two residents, plus one parking space per owner or operator; plus one parking space per employee; or one parking space for each two seats for membership meetings, whichever is greater, based on design capacity.
Dwellings: One-family Two-family	Two parking spaces. Four parking spaces, with individual access for each dwelling unit, or a joint access in which no parking is permitted on the access drive.
Dwellings: (A) Multi-family (Am. Ord. 920.20, passed 5-7-85)	One and one-half parking spaces for every one or two bedroom dwelling unit and two parking spaces for every dwelling unit with three or more bedrooms.
(B) Multi-family designed for occupancy by elderly persons, only	One parking space for every two dwelling units.
Establishments for sale and consumption on the premises of alcoholic beverages, food,	One parking space per each: (1)30 square feet of gross floor area in a drive-in restaurant;

<u>Type of Uses</u>	<u>Required Number of Parking Spaces</u>
and refreshments, or for take home food services	(2)140 square feet of gross floor area in a carry-out restaurant; (3)65 square feet of gross floor area or two seating accommodations, based on maximum seating capacity, whichever is greater in a combination restaurant; (4)Three seating accommodations, based on maximum seating capacity in a sit-down restaurant; plus one parking space per each two employees on shift of largest employment in any type restaurant.
Fire stations	One parking space per each person on duty on largest shift.
Hospitals	One parking space for each two beds, plus one space for each two employees, or staff members, including nurses, on the shift of largest employment, plus one parking space per doctor.
Laundromats	One parking space for each four washing machines, plus one parking space for every two employees.
Libraries, museums, and art galleries	One parking space per each four seats in rooms for public assembly or one parking space for each 50 square feet of gross floor area for use by the public, whichever is greater, plus one space for each two employees on shift of largest employment.
Medical offices or clinics	Five parking spaces per each practitioner; plus one parking space per each two employees, or one parking space per each 200 square feet of gross floor area in the building, plus one parking space for each two employees, whichever is greater.
Mortuaries or funeral homes	One parking space for each four seats in the main chapel or public assembly area based on maximum seating capacity, plus one parking space for each funeral vehicle and employee, or in the case of no

Type of UsesRequired Number of Parking Spaces

Offices for professional, business and financial, real estate and business purposes other than medical offices and/or clinics

fixed seats, one parking space for each 50 square feet of floor area in parlors or service rooms, or one parking space for each four persons, based on designed capacity of building, whichever is greater, plus one parking space for each funeral vehicle and employee.

Three parking spaces per 1000 square feet of gross leasable area.

Post offices

One parking space for each 300 square feet of gross floor area, plus one parking space for each two employees on the shift of largest employment; plus one space for each vehicle operating from the premises.

Private clubs, boarding houses, and lodge halls

One parking space for each guest sleeping room, or one parking space per each four fixed seats in the main assembly area, whichever is greater, plus one parking space for each two employees, or in the case of no fixed seats, one parking space for each two employees.

Retail and personal service stores

Three parking spaces per 1000 square feet of gross leasable area.

Schools: Elementary, junior high and equivalent, private or parochial schools

One parking space per teacher and administrator or one space for each four seats in the auditorium, stadium, and other places of assembly or facilities available to the public based on maximum seating capacity, which is greater.

Schools: Senior high, trade and vocational, colleges and universities, and equivalent private or parochial schools

Six spaces per each room to be used for instruction or administrative offices or one space for each four seats in the auditorium or stadium, and other places of assembly or facilities available to the public, based on maximum seating capacity, whichever is greater.

Type of Uses

Required Number of Parking Spaces

Shopping centers

Three parking spaces per 1000 square feet of gross leasable area.

Stadium and sports arenas and other recreational facilities

One parking space for each four seats, based on a maximum seating capacity, plus one space for each two employees on shift of largest employment.

Theaters, auditoriums, churches and places of assembly with fixed seats

One parking space for each four seats based on maximum seating capacity, plus one additional space for each two employees on shift of largest employment.

Theaters, auditoriums, churches, and places of assembly without fixed seats

One parking space per four people in designed capacity of building, plus one parking space for each two employees on shift of largest employment.

Tourist homes, cabins, motels or hotels, excluding areas used for meeting rooms and places of assembly.

One parking space for each sleeping room or suite, plus one space per each two employees on shift of largest employment.

Industrial establishments, including manufacturing, research, and testing laboratories

Two parking spaces for each three employees, the total number of parking spaces being the total number of employees on any two consecutive shifts having the largest number of employees, based on design capacity, plus one parking space for each company vehicle operating from the premises.

Wholesale establishments, warehouses, and storage buildings

One parking space for each employee, plus one parking space for each company vehicle operating from the premises.

All other uses not listed herein

Based on study to be prepared by owner or operator; number of spaces to be required determined according to:

(1) Type of use and estimated number of total trips generated during peak conditions (inbound and outbound);

(2) Estimated parking duration per vehicle trip (turn-over rates);

Type of UsesRequired Number of Parking Spaces

- (3) Based on estimated number of trips generated and average parking duration per trip, calculate number of spaces required;
- (4) Estimated number of employees (one space to be provided for each two employees based on the shift of maximum employment).

(B) In areas served by regularly scheduled public transit during the operating hours of the type of use, the parking ratios may be adjusted as follows:

(1) IN NCD, CBD, and R-1JJ zones minimum off-street automobile parking ratios for residential uses may be reduced by up to 50% as approved in the final site plan from the otherwise applicable standards for new construction or rehabilitation or reuse of existing structures located within 600 feet of a public transit stop.

(2) In NCD and CBD zones minimum off-street automobile parking ratios for non-residential uses may be reduced by to tp 75% as approved in the final site plan from the otherwise applicable standards for new construction or rehabilitation or reuse of existing structures located within 600 feet of a public transit stop. Any reduction in minimum off-street automobile parking ratios in excess of 50% shall be approved only as a conditional use.

(3) In I-1 and I-2 zones minimum off-street automobile parking ratios for non-residential uses may be reduced by up to 75% as approved in the final site plan from the otherwise applicable standards for new construction or rehabilitation or reuse of existing structures located within 1,200 feet of a public transit stop. Any reduction in minimum off-street automobile parking ratios in excess of 50% shall be approved only as a conditional use.

(a) Vehicular parking ratio reductions for transit-served locations are authorized only when the subject development includes at least one bicycle parking or storage space for every four automobile parking spaces that would otherwise be required under the applicable standards.

(b) The transit-pedestrian distances specified in this section shall be measured from the entrance of the building for which the parking reduction is requested, along public rights-of-way, to the nearest transit stop.

(c) No additional off-street parking shall be required for rehabilitation or reuse of a designated historic structure, provided that the number of units is not increased, nor the usable floor space is expanded by more than 25%.

(d) No adjustments in parking ratios based upon transit access are permitted for commercial vehicles or loading areas. (Ord. passed 3-6-79; Am. Ord. 920.20, passed 5-7-85; Am. Ord. 1990-5, passed 5-15-90; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2014-21, passed 12-2-14) Civil offense, see § 154.998

§ 154.109 ACCESS CONTROL REGULATIONS.

In order to promote greater safety of passage between highway and land; improve the convenience and ease of movement of travelers on the highway; permit reasonable speeds and economy of travel; and increase and protect the capacity of the highway, the location and design of access points shall be in accordance with the following access control requirements. These requirements shall apply to all arterial and collector type streets, as identified in the adopted Comprehensive Plan:

(A) Provision of reserved turning lanes. At those access points where vehicles turning to and from the arterial and collector streets will affect the roadway capacity, reserved turn lanes shall be constructed by the developer.

(B) Provision of frontage road. Where possible, provision for the construction of a frontage road shall be made. However, access to the arterial or collector streets via an intersecting street or a common driveway shall be investigated if the design is not reasonable.

(C) Coordination of access points. Major access points on opposite sides of the arterial and collector streets shall be located opposite each other, otherwise turning movement restrictions may be imposed by the Planning Commission or City Inspector/Zoning Administrator, whichever is applicable. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with and between adjacent properties developed (present or future) for similar uses. As a condition of approval for construction, use, or reuse of any access road, the City Inspector/Zoning Administrator may require that unobstructed and unencumbered access, in accordance with the provisions of this chapter, be provided from any access point to adjacent properties.

(D) Spacing restrictions for signalized access points.

(1) Access points which will warrant signalization shall be spaced a minimum distance of 1/4-mile apart. The exact location of the signal light shall be determined by a traffic engineering study which shall at least account for the following variables:

- (a) Speed;
- (b) Traffic signal phasing;



- (c) Traffic signal cycle length;
- (d) Roadway geometrics; and
- (e) Accident experience.

(2) Provision for all turning movements to maintain the design capacity of the roadway shall be required.

(E) Sight distance. The location of access points shall comply with safe sight distance requirements as provided in Table 1 of this section. The centerline of all access points shall intersect as nearly at a 90 degree angle as possible, but in no case shall the angle of intersection be less than 75 degrees or greater than 105 degrees, unless approved by the Planning Commission or City Inspector/Zoning Administrator, whichever is applicable, due to certain exceptional conditions.

(F) Location of un-signalized access point.

(1) Arterial streets.

(a) Un-signalized access points shall be spaced a minimum distance of 600 feet apart. Turning restrictions or reserved turn lanes may be required.

(b) One access point per existing tract will be permitted; however, if the spacing requirements for a direct access point onto an arterial street (as provided in division (F)(1)(a) above) cannot be met, then an access point may be located on a frontage road or on an intersecting local street, or share a common driveway that meets the spacing requirements. In order for the intersecting local street or frontage road to function properly, access onto them should be controlled as follows:

1. Access points onto local streets intersecting an arterial street shall be spaced a minimum distance of 100 feet, measured from point of curb return to point of curb return, from the arterial street.

2. In areas zoned to permit commercial, industrial, or multi-family residential use, access points from adjacent properties onto frontage roads, shall be no less than 100 feet measured from point of curb return to point of curb return from intersections of the frontage road with local or collector streets.

(c) Where the frontage of a tract is greater than 500 feet an additional access point may be permitted; however, the type of access will depend on the spacing requirements in division (F)(1)(a) of this section. If the frontage of the tract is large enough, then at least one of the access points may have direct access onto the arterial street, provided the spacing between the adjacent access points meet

the requirements of division (F)(1)(a) of this section and all other requirements of this section. In the case where the frontage allows only one point of direct access due to spacing restrictions as provided herein, the second access point will be via a frontage road or an intersecting local street, or share a common driveway that meets the spacing restrictions as provided along the arterial street.

(d) If a tract of land has no means of access that would meet the requirements of this section, one access point shall be provided. However, all such access points shall be considered a temporary right-of-way and may be terminated, reduced, limited to certain turning movements, or caused to be relocated by the City Inspector/Zoning Inspector at that time as the particular use served by the access point changes or the property is otherwise provided an alternate means of access via a frontage road or an intersecting local street or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where access points are classified as temporary, the designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

(2) Collector streets.

(a) On two lane roadways, one access point per existing tract will be allowed; however, if the frontage is greater than 500 feet, an additional access point may be permitted. Furthermore, the minimum spacing between adjacent access points on this type of facility shall be 100 feet, measured from point of curb return to point of curb return, except in the case where the street intersects another collector street or arterial street, then the access points shall be spaced a minimum of 300 feet from the intersection.

(b) On multi-lane roadways the spacing is dependent on whether or not a barrier median exists (prohibiting left turn movements). If a barrier median exists, access points may be spaced as close as 300 feet; however, certain turning movements will be prohibited. If a barrier median does not exist, then the minimum spacing of access points shall be 600 feet. In addition, some turning movements may be prohibited.

(c) One access point per existing tract will be allowed; however, if the spacing requirements for a direct access point, as provided in division (F)(2)(a) of this section, cannot be met, then an access point may be located on a frontage road or on an intersecting street or share a common driveway that meets the spacing requirements.

(d) If a tract of land has no means of access that would meet the requirements of this section, one access point shall be provided. However, all such access points shall be considered a

temporary right-of-way and may be terminated, reduced, limited to certain turning movements or caused to be relocated by the City Inspector/Zoning Administrator at that time as the particular use served by the access point changes, or the property is otherwise provided an alternate means of access via a frontage road or an intersecting local street or share a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where access points are classified as temporary, the designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

(G) Width of access points.

(1) In single-family residential zones, no access point width shall be less than nine feet, nor more than 20 feet. In all other zones, access points shall not be less than 12 feet, nor more than 48 feet in width. The width shall be as measured from the point of curb return to point of curb return (or edge of pavement if no curb exists) excluding the curb radius.

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

(H) Exceptions to access points requirements. Where situations develop that may require special treatment, the requirements as provided in § 154.108 first six types of uses, may be varied provided that a traffic engineering report is prepared by a qualified traffic engineer, establishing that the special treatment will have no adverse effects on the roadway safety and capacity.

(I) Access point problem areas. If after special study, it is determined that the type of use or activity proposed would have an adverse effect on the safety and capacity of the adjacent roadway, the access point spacing requirements as contained in this section, may have to be increased in order to adequately solve the traffic movement.

(J) Approval of access points required. Plans for all access points and modification access points thereto (including plans to use existing access points where a change of use for any tract of land would generate more traffic than the previous use, thus producing an adverse effect on the adjacent roadway) shall be submitted to the City Inspector/Zoning Administrator and the Northern Kentucky Area Planning Commission staff, at a scale not less than one equals 100 feet. No action of approving or rejecting these plans by the City Inspector/Zoning Administrator shall be taken until a review and recommendation of the plans has been made by the Northern Kentucky Area Planning Commission staff. The plans shall show the location of all access points, and access points within 600 feet in either direction.

The proposed access point shall include typical cross sections of pavement, the base and subbase, proposed grade and storm drainage, and any other information or plans that the circumstances may warrant. If the access points are being located in conjunction with off-street parking or loading and unloading facilities, then those plans shall also include parking and off-street loading or unloading plans, in accordance with §§ 154.105 through 154.122.

(K) Approval of access points along state-maintained routes by Kentucky Department of Transportation. A copy of the plans for all access points to be constructed along a state-maintained route shall also be submitted to the Kentucky Department of Transportation for review and approval during the same time as plans are submitted to the City Inspector/Zoning Administrator, as provided for in § 154.108.

(L) No access point plans shall be approved or permits issued for construction by the City Inspector/Zoning Administrator until these access point plans have been approved by the Kentucky Department of Transportation.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

## OFF-STREET LOADING AND UNLOADING REGULATIONS

§ 154.120 OFF-STREET LOADING AND UNLOADING FACILITIES.

For all buildings and structures erected, altered, or extended, and all uses of land established as specified herein, after the effective date of this chapter, off-street loading or unloading facilities shall be provided as required by the regulations herein. However, where a building permit has been issued prior to the date of the adoption of this chapter, and provided that construction has not begun within 90 days of such effective date, off-street loading or unloading facilities in the amounts required by this chapter, shall prevail.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.121 GENERAL REQUIREMENTS.

## (A) Spaces required.

(1) (a) Every building or part thereof, erected and occupied for uses permitted in commercial and industrial zones, including conditional uses permitted in residential zones, involving the receipt or distribution of vehicles, materials, or merchandise and having up to 5,000 square feet of gross floor area shall be provided with at least one loading or unloading space. A study shall be prepared by the company or operator to determine the additional loading or unloading space needs over and above the first space required for the specific use proposed. In determining the number of spaces needed, the study shall take into consideration the following:

1. Estimated and projected arrival and departure rates for scheduled and unscheduled (random) trucks;
2. Estimated and projected length of truck stop duration for loading or unloading of each truck;
3. Estimated number of trips by vehicle type (such as, two axle vehicles, semi-tractor trailers, and the like) and size.

(b) The City Inspector/Zoning Administrator shall review the study of estimated and projected loading or unloading needs and make a determination if the number of spaces provided are adequate for the use proposed.

(2) If it is determined by the City Inspector/Zoning Administrator, based on existing conditions of the proposed site, the design of the building, and the completed needs study, that additional loading or unloading spaces are needed to accommodate the facilities than could be reasonably provided, the City Inspector/Zoning Administrator shall require that additional parking areas, properly designed, to handle the parking of necessary trucks including the maneuvering of the trucks to and from the space, be provided for the storage of trucks waiting to be loaded or unloaded.

(3) If after approval by the City Inspector/Zoning Administrator of the number of spaces and any storage of truck parking needed to accommodate the loading and unloading of trucks for a specific use, a need exists, based on operation of the specific use, to provide additional off-street loading and unloading spaces or storage of trucks than was previously determined, the City Inspector/Zoning Administrator may require that corrective action be taken to eliminate any deficiencies as follows:

(a) Limit the time and interval of arrival and departure of trucks commensurate with the need; or

(b) Require necessary additional loading or unloading spaces, or require that adequate parking areas be provided for the storage of trucks waiting to be loaded or unloaded.

(B) Additional loading or unloading spaces to be provided. Whenever the intensity of any use of a building or premises is increased through addition of gross floor area, change of use or increased activity, additional loading or unloading spaces shall be provided in accordance with the requirements of division (A) above, if it is determined by the City Inspector/Zoning Administrator that the existing spaces are not adequate to serve the increase in intensity.

(C) Location of off-street loading and unloading area. All loading or unloading spaces shall be located on the same lot as the use served. However, permitted uses located in industrial zones may provide parking areas for the storage of trucks waiting to be loaded or unloaded within 300 feet from each lot served, upon the approval of the City Inspector/Zoning Administrator, providing that the off-street storage of trucks are unable to be provided on the same lot or contiguous to the same lot as the use being served and further provided that the storage of trucks is located in the same zone as the use being served. Loading or unloading areas may be located in the side and minimum required rear yards, provided that all loading or unloading facilities shall be set back a minimum of ten feet from the rear lot line and minimum side yard clearances are maintained.

(D) Driveways not computed as part of required loading or unloading area. Entrances, exits, or driveways shall not be computed as any part of a required loading or unloading space.

(E) Off-street loading and unloading space to be used for loading or unloading only. Any loading or unloading space shall be used for loading or unloading only. Any other use of such space, including repair work or servicing of any kind other than in an emergency, or the requirement of any payment for the use of such space, shall be in violation of the provisions of this chapter.

(F) No building to be erected in off-street loading or unloading space. No building of any kind shall be erected in any off-street loading or unloading space.

(G) Off-street loading or unloading space shall not be reduced. The required parking spaces as set forth and designated in this chapter, shall not be reduced, except as provided for in this chapter.

(H) Loading or unloading plan approval required. Plans for all loading or unloading facilities shall be submitted to the City Inspector/Zoning Administrator for review and for compliance with the provisions of this chapter and any other pertinent ordinances of the City Council. These plans shall show the number and location of loading or unloading spaces, including necessary maneuvering of trucks and dock and apron approach, and arrangements of access aisles, location of access points onto adjacent streets, provisions for truck circulation, location of curbs on or adjacent to the property, utilities, location of signs, typical cross sections of pavement, including base and subbase, proposed grade of lot, storm drainage facilities, location and type of lighting facilities, and any other information or plans as the circumstances may warrant. Where loading or unloading plans include provisions for access points to adjacent streets, then those plans shall also be prepared in accordance with the requirements of § 154.109.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.122 DESIGN AND LAYOUT OF OFF-STREET LOADING OR UNLOADING AREAS.

(A) Size of off-street loading or unloading space. Each off-street loading or unloading space shall be at least 14 feet in width and at least 60 feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least 15 feet. However, when it is demonstrated that a particular loading or unloading space will be used by shorter trucks, as provided for in § 154.121(A), the City Inspector/Zoning Administrator may reduce the minimum length to not less than 35 feet.

(B) Access.

(1) Each required off-street loading or unloading space shall be designed with direct access via an approved access drive, to a deeded right-of-way which offers efficient ingress, egress, and safety for trucks. Access drives or aisles shall be laid out with a width of at least 12 feet for one-way circulation and at least 22 feet for two-way circulation with intersection radii not to be less than 50 feet.

(2) Off-street loading or unloading space shall be so designed and constructed so that all maneuvering for loading or unloading can take place entirely within the property lines of the premises being served. These off-street loading or unloading spaces shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk or street.

(C) Other design features. Docks are to be designed to facilitate efficient loading or unloading. Platform heights should be 44 inches for light pickup and delivery trucks and 48 through 52 inches for heavy trucks and trailers. The dock area should be at least twice the total body floor area of the largest number of trucks that can be docked at one time. Minimum dock overhead clearance (including pipes, lights and the like) should be 12 feet.

(D) Paving of off-street loading or unloading areas. All off-street loading or unloading areas, including spaces, maneuvering, and storage areas for truck parking shall be paved with asphalt concrete or Portland cement concrete and shall be designed and constructed in accordance with Appendix A of this chapter.

(E) Lighting. Any lighting used to illuminate off-street loading or unloading areas shall not glare upon any right-of-way or adjacent property.

(F) Screening and landscaping. All loading or unloading areas including storage of parked trucks, shall be effectively screened on each side adjoining or fronting on any property situated in a residential zone as regulated by § 154.052. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

#### FENCES, WALLS AND OBSTRUCTION-TO-VIEW REGULATIONS

##### § 154.135 VISION CLEARANCE AT CORNERS AND RAILROAD CROSSINGS.

(A) Except as herein provided, no fence, wall, hedge, or other obstruction above a height of 36 inches as measured above the curb level shall be erected, placed, maintained, or continued in any zone within that triangular portion of a corner lot formed by measuring 50 feet from the intersection of the rights-of-way line of two streets or of the right-of-way line of a street intersection with a railroad right-of-way line and joining these points with a straight line.

(B) No type of tree or planting or other obstruction shall be planted, placed, maintained, or continued in a manner which would obstruct the vision clearance at corners and railroad crossings.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

##### § 154.136 CLASSIFICATION OF FENCES AND WALLS.

The following shall be the classification of fences and walls for this chapter:

- (A) Class One: Masonry walls;
- (B) Class Two: Ornamental iron (80% open);
- (C) Class Three: Woven wire (80% open); and chain link;
- (D) Class Four: Wood or other materials (more than 50% open);
- (E) Class Five: Solid fences, wood or other materials (less than 50% open);
- (F) Class Six: Hedges;



(G) Class Seven: Barbed wire or sharp pointed fences; and

(H) Class Eight: Earthen or concrete walls intended to contain or redirect flooding waters.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.137 CONSERVATION AND AGRICULTURAL ZONES.

Fences or walls within the conservation or agricultural zones shall conform to the following requirements:

(A) Except as provided for in § 154.135, class two or three fences may be erected in front yards up to a maximum height of 96 inches.

(B) Side and rear yard, class one, two, three, four, five, six, or seven fences or walls may be erected up to a maximum height of 96 inches.

(C) Class eight walls shall be permitted but shall conform to requirements of the Corps of Engineers or engineer, whichever is applicable. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.138 RESIDENTIAL ZONES.

Fences or walls within all Residential R Zones including their applicable overlay zone, shall conform to the following requirements:

(A) The requirements for the Residential R Zones for residential uses only, are as set forth and depicted on Figure 2 of this section.

(B) The location, height, and type of all fences or walls within any area zoned with a PUD, RCD, or MHP Overlay shall be as approved by the Planning Commission.

(C) For all nonresidential uses conditionally permitted in any residential zone herein, the requirements are as follows:

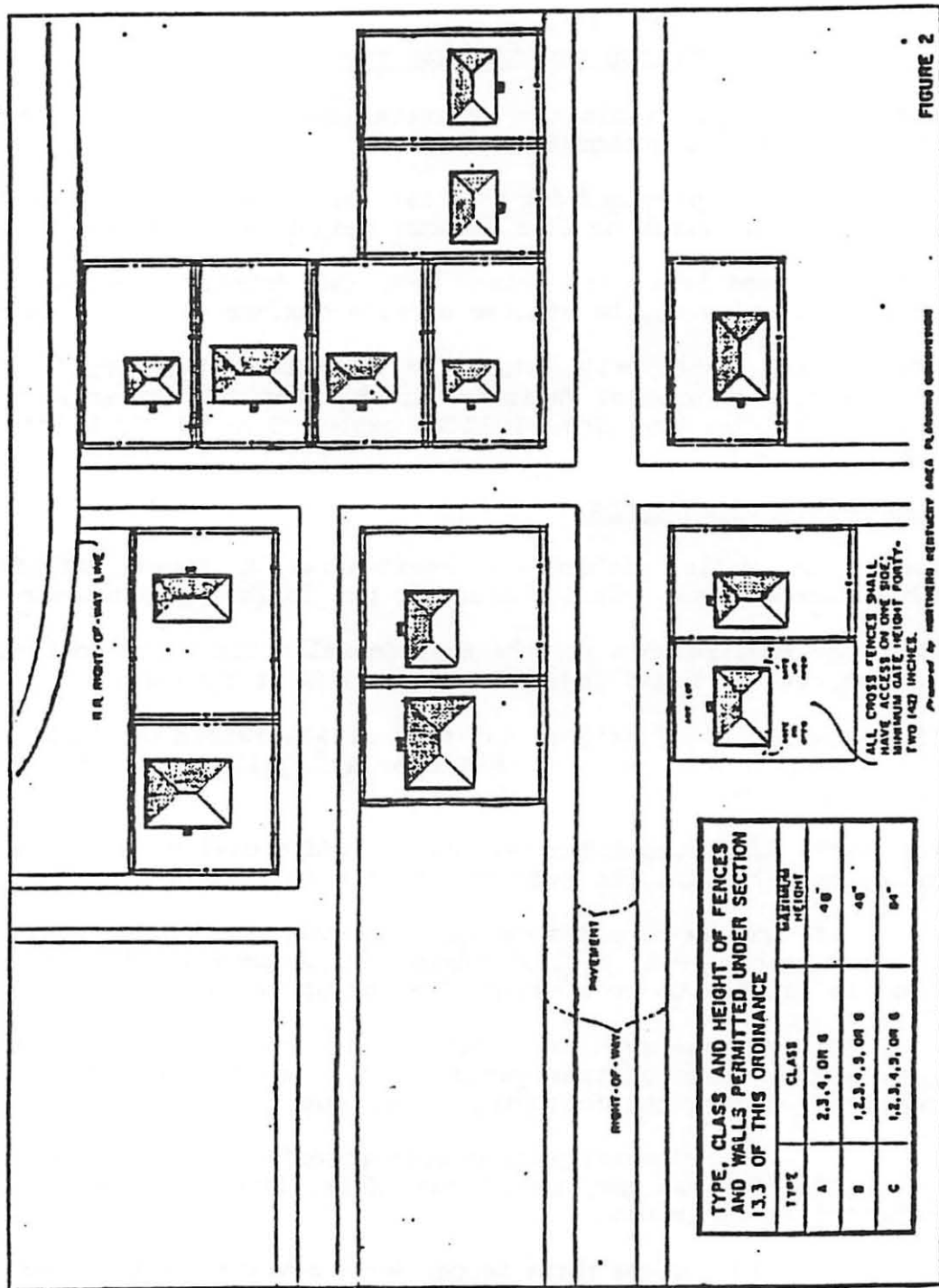
(1) Fences of class two or three only shall be permitted in front yards, including the front yard of corner lots as governed by § 154.135. The fences may be erected up to a maximum height of 72 inches.

(2) Classes one, two, three, four, five, and six fences or walls may be erected in side or rear yards up to a maximum height of 72 inches, provided, however, for the following exceptions:

(a) General purpose recreational areas may be enclosed with fences or walls of class one, two, three, four, five, six, or seven, up to a maximum height of 96 inches.

(b) Class three fences (or a combination of three and seven) may be erected to enclose tennis courts or as backstops for baseball or softball fields up to a maximum height of 144 inches; and

(c) In the case of corner lots, as governed by § 154.135, fences of class two or three only may be erected, as regulated by the applicable provisions of this section.



(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.139 COMMERCIAL AND INDUSTRIAL ZONES.

Fences or walls within all commercial and industrial zones, including those permitted with all conditionally permitted uses in this zone shall conform to the following requirements:

(A) Except as provided for in § 154.135, fences of classes one, two, three, four, five, or six may be erected in side, and rear yards of commercial zones up to a maximum height of 96 inches. In the case of corner lots, as governed by § 154.135, fences of class two or three only, may be erected up to a maximum height of 96 inches. In minimum front yard, fences of classes one, two, three, four, five, or six may be erected up to a maximum height of 72 inches (except as noted in § 154.135).

(B) Except as noted in § 154.135, fences of classes one, two, three, four, five, or six may be erected up to a maximum height of 84 inches in all industrial zones in side and rear yards and not more than 48 inches in height in the minimum front yard depth. Except for the I-P Zone, classes two or three fences may be erected up to a maximum height of 72 inches in the minimum front yard depth in all industrial zones.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.140 MEASUREMENT OF ALL FENCE OR WALL HEIGHTS AND LOCATIONS.

(A) All fences or wall heights shall be measured along the fence or wall locations.

(B) All locations for distance measurements shall be measured from lot lines.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.141 HEIGHT OF ANY BARBED WIRE OR SHARP POINTED FENCES.

In all zones, barbed wire or sharp pointed fences, where permitted, must start a minimum of 60 inches above ground level, except that those fences may be located in area uses for agricultural purposes without any restrictions to height.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.142 HEIGHT OF FENCES ATOP RETAINING WALLS.

A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to the level of the higher finished grade. The fence portion must be of the class and height permitted within this chapter for the applicable zone. The measurement shall be made at and along the location of the fence and retaining wall.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.143 ELECTRIFIED FENCES.

No fence carrying an electrical charge shall be permitted in any zone except when the fence is used in conjunction with an agricultural use and provided the fence is not located along the perimeter with adjacent property. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.144 PERMIT REQUIRED FOR ERECTION OF FENCES.

No fence shall be erected, except as exempted or specified within this chapter, until all required fees have been paid to the proper authorities or their agents and the necessary permits have been issued for such by the City Inspector/Zoning Administrator in accordance with §§ 154.206 and 154.207. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.145 STRUCTURAL ELEMENTS OF FENCES.

Fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side which faces the property owned by the person building the fence. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

## SIGN REGULATIONS

§ 154.170 SCOPE.

The regulations set forth herein shall apply and govern signs in all zones except as otherwise specifically provided within this chapter. (Ord. passed 3-6-79)

§ 154.171 GENERAL RULES, REGULATIONS, AND LIMITATIONS.

(A) All business and identification signs shall be deemed accessory uses and all advertising signs shall be deemed nonaccessory uses.

(B) No sign shall be erected, maintained, or continued unless it is in full compliance with the regulations for the zone in which it is located, all applicable provisions and regulations of this chapter or any other applicable laws, codes, or ordinances of the City Council. The City Inspector/Zoning Administrator shall have the duty and authority to remove, or cause to have removed, any sign not in full compliance with all applicable provisions and regulations of this chapter or any other applicable laws, codes, or ordinances of the City Council when the owner or agent has failed to comply within the time specified by the City Inspector/Zoning Administrator to make that sign comply. The owner or agent shall bear full costs of removal and shall be billed accordingly.

(C) No signs shall be erected, maintained, replaced, relocated, repaired, or restored within a distance of 660 feet of the right-of-way of any interstate highways, limited access highway or turnpike, except as provided for in KRS 177.830 through 177.890 and approved of by the Kentucky Department of Transportation, Bureau of Highways, District Office Number 6, as amended.

(D) Time schedule for compliance of sign regulations. Compliance with the provisions of this subchapter shall be according to the following time schedule:

(1) All new signs shall comply when erected.

(2) All existing signs, including signs painted on a building, shall be required to conform to the requirements of this chapter within six consecutive calendar months after the effective date of this chapter.

(E) No sign constituting a nuisance, because of light, glare, focus, noise, animation, flashing, intensity of illumination as to unduly disturb the use of surrounding properties, as determined by the City Inspector/Zoning Administrator, or causing a traffic hazard, shall be erected, maintained, or continued in any zone.

(F) No radio, phonograph, tape recorder, whistle, bell, gong, siren, or other sound or noise-making or transmitting device or instrument shall be allowed, permitted, or continued in connection with any sign or may it be used separately for advertising purposes in any zone, except for temporary signs erected for special events or holidays.

(G) No sign shall be erected, maintained, or continued which constricts the flow of air through any window or door.

(H) No sign shall be erected, maintained, or continued which is misleading, fraudulent, obscene, immoral, indecent, or unsightly in character, as determined by the City Inspector/Zoning Administrator.

(I) No advertising sign, except those of a governmental entity, shall be erected, maintained, or continued unless the following provision is complied with; and said provision shall go into effect 90 consecutive calendar days after the effective date of this chapter: the name of the company or person owning, maintaining, or erecting the sign is plainly displayed thereon.

(J) No sign shall be erected, maintained, or continued over or into any street, public way, or alley right-of-way, unless specifically provided for within this chapter.

(K) It shall be unlawful and a violation of this chapter for any person to fasten, place, paint, or attach in any way: any sign, handbill, poster, advertisement, or notice of any kind, whether political or otherwise, or cause the same to be done in or upon any curbstone, lamp post, telephone pole, telegraph pole, electric light or power pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest station building, tree, or in or upon any portion of any public sidewalk or street sign, except as specifically permitted within this chapter.

(L) No sign shall be erected, maintained, or continued upon the inside of a curve of a street which causes any interference to sight distance in the opinion of the City Inspector/Zoning Administrator.

(M) No sign shall be erected, maintained, or continued displaying flashing or intermittent lights, or lights of changing degrees of intensity, with changes alternating on not less than a five-second cycle.

(N) No sign shall be erected, maintained, or continued in any zone which does not comply fully with § 154.135, except as specifically permitted within this chapter.

(O) Except as herein provided, signs shall be permanently attached to the ground or on the building which the sign is to serve. Signs located on portable type vehicles shall not be permitted, or continued in any zone, except the CO Zone.

(P) No sign shall be erected, maintained, or continued in any zone except as provided for in division (D), unless the sign complies with all of the following regulations:

(1) Is erected and maintained to advertise a use specifically permitted in the zone in which the sign is located, or for a nonconforming use subject to the limitations contained in § 154.047(E) of this chapter, regarding nonconforming uses;

(2) Is clearly incidental, customary to, and commonly associated with the operation of the use being advertised;

(3) Is established and controlled under and by the same ownership as the use being advertised;

(4) Is limited in location to the premises on which the use being advertised is located;

(5) Is limited in subject matter to the name, design, picture, or phone number and address of owner, operator, builder, sales agent, managing agent, lessor, lessee, of the premises or of the activities (including merchandise handled or services rendered) on the premises on which that sign is located and does not include any general commercial advertising unrelated to or extending in substantial degrees beyond the specifically permitted subject; and

(6) Compliance with the exemptions listed in § 154.172.

(Q) When any sign becomes defective or dangerous, as determined by the City Inspector/Zoning Administrator, the City Inspector/Zoning Administrator shall have the power and the authority to remove or cause to have removed that sign when the owner or agent has failed to comply within the time specified by the City Inspector/Zoning Administrator to repair or make the sign safe or has failed to satisfy the Building Department that the sign is not defective or dangerous. The owner or agent of the sign shall bear the full costs of the removal and shall be billed accordingly. If the Building Department determines that the sign is of possible immediate danger to persons or vehicles which may be passing nearby, the City Inspector/Zoning Administrator shall place, or cause to have placed, signs or barriers indicating the danger.

(R) Whenever any sign which does not comply with the provisions and regulations of this chapter collapses, burns, or if the sign is removed from its location, except for normal maintenance, the sign shall not be replaced or reconstructed, except in full compliance with all of the provisions and regulations of this chapter.

(S) The City Inspector/Zoning Administrator shall have the power and authority to remove or cause to have removed any and all signs which have been determined to be a traffic hazard, when the owner or agent responsible for the maintenance of that sign has failed to eliminate the traffic hazards within two weeks from the date that the written notice is mailed by the City Inspector/Zoning Administrator. The owner or agent shall bear the full costs of the removal and shall be billed accordingly.

(T) Except as otherwise specified in this chapter, signs shall be in conformance with the Building Code, where applicable, and shall be subject to the inspection and approval of the City Inspector/Zoning Administrator.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

#### § 154.172 SPECIAL SIGNS.

The following signs may be permitted in any zone without a fee, but will require an application for a sign permit, as provided in § 154.174.

(A) One real estate sign per acre not exceeding 12 square feet in outside area; single or double faced; maximum height of eight feet, which advertises the sale, rental, or lease of the premises on which the sign is located. The sign shall not be animated; may be illuminated but only by concealed lighting, and only until 10:00 p.m. These signs shall be removed by owners or agent within ten consecutive calendar days after the sale, rental, or lease of the premises.

(B) Professional name plates not exceeding one square foot in outside area, single or double faced; but shall not be animated nor illuminated.

(C) Bulletin board not over 12 square feet in outside area, single or double faced; maximum height of eight feet, for public, charitable, or religious institutions when the same is located on the premises of that institution. This sign shall not be animated; but may be illuminated only by concealed lighting, and only until 10:00 p.m.

(D) Signs not over 20 square feet in outside area, single or double faced; maximum height of eight feet, denoting the person, firm, architect, engineer, or contractor, when placed upon the premises where construction work is being performed. The sign shall be removed by owner or agent within ten consecutive calendar days after completion of project or that person's or firm's part of the project.

(E) Memorial signs or tablets, containing the name of the building and the date of erection when built into the walls of the building and constructed of bronze, brass, marble, stone or other incombustible materials.

(F) Traffic signs, provided that those signs are designed and located in accordance with the "Manual on Uniform Traffic-Control Devices for Streets and Highways", U.S. Department of Transportation, Federal Highway Administration.

(G) Temporary signs, where permitted or required by the City Inspector/Zoning Administrator, to fulfill requirements of this chapter or other resolutions or regulations imposed by a governmental entity. Signs or decorations for special events or holidays may be permitted for a reasonable period of time, as determined by the City Inspector/Zoning Administrator. The type of sign and time period permitted shall be determined by the City Inspector/Zoning Administrator.

(H) Repainting or cleaning of an advertising structure or the changing of the advertising copy or message thereon, unless a structural change is made.

(I) Signs inside the building, but shall not include signs within open malls or open courts. Signs located inside buildings shall not be required to obtain a permit.  
(Ord. passed 3-6-79)

(J) An additional sign for identifying products sold on the premises for permitted uses within any zone, conforming or nonconforming. The sign shall be limited to a totally enclosed flat single faced wall sign not to exceed 32 square feet and six inches in depth on the exterior wall on the street frontage. Permanent advertisement of a product by a sponsor may not exceed one-third of the total area of the sign. These signs shall not extend beyond the wall surface more than six inches. One sign is permitted per business. The sign may not be flashing or animated but may be illuminated by a concealed light source. Temporary signs are prohibited. (Am. Ord. 920.25, passed 7-16-85; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2006-1, passed 1-17-06) Civil offense, see § 154.998

§ 154.173 SIGN PERMIT REQUIRED FOR ERECTION OF SIGNS.

No sign shall be erected, except as exempted or specified within this chapter, until all required fees have been paid to the proper authorities or their agents and a permit has been issued for such by the Building Department.

(A) If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location subject to all requirements enumerated herein.

(B) If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.

(C) If any sign is removed from one location and erected at a new location, a new permit shall be obtained.



(D) Alteration or enlargement of any sign shall require a permit the same as for a new sign.

(E) No permit shall be granted until and after an application has been filed with the City Inspector/Zoning Administrator showing the plans and specifications, including dimensions, materials, and details of construction of proposed structure nor until all provisions herein have been met.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.174 APPLICATION FOR SIGN PERMIT.

(A) Application for a sign permit shall be made and submitted at the office of the City Inspector/Zoning Administrator on the appropriate forms furnished by the City Inspector/Zoning Administrator.

(B) If any required information is left off of the application or if any of the submitted information is misrepresented on the application, the permit shall be denied or shall become null and void if already issued, regardless of actual construction being started or completed.

(C) Any sign not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed as a misrepresentation of facts on the application and a violation of this chapter and the owner or agent shall be given a two-week notice to remove the sign or correct the error.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.175 SIGN PERMIT FEES.

The fee for a sign permit shall be as provided for in § 154.007.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.176 CLASSIFICATION OF SIGNS.

The following classification of signs shall be deemed to include all signs permitted in any zone unless other signs are specifically listed and provided for. The classification of all signs shall be determined by the City Inspector/Zoning Administrator. (For permitted use and location of signs, see § 154.177.)

(A) Class 1. The following signs meeting the following specifications shall constitute Class 1 and shall be only business or identification signs, as defined herein:

(1) Structural type: Flat or window sign; single faced only.

(2) Maximum size of sign: One square foot.

(3) Maximum height above grade at top of sign: Attached directly to building parallel to wall face.

(4) Limitations on number of signs: One sign for each separate use that is a permitted use.

(5) Other limitations: Shall be neither animated nor illuminated.

(B) Class 2. The following signs meeting the following specifications shall constitute Class 2 and shall be only business or identification signs as defined herein:

(1) Structural type: Only one of the following type signs are permitted in Class 2 per each individual use: flat, window or projecting sign; single or double face.

(2) Maximum size of single sign: Two square feet.

(3) Maximum height above grade at top of sign: Attached to building and projecting no more than 18 inches from the wall face of the building.

(4) Limitations on number of signs: One sign for each separate use that is a permitted use.

(5) Other limitations: Shall be neither animated nor illuminated.

(C) Class 3. The following signs meeting the following specifications shall constitute Class 3 and shall be only business or identification signs, as defined herein:

(1) Structural type: Flat, ground or pole sign; single or double face.

(2) Maximum size of single sign: Six square feet in outside area.

(3) Maximum height above grade at top of sign: 12 feet.

(4) Limitations on number of signs: One sign for each curb cut plus any number within the off-street parking areas.

(5) Other limitations:

(a) May be illuminated but only from a concealed light source and shall not be flashing, glaring or animated.

(b) Shall be limited in subject matter to off-street parking directions and instructions and shall have no merchandise, manufacturing or service advertising.

(c) No part of any ground or pole sign shall be closer than five feet from any property line.

(d) No pole shall be at its lowest point less than ten feet from the ground.

(D) Class 4. The following signs meeting the following specifications shall constitute Class 4 and shall be only business or identification signs, as defined herein:

(1) Structural type: Only one of the following signs are permitted in this class per each individual use: flat, window, or ground sign; single or double faced.

(2) Maximum size of single sign: 12 square feet in outside area, except as specified in division (D)(4) of this section.

(3) Maximum height above grade at top of sign: 20 feet.

(4) Limitations on number of total area of signs: The total area of all signs in a single designated land area shall not exceed in square feet the product of the number of acres, or fractions of acres, in the designated land area multiplied by 25. However, the aggregate area of any sign may have an area of at least six square feet on premises of already developed use or an area of not more than 75 square feet on premises not developed.

(5) Other limitations:

(a) Shall not be animated; may be illuminated, but only from a concealed light source and only until 10:00 p.m.

(b) Shall be temporary only; for advertising development, new construction, or the sale, lease, rental, remodeling, and rebuilding of designated structures or a designated land area. Permits shall be temporary, and shall be valid for a period not exceeding 182 consecutive calendar days, but are renewable one time only for an additional 182 consecutive calendar days. These signs shall be removed within ten consecutive calendar days after the completion of the project.

(c) Shall be located only on the premises of the property being referred to.

(d) No part of any ground sign shall be closer than five feet from any property line.

(E) Class 5. The following signs meeting the following specifications shall constitute Class 5 and shall be only business or identification signs, as defined herein.

(1) Structural type: Individual letters only; single faced only.

(2) Maximum size of individual sign:

(a) Three square feet of area for each horizontal linear foot of building wall upon which the sign is to be located.

(b) Maximum size of letters shall be 42 inches in height.

(c) The total size for individual letter signs shall be computed by taking the area enclosed within a rectangle that is needed to completely encompass each letter or insignia of the sign.

(3) Maximum height above grade at top of sign. Attached flat to building, but shall not extend above the top or ends of the wall surface on which the sign is placed.

(4) Limitation on number of signs. One sign for each street frontage of the lot on which the primary permitted use is located, except that where a complex of buildings is an attached shopping complex or an attached group of buildings, only one sign shall be permitted for each individual separate business building. Separate business building shall be construed to mean space allotted to the operation of one firm, company, or incorporation having separate ownership, or separate rental or lease. A professional office building within that complex, if permitted within the zone under consideration, shall not be considered as containing separate businesses for this purpose, but shall have only one sign regardless of how many firms, companies, or incorporations having separate ownership, rental, or lease within that office building.

(5) Other limitations:

(a) Shall be neither flashing nor animated.

(b) May be illuminated, but only from a concealed light source.

(c) Shall not extend outward from the building wall more than 12 inches except that if the sign is illuminated the reflectors may project not more than four feet beyond the face of the sign.

(F) Class 6. The following signs meeting the following specifications shall constitute Class 6 and shall be only business or identification signs, as defined herein.

(Am. Ord. 920.1A, passed 9-18-79)

(1) Structural type: Flat or projecting sign; single or double faced.

(2) Maximum size of single sign: one square foot of area for each horizontal linear foot of the building wall on the street frontage not to exceed 20 square feet.

(Am. Ord. 920.12, passed 10-4-83; Am. Ord. 920.21, passed 5-7-85)

(3) Maximum height above grade at top of sign: Attached to building, but shall not extend above the top or ends of the wall surface on which the sign is placed. All projecting signs shall be a minimum of eight feet above any public sidewalk and may extend into the public right-of-way over the sidewalk up to six inches from the edge of pavement/outside curb of the street.

(4) Limitation on number of signs: One sign for each street frontage of the lot on which the primary use is located. Where a complex of buildings is so constructed and maintained that the complex of buildings is an attached shopping complex or an attached group of buildings, only one sign shall be permitted for each individual separate business building. Separate business building shall be construed to mean space allotted to the operation of one firm, company or incorporation having separate ownership, or separate rental or lease. A professional office building within a complex, if permitted within the zone under consideration, shall not be considered as containing separate businesses for this purpose, but shall have only one sign regardless of how many firms, companies, or incorporation having separate ownership, rental, or lease within the office building. (Am. Ord. 920.21, passed 5-7-85)

(5) Other limitations:

- (a) Shall be neither flashing nor animated;
- (b) May be illuminated, but only from a concealed light source;
- (c) Shall not have removable or interchangeable letters.

(G) Class 7. The following signs meeting the following specifications shall constitute Class 7 and shall be only business and identification signs, as defined herein.

(1) Structural type: Pole sign or ground sign, single or double faced.

(2) Maximum size of single sign: 60 square feet.

(3) Maximum height above grade at top of sign:

(a) Pole: 20 feet;

(b) Ground: Ten feet.

(4) Limitation on number of signs: One sign may be erected for each street frontage of the lot or building site on which the primary permitted use is located.

(5) Other limitations:

(a) The sign may be flashing and animated providing that the sign only uses LED lights and is constructed in such a manner as to prevent endangering pedestrians or vehicle traffic by moving parts;

(b) No part of any ground or pole sign shall be set back closer than five feet from any property line.

(c) All signs shall be located in a manner that they are wholly visible from the centerline of the abutting street which the sign faces from a minimum distance of 250 feet. No sign shall be located in a manner that it partially or wholly obstructs adjacent signs as viewed from the centerline of the abutting street from a minimum distance of 250 feet.

(H) Class 8. The following signs meeting the following specifications shall constitute Class 8 and shall be only business or identification signs, as defined herein:

- (1) Structural type: Ground sign; single or double faced.
- (2) Maximum size of single sign: 25 square feet.
- (3) Maximum height above grade at top of sign: Ten feet.
- (4) Limitations:

(a) One sign may be erected for each street frontage of the lot or building site on which the primary permitted use is located.

(b) One sign may be erected for identification purposes of a residential development for each major entrance.

- (5) Other limitations:

(a) Shall be neither flashing nor animated;

(b) May only be illuminated from a concealed light source;

(c) No part of any ground sign shall be closer than three feet from any property line.

(I) Class 9. The following signs meeting the following specifications shall constitute Class 9 and shall be only business or identification signs, as defined herein:

(1) Structural type: Pole sign or ground sign, single or double faced.

(2) Maximum size of single sign: 150 square feet.

(3) Maximum height above grade at top of sign:

- (a) Pole: 30 feet;
- (b) Ground: Ten feet.

(4) Limitations:

(a) One sign may be erected on each abutting major street identifying a shopping complex of three or more businesses located in a unified building or an attached group of buildings.

(b) One sign may be erected along each abutting arterial street entrance into an industrial zone for the purposes of identifying an industrial development.

(5) Other limitations:

- (a) The sign shall be neither flashing nor animated;
- (b) May only be illuminated from a concealed light source;
- (c) No part of any ground or pole sign shall be closer than five feet from any property line;
- (d) No pole sign shall be at its lowest point, less than ten feet from the ground.

(J) Class 10. The following signs meeting the following specifications shall constitute Class 10 and shall be only advertising signs, as defined herein:

- (1) Structural type: Ground sign, single or double faced.
- (2) Maximum size of single sign: 300 square feet.
- (3) Maximum height above grade at top of sign: 30 feet;
- (4) Limitation on number of signs:

(a) No sign shall be located closer than 200 feet from any residential zone as measured along both sides of the street on which the sign abuts.

(b) Only one sign may be erected on any lot, providing that the sign shall meet the minimum requirements of lot area, lot width, front, side, and rear setbacks in the particular zone where such signs are permitted. In addition, advertising signs shall be so located that the entire sign display area is visible at a minimum

viewing distance of 250 feet, as measured along the centerline of the street on which the sign is facing.

(5) Other limitations: No ground sign shall exceed 30 feet in length, except when adjoining another ground sign at an acute angle.

(K) Class 11. The following signs meeting the following specifications shall constitute Class 11 and shall be only business or identification signs, as defined herein:

(1) Structural type: Canopy (marquee) and canopy sign.

(2) Maximum size of single sign: 150 square feet.

(3) Minimum height above grade at lowest point or bottom edge of sign: Ten feet.

(4) Other limitations:

(a) May be illuminated.

(b) May extend over the sidewalk within the public right-of-way provided that said structure does not extend beyond the edge of the sidewalk over the street pavement;

(c) A sign may be attached to the canopy provided that it is attached flat to the surface and that it not extend above or below the surface on which the sign is placed. In addition, the sign may not be located on the sides of the canopy.

(1) Class 12. The following sign meeting the following specifications shall constitute Class 12 and shall be only a group business identification sign, as defined herein:

(1) Structural type: Double pole or ground sign.

(2) Maximum size of sign: 100 square feet.

(3) Minimum size of sign: 20 square feet.

(4) Maximum size above grade: Double pole sign, 20 feet; Ground sign, 10 feet.

(5) Limitation:

(a) Only one sign may be erected in the MLU zone for business in the MLU or CO zone to be placed on public property at the intersection of Dodd Drive and O'Fallon Avenue.



## (6) Other limitations:

- (a) The sign shall be neither flashing nor animated.
- (b) May only be illuminated from a concealed light source.
- (c) No part of any ground or double pole sign shall be closer than five (5) feet from any property line.
- (d) No double pole sign shall be, at its lowest point, less than ten (10) feet from grade level.
- (e) Owner of the sign may use no more than 20 square feet for the purpose of identification of the business.
- (f) Each additional business owner may lease from the owner of the sign ten (10) square feet for the purpose of identification of the business.
- (g) The sign shall be so located that the entire sign display area shall be visible at a minimum viewing distance of 150 feet as measured along the center line of the street on which the sign is facing.
- (h) The sign shall not be installed without the approval of the City Inspector/Zoning Administrator and the issuance of a permit for said sign.  
(Ord. passed 3-6-79; Am. Ord. 1995-6, passed 3-7-95; Am. Ord. 1996-5, passed 4-16-96; Am. Ord. 2007-20, passed 10-2-07; Am. Ord. 2008-1, passed 2-5-08) Civil offense, see § 154.998

DAYTON - ZONING CODE

150B

§ 154.177 PERMITTED USE AND LOCATION OF SIGNS.

The following classes of signs may be erected and maintained in the following zones (refer to Figure 3 of this section for some illustrations of the various sign classes):

<u>ZONES</u>	<u>USES</u>	<u>PERMITTED SIGN CLASSES</u>
C-O, R-O	(1) Any use permitted in these zones	1, 2 & 4
	(2) In addition to sign classes permitted in division (1) above:	
	(a) Off-street parking areas	3
	(b) All the uses permitted or conditionally permitted in these zones	5 & 8 or 6 & 8*
	(c) Boat docks, marinas, provided that the sign is moveable.	9
R-1BC, R-1C, R-1D, R-1E, R-1G, R-1H, R-1JJ & RMHP	(1) Any use permitted in these zones	4
	(2) In addition to sign classes permitted in division (1) above:	
	(a) Conditional uses permitted in these zones	5 & 8 or 6 & 8*
	(b) Off-street parking areas for conditionally permitted uses	3
	(c) Signs for identification of a residential subdivision	8
	(d) Nonconforming nonresidential uses	5 or 6
R-2, R-3 and R-4	(1) Any use permitted in these zones	4
	(2) In addition to sign classes permitted in division (1) above:	
	(a) Off-street parking areas	3
	(b) Conditional uses permitted in these zones	5 & 8 or 6 & 8*
	(c) Signs for identification of a multi-family residential development	8
	(d) Nonconforming nonresidential uses	5 or 6

<u>ZONES</u>	<u>USES</u>	<u>PERMITTED SIGN CLASSES</u>
PUD, MLU, and RCD	As approved according to the approved development plan	
	(1) Any use permitted in these zones	1, 2 & 4
	(2) In addition to sign classes permitted in division (1) above:	6 & 8*
	(a) Off-street parking areas	3
	(b) Signs for identification of a shopping complex (three or more businesses located in a unified building or attached group of buildings). However, each individual business in this complex may have	5 or 6* 7 5 & 6*
	(c) All other uses not located in a shopping complex (three or more businesses located in a unified building or attached group of buildings)	5 & 8 & 11 or 6 & 8 & 11
(d) Signs for identification of a business which is located on a lot with at least 150 feet of road frontage	7	
I-1	(1) Any use permitted in these zones	1, 2, & 4
	(2) In addition to sign classes permitted in division (1) above:	
	(a) Off-street parking areas:	3
	(b) And all other uses permitted in these zones	5 & 8 or 6 & 8*
(c) Signs for identification of an industrial development or park	9	
MLU	(1) Group business identification sign for businesses in MLU and CO zone	12

\*A combination of classes 6 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one square foot of area for each horizontal linear foot of building wall upon which the sign is to be located.

(Ord. passed 3-6-79; Am. Ord. 1990-5, passed 5-15-90; Am. Ord. 1994-4, passed 3-1-94; Am. Ord. 1995-6, passed 3-7-95; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2001-9, passed 5-1-01) Civil offense, see § 154.998

DAYTON - ZONING CODE

152B

## PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES

§ 154.190 APPLICATION OF PERFORMANCE STANDARDS.

After the effective date of this chapter, any use established or changed to, and any building, structure, or tract of land developed, constructed, or used for any permitted or permissible principal or accessory use in all industrial zones (I-P, I-1, I-2, I-4, and I-5) shall comply with all of the performance standards herein set forth for the district involved. If any existing use or building or other structure is extended, enlarged, or reconstructed, the performance standards for the district involved shall apply with respect to the extended, enlarged, or reconstructed portion or portions of that use or building or other structure.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 151.191 TIME SCHEDULE FOR COMPLIANCE OF PERFORMANCE STANDARDS.

(A) Except for standards regulated and enforced by the state, compliance with the provisions of this subchapter shall be according to the following time schedule:

(1) All new installations shall comply as of going into operation.

(2) All existing installations not in compliance as of the effective date of this chapter shall be in compliance within one calendar year of the effective date of this chapter unless the owner or person responsible for the operation of the installation shall have submitted to the City Inspector/Zoning Administrator a program and schedule for achieving compliance, the program and schedule to contain a date on or before which full compliance will be attained and any other information as the City Inspector/Zoning Administrator may require. If approved by the City Inspector/Zoning Administrator, the date will be the date on which the person shall comply.

(B) The City Inspector/Zoning Administrator may require persons submitting a program to submit subsequent periodic reports on progress in achieving compliance.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.192 PERFORMANCE STANDARDS.

(A) Building enclosures. Every use permitted in the I-P Industrial District shall be operated in its entirety within a completely enclosed building. In the I-1, I-2, I-4, and I-5 industrial districts, permitted uses shall be operated either within a completely enclosed building or within an area screened from view at the nearest district boundary, according to §§ 154.052 and 154.190 through 154.192.

(B) Landscaping.

(1) In all industrial districts, all required yards shall either be open landscaped and grassed areas or be left in a natural state, if acceptable to the Planning Commission. If the area is to be

landscaped, it shall be landscaped attractively with lawn, trees, shrubs, and the like, according to the initially submitted plans which were first approved of for the development of that tract as a permitted use.

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

(C) Noise.

(1) For the purpose of measuring the intensity and frequencies of a sound, a sound level meter and an octave band analyzer shall be employed that conforms to specifications published by the American National Standards Institute (specifications for Sound Level Meters S1.4 - 1971, and Specifications for Octave, Half Octave and Third Octave Band Filter Sets S1.11 - 1966, American National Standards Institute, 1430 Broadway, New York, New York 10018, or the latest edition of those standards, shall be used). In the enforcement of the regulation, noises produced by the operation of motor vehicles or other transportation facilities shall not be included in determining the maximum permitted decibel level. In the I-P District, the sound pressure of noise radiated continuously from any activity shall not exceed the value given in Tables 1 and 2 below, in any octave band frequency at any point on or beyond any lot line. If the noise is not smooth and continuous, one or more of the corrections in Table 2 below may be added or subtracted from each of the decibel levels given in Table 1 below.

(2) In the I-1 District the sound pressure of noise radiated from any activity shall not exceed the values given in Table 3 below in any octave band frequency at any point on or beyond any lot line. If the I-P or I-1 Districts adjoin a residential district, the maximum sound pressure level at any point on the district boundary shall be reduced by six decibels from the maximum listed in Table 3 below.

(3) In the I-2, I-4, and I-5 Districts, the sound pressure of noise radiated from any activity shall not exceed the value given in Table 3 below in any octave band frequency at any point on or beyond the nearest district boundary. If those districts adjoin a residential district, the maximum sound pressure shall be reduced by six decibels from the maximum listed in Table 3 below.

(4) In all districts, industrial noise shall be muffled so as not to become objectionable due to intermittance, beat, frequency, or shrillness.

(5) Table 1. Maximum permissible sound pressure level at specified points of measurement for noise radiated continuously from a facility.



TABLE 15-1

MAXIMUM PERMISSIBLE SOUND PRESSURE LEVEL AT SPECIFIED POINTS OF MEASUREMENT FOR NOISE RADIATED CONTINUOUSLY FROM A FACILITY

OCTAVE BAND (CYCLES PER SECOND)	SOUND PRESSURE LEVEL (DECIBELS*)
20 - 75	69
75 - 150	54
150 - 300	47
300 - 600	41
600 - 1,200	37
1,200 - 2,400	34
2,400 - 4,800	31
4,800 - 10,000	28
10,000 - 20,000	26**
20,000 - 30,000	25**
30,000 - 40,000	24**
40,000 - 50,000	23**

(6) Table 2. Correction in maximum permitted sound pressure level in decibels to be applied to Table 3.

TABLE 15-2

CORRECTION IN MAXIMUM PERMITTED SOUND PRESSURE LEVEL IN DECIBELS TO BE APPLIED TO TABLE 15-3

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

\* Apply one of these corrections only.

(7) Table 3. Maximum permitted sound pressure level in decibels.

TABLE 15-3

MAXIMUM PERMITTED SOUND PRESSURE LEVEL IN DECIBELS

OCTAVE BAND (CYCLES PER SECOND)	SOUND PRESSURE LEVEL (DECIBELS*)
0 - 74	79
75 - 149	74
150 - 299	66
300 - 599	59
600 - 1,199	53
1,200 - 2,399	47
2,400 - 4,799	41
4,800 and over	39

\* According to the following formula, Sound Pressure Level in Decibels equals 10 Log where P<sub>2</sub> equals 0.0002 dynes/cm<sup>2</sup> P<sub>1</sub><sup>2</sup>

(D) Odorous matter. No emission of odorous matter shall be allowed in excess of ambient air quality standards as set forth by regulations adopted by the Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution, Cincinnati Air Quality Region.

(E) Humidity, heat, or glare. In the I-P or I-1 Districts, any activity producing humidity, in the form of steam or moist air or producing heat or glare, shall be carried on in a manner that the steam, humidity, heat, or glare is not perceptible at any lot line. In the I-2, I-4, and I-5 Districts, any activity producing heat or glare shall be carried on in a manner that the steam, humidity, heat, or glare is not perceptible at or beyond any residential or commercial district boundary. Detailed plans for the elimination of humidity, heat, or glare may be required before the issuance of a building permit.

(F) Exterior lighting. Any lights used for exterior illumination, except for overhead street lighting and warning, or traffic signals shall direct light away from the adjoining zones.

(G) Vibration. Vibrations shall be measured at the lot line in the I-P and I-1 Districts and at the nearest district boundary in the I-2, I-4 and I-5 Districts. No vibration is permitted which is discernible to the human sense of feeling for three minutes or more duration in any one hour. Vibration shall not produce, at any time, an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin No. 442, "Seismic Efforts of Quarry Blasting", on any structure. The methods and equations of Bulletin No. 442, or any subsequent revision or amendment thereto, shall be used to compute all values for the enforcement of these provisions. Detailed plans for the elimination of vibrations may be required before the issuance of any building permit.

(H) Emissions and open burning. No emission of particulate matter, sulphur compound, carbon monoxide, hydrocarbon, nitrogen oxide,

and open burning shall be allowed in all industrial zones in excess of regulations adopted by the Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution, Cincinnati Air Quality Region.

(I) Radiation. In all industrial zones, all sources of ionizing radiation shall be registered or licensed by the Kentucky State Department of Health and operated in accordance with their regulations.

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

(K) Storage. In the I-P Zone, no material, products, or supplies shall be stored or permitted to remain on any part of the property outside the buildings constructed thereon. In the I-1, I-2, I-4, and I-5 Zones, storage of materials, supplies, and products on the property outside the building, constructed thereon is permitted to the side and rear of the property providing that the storage of materials, supplies, and products are within an area screened from view at the nearest district boundary, in accordance with §§ 154.052 and 154.190 through 154.192.

(L) Fire and explosive hazards. In the I-2, I-4, and I-5 Zones only, storage, utilization, or manufacture of solid materials which requires free burning and intense burning may be allowed if permitted in those zones, providing that the materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system. In the I-2, I-4, and I-5 Zones only, the storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases may be allowed if permitted in those zones, provided that storage, handling, and use shall be in accordance with Standards of American Insurance Association for Storage, Handling, and Use of Flammable Liquids, "American Insurance Association", Pamphlet No. 30, June, 1959, or any subsequent revision or amendment thereto.

(M) Waste. Within the I-P Zone, no waste material or refuse shall be dumped upon or permitted to remain upon any part of the part of the property outside of the buildings constructed thereon. All sewage and industrial waste shall be treated and disposed of in a manner so as to comply with the standards of the appropriate authority. All plans for waste disposal facilities shall be required before the issuance of any building permit. In the I-1, I-2, I-4, and I-5 Zones, all waste shall be disposed of in accordance with the Solid Waste Regulations of the Kentucky Department of Natural Resources and Environmental Protection.

(N) Mining and reclamation. All methods of operation, construction of roads, backfilling, grading, blasting, water impoundments, treatment facilities and reclamation must be in conformance with the regulations adopted by the Department for Natural Resources and Environmental Protection, Division of Reclamation. Any excavation or processing operations shall be subject to the regulations of the Kentucky Water Pollution Control Commission.

(O) Blasting and explosives. All blasting and the use of explosives must be conducted in accordance with the regulations set forth by the Department of Mines and Minerals Division of Explosives and Blasting (pursuant to the authority of KRS 351.310 through 351.340 and 351.990) and in accordance with the Standards of Safety for Explosives for the State of Kentucky, prepared by the Department of Public Safety, Division of Fire Prevention (pursuant to the authority of KRS 227.300).

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

#### ADMINISTRATION

##### § 154.205 ENFORCING OFFICER.

(A) The City Inspector/Zoning Administrator (official or officials appointed by the City Council for carrying out the provisions and enforcement of this chapter) shall administer and enforce this chapter. He may be provided with assistance of any other persons as the City Council directs.

(B) If the City Inspector/Zoning Administrator finds that any of the provisions of this chapter are being violated, he shall take any action as is permitted by law.

(C) In addition to the foregoing, the City Inspector/Zoning Administrator shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences, or additions, alterations, or structural changes thereto; discontinuance of any illegal work being done.

(D) All questions of interpretation and enforcement shall be first presented to the City Inspector/Zoning Administrator, and that those questions shall be presented to the Board of Adjustment only on appeal from the decision of the City Inspector/Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts, as provided by the state statutes.

(E) It shall be illegal for any person or entity to interfere with the City Inspector/Zoning Administrator's performance of his duties as defined herein.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

##### § 154.206 ZONING PERMITS.

Zoning permits shall be issued in accordance with the following provisions:

(A) Zoning permit required. No land shall be used or building or other structure shall be erected, moved, added to, structurally altered or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit issued by the City Inspector/Zoning Administrator. No zoning permit shall be issued except in conformity with the provisions of this chapter, except after written orders from the Board of Adjustment.

(B) Application for zoning permits. All applications for zoning permits shall be accompanied by:

(1) A completed application form provided by the City Inspector/Zoning Administrator.

(2) The required fee for a zoning permit as provided for in § 154.007.

(3) An approved development plan or site plan, if required by this chapter; or

(4) A plot plan in duplicate drawing at a scale of not less than one inch to 50 feet, showing the following information as required by this chapter.

(a) The location of every existing and proposed building, including dimensions and height, and the number, size, and type of dwelling units.

(b) All property lines, shape, and dimensions of the lot to be built upon.

(c) Lot width at building setback line.

(d) Minimum front and rear yard depths and side yard widths.

(e) Existing topography with a maximum of five-foot contour intervals.

(f) Total lot area in square feet.

(g) Location and dimensions of all access points, driveways, off-street parking spaces.

(h) A drainage plan of the lot and its relationship to adjacent properties, including spot elevations of the proposed finished grade, and provisions for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.

(i) All sidewalks, walkways, and open spaces.

(j) Location, type, and height of all walls, fences, and screen plantings.

(k) Location of all existing and proposed streets, including rights-of-way and pavement widths.

(1) All existing and proposed water and sanitary and storm sewer facilities to serve the lot, indicating all pipe sizes, types, and grades.

(C) Issuance of zoning permit.

(1) The City Inspector/Zoning Administrator shall either approve or disapprove the application (when required by this chapter, for example development plan submitted required, the Planning Commission, or its duly authorized representative, approval or disapproval shall also be required). If disapproved, one copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for the disapproval thereon. The disapproval shall be attested by the City Inspector/Zoning Administrator's signature. The other copy, similarly marked, shall be retained by the City Inspector/Zoning Administrator.

(2) If approved, one copy of the submitted plans shall be returned to the applicant, marked "Approved". The approval shall be attested by the City Inspector/Zoning Administrator's signature. The other copy similarly marked, shall be retained by the City Inspector/Zoning Administrator. The City Inspector/Zoning Administrator shall also issue a zoning permit to the applicant at this time and shall retain a duplicate copy for his records.

(D) Failure to comply. Failure to obtain a zoning permit shall be a violation of this chapter.

(E) Expiration of zoning permit. If a building permit, as required herein, has not been obtained within 90 consecutive calendar days from the date of issuance of zoning permit, the zoning permit shall expire and be cancelled by the City Inspector/Zoning Administrator and a building permit shall not be obtainable until a new zoning permit has been obtained. (Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

§ 154.207 BUILDING PERMITS.

Building permits shall be issued in accordance with the following provisions:

(A) Building permits required. No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the City Inspector/Zoning Administrator. No building permit shall be issued except in conformity with the provisions of this chapter, except after written orders from the Board of Adjustment.

(B) Application for building permits. All applications for building permits shall be accompanied by:

(1) A completed application form provided by the City Inspector/Zoning Administrator;

(2) An approved zoning permit;

(3) The required fee for a building permit as provided for in § 154.007;

(4) An approved development plan or site plan, if required by this chapter; or

(5) Plans in duplicate approved by the City Inspector/Zoning Administrator and including any additional information required by the building code or City Inspector/Zoning Administrator, as may be necessary to determine conformance with and provide for the enforcement of the building code and the state statutes.

(C) Issuance of building permit.

(1) The City Inspector/Zoning Administrator shall either approve or disapprove the application. If disapproved, one copy of the submitted plans shall be returned to the applicant marked "disapproved" and shall indicate the reasons for the disapproval thereon. The disapproval shall be attested by the City Inspector/Zoning Administrator's signature. The second copy similarly marked, shall be retained by the City Inspector/Zoning Administrator.

(2) If approved, one copy of the submitted plans shall be returned to the applicant marked "approved". The approval shall be attested by the City Inspector/Zoning Administrator's signature. The second copy, similarly marked, shall be retained by the City Inspector/Zoning Administrator. The City Inspector/Zoning Administrator shall also issue a building permit to the applicant at this time and shall retain a duplicate copy for his records.

(D) Compliance. It shall be unlawful to issue a building permit or occupancy permit, to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this chapter.

(E) Building permits issued prior to the adoption of this chapter. Building permits issued in conformance with the building code of the city prior to the date of adoption of this chapter, whether consistent or inconsistent with this chapter, shall be valid for a period of 180 consecutive calendar days from time of issuance of the permit. If construction in connection with a permit has not been started within a 180 consecutive calendar day period, the permit shall be void and a new permit, consistent with all provisions of this chapter and the building code shall be required. For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation.

(F) Expiration of building permit.

(1) If the work described in any building permit has not begun within 90 consecutive calendar days from the date of issuance thereof, the permit shall expire and be cancelled by the City Inspector/Zoning Administrator and no construction shall be permitted until a new building permit has been obtained, except, an extension may be permitted if sufficient evidence can be demonstrated why the work described in the building permit was not begun.

(2) For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation. If after the work described in the building permit has been started, the building permit shall expire after a period of 18 months, providing that an extension may be permitted if sufficient evidence can be demonstrated why the work described in the building permit was not completed as herein specified.

(G) Construction and use. To be as provided in application, plans, permits, zoning permits, and building permits issued on the basis of plans and applications approved by the City Inspector/Zoning Inspector authorize only the use, arrangement, and construction set forth in the approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed in violation of this chapter.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

#### § 154.208 CERTIFICATE OF OCCUPANCY.

It shall be unlawful for an owner to use or permit the use of any building or land or part thereof, hereafter created, changed, converted, or enlarged, wholly or partly, until a certificate of occupancy shall have been signed by the City Inspector/Zoning Administrator. The certificate shall show that the building or land or part thereof and the proposed use thereof are in conformity with the provisions of this chapter. It shall be the duty of the City Inspector/Zoning Administrator to sign a certificate of occupancy, provided that he has checked and is satisfied that the building and the proposed use thereof conform with all the requirements of this chapter and the building code.

(A) Certificate of occupancy for existing building. Upon written request from the fee owner, the City Inspector/Zoning Administrator shall sign a certificate of occupancy for any building or land existing at the time of enactment of this chapter, certifying, after inspection, the extent and kind of use made of the building or land, and whether that use conforms with the provisions of this chapter.

(B) Certificate of occupancy for lawful nonconforming uses and structures.

(1) A certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created by this chapter. A fee as provided for in § 154.007 shall be charged for the certificate.

(2) Applications for certificates of occupancy for nonconforming uses of land and buildings shall be filed with the City Inspector/Zoning Administrator by the owner or lessee of the land or building occupied by those nonconforming uses within six consecutive calendar months of the effective date of this chapter. Failure to apply for the certificate of occupancy will place upon the owner and lessee the entire burden of proof that the use of land or buildings lawfully existed on the effective date of this chapter.



(3) It shall be the duty of the City Inspector/Zoning Administrator to sign a certificate of occupancy for lawful nonconforming uses upon application and the certificate shall identify the extent to which the nonconforming use exists at the time of issuance of the certificate.

(C) Denial of certificate of occupancy. Except as herein stated, a certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter and to plans for which the building permit was issued.

(D) Certificate of occupancy records. A record of all certificates of occupancy shall be kept on file in the office of the City Inspector/Zoning Administrator, except that certificates of occupancy for lawful nonconforming uses shall be kept on file in the office of the City Inspector/Zoning Administrator, and copies shall be furnished, on request, to any person having a proprietary building affected by the certificate of occupancy.

(Ord. passed 3-6-79; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 154.998

#### § 154.209 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. The complaint stating fully the causes and bases thereof shall be filed with the City Inspector/Zoning Administrator. The City Inspector/Zoning Administrator shall record properly the complaint, immediately investigate, and take action thereon as provided by this chapter. and the state statutes.

(Ord. passed 3-6-79)

#### § 154.210 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS.

(A) Where investigation can be made by the City Inspector/Zoning Inspector or other designated employee, using equipment normally available to the City Council, the investigation shall be so made before notice of violation is issued.

(B) Where technical complexity, non-availability of equipment, or extraordinary expense makes it unreasonable, in the opinion of the City Inspector/Zoning Administrator, for the City Council to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be established for:

(1) Causing corrections in apparent violations of performance standards;

(2) For protecting individuals from arbitrary, capricious, and unreasonable administration and enforcement of performance standard regulations; and

(3) For protecting the general public from unnecessary costs for administration and enforcement.

(C) If the City Inspector/Zoning Administrator finds, after investigations have been made by qualified experts, that there is a violation of the performance standards, he shall take or cause to be taken lawful action to cause correction to, within limits set by such performance standards.

(Ord. passed 3-6-79)

§ 154.211 CITY INSPECTOR/ZONING ADMINISTRATOR; DUTIES REGARDING PERFORMANCE STANDARDS.

If, in the judgment of the City Inspector/Zoning Administrator, there is probable violation of the performance standards as set forth, the following procedures shall be followed:

(A) The City Inspector/Zoning Administrator shall give written notice, by registered mail or certified mail, to the person responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the City Inspector/Zoning Administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the City Inspector/Zoning Administrator within 30 consecutive calendar days of receipt of the notification. The notice shall state that failure to reply or to correct the alleged violation to the satisfaction of the City Inspector/Zoning Administrator within 30 consecutive calendar days of receipt of the notice constitutes admission of violation of the terms of this chapter.

(B) The notice shall further state that upon request of those to whom the notice is directed, a technical investigation will be made by a qualified expert and that if violations as alleged are found, costs of the investigations shall be charged against those responsible for the violations, in addition to any other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the investigation will be paid by the City Council.

(C) If there is no reply within 30 consecutive calendar days of receipt of the notice, but the alleged violation is corrected to the satisfaction of the City Inspector/Zoning Administrator, he shall note "violation corrected" on his copy of the notice, and shall retain it among his official records, taking any other action as may be warranted.

(D) If there is no reply within 30 consecutive calendar days of the receipt of the notice and the alleged violation is not corrected to the satisfaction of the City Inspector/Zoning Administrator, within the established time limit, he shall proceed to take or cause to be taken, any action as is warranted by continuation of a violation after notice to cease.

(E) If a reply is received within 30 consecutive calendar days of receipt of the notice indicating that the alleged violation will be corrected to the satisfaction of the City Inspector/Zoning Administrator, but requesting additional time, the City Inspector/Zoning Administrator may grant an extension if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.

(F) (1) If a reply is received within 30 consecutive calendar days of receipt of the notice requesting technical determination as provided in this chapter, and if the alleged violations continue, the City Inspector/Zoning Administrator shall call in properly qualified experts to investigate and determine whether violations exist.

(2) If expert findings indicate violations of the performance standards, the costs of the investigations shall be assessed against the properties or persons responsible for the violations in addition to any other penalties as may be appropriate under the terms of § 154.999.

(3) If no violation is found, the costs of the investigations shall be paid by the City Council without assessment against the properties of persons involved.  
(Ord. passed 3-6-79)

#### AMENDMENT PROCEDURE

#### § 154.225 AMENDMENT PROCEDURE.

(A) Filing of amendment application. All applications for amendments to this chapter shall be filed, in writing, with the City Inspector/Zoning Administrator and/or their duly authorized representative, to be transmitted to the Planning Commission on forms furnished by the City Inspector/Zoning Administrator and/or their duly authorized representative.

(B) Planning Commission review required. A proposal for an amendment to this chapter may originate with the Planning Commission, the City Council, or with the owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the Planning Commission for its action before adoption by the City Council.

(C) Public hearing required, notice given. The Planning Commission shall hold at least one public hearing on the proposed amendment, at which hearing parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of the hearing shall be published at least once, but may be published two or more times in a newspaper of general circulation in the county, provided that one publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of the hearing.

(D) Other hearing requirements, zoning map amendment. In addition to the public hearing notice required in division (C) above, the following notices shall also be given when a proposal is submitted to amend the official zoning map:

(1) Notice of the hearing shall be posted conspicuously on the property, the classification of which is proposed to be changed. The posting shall consist of one or more signs clearly depicting the following information: current zoning classification of property; proposed zoning classification; date, place, and time of public

hearing; and contact where additional information regarding hearing may be obtained; and

(2) (a) Notice of the hearing shall be given at least ten (10) days in advance of the hearing by personal, courier or mail service, with return receipt requested, to the owners of all property adjoining the property, the classification of which is proposed to be changed. Where the property adjoins a street or alley, property abutting the opposite side of the street or alley shall be considered adjoining property.

(b) It shall be the duty of the applicant proposing the amendment to furnish to the Planning Commission and/or their duly authorized representative the names and addresses of the owners of all adjoining property.

(Am. Ord. 920.07, passed 7-22-80)

(E) Findings necessary for map amendment. Before any map amendment is granted, the Planning Commission, or the City Council, must find that the amendment is in agreement with the adopted Comprehensive Plan, or in the absence of a finding, that one or more of the following apply, including the making of a written report, setting forth explicitly, the reasons and substantiation as to how each would apply, and the finding and report shall be recorded in the minutes and records of the Planning Commission or City Council.

(1) That the original zoning classification given to the property was inappropriate or improper; or

(2) That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the Comprehensive Plan and which have substantially altered the basic character of that area.

(F) Minimum size of new zones. No amendment to this chapter shall be adopted whereby the zoning classification of an area is changed unless the total area being applied for meets the following requirements as to minimum size: the zoning map shall not be amended, changed, or modified in a manner as to create a free standing zone of less than five acres, except where specific area restrictions are stipulated in this chapter, or as outlined in the adopted Comprehensive Plan by the Planning Commission. For the purpose of computing the total size of an area to be rezoned for compliance herewith, there shall be added to that area: the area of public rights-of-way interior to the area being changed; one-half the area of public rights-of-way abutting the area being changed; and the area of any land which is contiguous to the area being changed (including land located outside the jurisdiction of the city but contiguous thereto and which land already bears the zoning classification sought for the area being changed). For the purpose of this section, neither continuity nor abutment shall be destroyed by the existence of a street, alley, or city's corporation line.

(G) Planning Commission action. Following the public hearing held by the Planning Commission on the proposed amendment, the Commission shall, within sixty (60) calendar days from the date of its receipt, advise the City Council whether it approved or disapproved of the amendment to the zoning regulation, including a statement setting forth explicitly the reasons and substantiation for that action and, in the case of a map amendment, the submission of a written report as required in division (E) above.

(H) City Council's disposition. Within a reasonable time after receipt of the Planning Commission's recommendations and findings concerning the application the City Council shall act on the application. A majority of the entire City Council shall be required to override the recommendations of the Planning Commission. 90  
days  
P.C.R.  
KRS  
100.211  
(?)

(I) Submission of development plan as condition to a zoning map amendment. Any request for a zoning map amendment excluding those submitted by the Planning Commission or City Council (other than for a zone change for land under city ownership that the city intends to develop) to any zone shall be made in accordance with all applicable requirements of this chapter, including the following:  
(Am. Ord. 920.15, passed 9-18-84)

(1) Application and processing. The zoning map amendment shall include a development plan in accordance with the applicable requirements of § 154.054 of this chapter and shall be processed in the following manner:

(a) Application for a zoning amendment shall be filed with the City Inspector/Zoning Administrator as required by division (A) of this section and shall include a development plan in accordance with the applicable requirements of § 154.055(A).

(b) The Planning Commission shall hold a public hearing on the proposed application and review the application with regard to the required elements of the development plan, and other applicable requirements of this section. Upon holding a hearing, the Planning Commission shall make one of the following recommendations to the City Council: approval, approval with conditions, or disapproval. The Planning Commission shall submit, along with their recommendations, a copy of the development plan and the bases for their recommendation.

(c) 1. The City Council shall, within forty-five (45) consecutive days after receiving the recommendations of the Planning Commission, review those recommendations and take action to approve or disapprove the proposed development plan. The approval may incorporate any conditions imposed by the City Council. However, should the City Council take action to impose different conditions than were reviewed and recommended by the Planning Commission, then those conditions shall be resubmitted to the Planning Commission for further review and recommendations in accordance with the process required for the initial review.

2. Approval of the zoning map amendment shall require that development be in accordance with the approved development plan. Additionally, upon approval of the zoning map amendment, the official zoning map shall be amended for the approved area.

(d) 1. The City Council shall forward a copy of the approved development plan to the City Inspector/Zoning Administrator or the city's duly authorized representative, for further processing in accordance with the applicable requirements of this chapter.

2. The City Inspector/Zoning Administrator and/or their duly authorized representative, in reviewing the site plan, may authorize minor adjustments from the approved development plan, provided that the adjustments do not: affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and pedestrian), decrease the amount or usability of open space or recreation areas, or affect other applicable requirements of this chapter.

(2) Amendments. Any amendments to plans, except for the minor adjustments which may be permitted by the City Inspector/Zoning Administrator and/or their duly authorized representative as noted above, shall be made in accordance with the procedure required by this chapter, subject to the same limitations and requirements as those under which those plans were originally approved.

(3) Expiration. The zoning map amendment shall be subject to the time constraints as noted below. Upon expiration of the time period and any extensions thereto, the City Council may initiate a request for a public hearing by the Planning Commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether the zoning map amendment should revert to its original designation. A public hearing may be initiated if either of the following conditions apply:

(a) A site plan has not been approved by the Planning Commission within a twelve (12) months period from the date of final approval of the zoning map amendment by the city.

(b) Substantial construction has not been initiated within a twelve (12) month period from the date of approval of the site plan the Planning and Zoning Commission.

(c) A written extension was not permitted by the city, Planning Commission or its duly authorized representative. An extension may be permitted upon approval of the Planning Commission if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not been changed appreciably to render the approved development plan obsolete. The amount of construction that constitutes initiating substantial construction shall be as approved in the approved development plan.

(Ord. passed 3-6-79; Am. Ord. 2014-22, passed 12-2-14)

§ 154.226 RESERVED.§ 154.227 RESERVED.§ 154.228 ACTIONS OF LOCAL GOVERNMENTAL UNITS TO BE FURNISHED TO NKAPC.

Pursuant to KRS 147.705, the City Council shall, after final adoption of any zoning ordinance or resolution, including amendments thereto, furnish, or cause to be furnished, within 60 days after adoption, a copy of same to the Northern Kentucky Area Planning Commission.

(Ord. passed 3-6-79)

## BOARD OF ADJUSTMENT

§ 154.240 BOARD OF ADJUSTMENT; ESTABLISHED.

(A) A Board of Adjustment is hereby established.

(B) The Board of Adjustment shall consist of either three, five, or seven members, all of whom must be citizen members and not more than two of whom may be citizen members of the Planning Commission.

(C) The Mayor shall be the appointing authority of the Board of Adjustment, subject to the approval of the City Council.

(D) The term of office for the Board of Adjustment shall be four years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one, two, three, and four years, respectively.

(E) Vacancies on the Board of Adjustment shall be filled within 60 calendar days by the appropriate appointing authority. If the authority fails to act within that time, the Planning Commission shall fill the vacancy. When a vacancy occurs, other than through expiration of the term of office, it shall be filled for the remainder of that term.

(F) All members of the Board of Adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, notary public, clerk of court, or justice of the peace, within the district or county in which they reside.

(G) Reimbursement for expenses or compensation or both may be authorized for members on the Board of Adjustment.

(H) Any member of the Board of Adjustment may be removed by the Mayor, subject to the approval by the City Council, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The Mayor exercising the power to remove a member from the Board of Adjustment

shall submit a written statement to the Planning Commission setting forth the reasons and the statement shall be read at the next meeting of the Board of Adjustment which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the circuit court of the county in which he resides.

(I) The Board of Adjustment shall elect annually a Chairperson, Vice-Chairperson, and secretary, and any other officers it deems necessary, and any officer shall be eligible for reelection at the expiration of this term.

(KRS 100.217) (Ord. passed 3-6-79)

§ 154.241 MEETINGS OF BOARD.

(A) The Board of Adjustment shall conduct meetings at the call of the Chairperson, who shall give written or oral notice to all members of the Board at least seven days prior to the meeting, which notice shall contain the date, time, and place for the meeting, and the subjects which will be discussed.

(B) A simple majority of the total membership of the Board of Adjustment, as established by regulation or agreement shall constitute a quorum. Any member of the Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question.

(C) The Board of Adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the Board of Adjustment. A transcript of the minutes of the Board of Adjustment shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.  
(KRS 100.221)

(D) The Board of Adjustment shall have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the state, including the United States Government. (KRS 100.227)

(E) The Board of Adjustment shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it. (KRS 100.231)

(F) The Chairperson of the Board of Adjustment shall have the power to administer an oath to witnesses prior to their testifying before the Board on any issue. (KRS 100.233)  
(Ord. passed 3-6-79)



§ 154.242 PROCEDURE FOR ALL APPEALS TO BOARD.

(A) Appeals to the Board of Adjustment may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action or decision of the City Inspector/Zoning Administrator. This appeal shall be taken within 30 calendar days after the appellant or his agent receives notice of the action to be appealed from, by filing with the City Inspector/Zoning Administrator and with the Board, a notice of appeal specifying the grounds thereof, and giving notice of the appeal to any and all parties of record. A fee, as required by § 154.007 shall also be given to the City Inspector/Zoning Administrator at this time. The City Inspector/ Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in further proceedings. At any hearing by the Board, an interested person may appear and enter his appearance, and all shall be given an opportunity to be heard. (KRS 100.261)

(B) The Board of Adjustment shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and City Inspector/Zoning Administrator at least one calendar week prior to the hearing, and shall decide on the appeal within 60 consecutive calendar days. The affected party may appear at the hearing in person or by attorney.  
(Ord. passed 3-6-79) (KRS 100.263)

§ 154.243 APPEALS FROM PLANNING COMMISSION, BOARD OF ADJUSTMENT, OR CITY COUNCIL.

(A) Any person or entity claiming to be injured or aggrieved by any final action of the Board of Adjustment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the action of the Board of Adjustment, lies. Such appeal shall be taken within 30 days after the final action of the Board. All final actions which have not been appealed within 30 days shall not be subject to judicial review. The Board of Adjustment shall be a party in any such appeal filed in the circuit court.

(B) Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall appeal from the final action to the circuit court of the county in which the property, which is the subject of the Commission's action, lies. Such appeal shall be taken within 30 days after such action. Such action shall not include the Commission's recommendations made to other governmental bodies. All final actions which have not been appealed within 30 days shall not be subject to judicial review. Provided, however, any appeal of a Planning Commission action granting or denying a variance or conditional use permit authorized by KRS 100.203(5) shall be taken pursuant to this division. In such case, the 30-day period for taking an appeal begins to run at the time the City Council grants or denies the map amendment for the same development. The Planning Commission shall be a party in any such appeal filed in the circuit court.

(C) Any person or entity claiming to be injured or aggrieved by any final action of the City Council relating to a map amendment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within 30 days after the final action of the City Council. All final actions which have not been appealed within 30 days shall not be subject to judicial review. The City Council shall be a party in any such appeal filed in the circuit court.

(D) The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.

(E) For purposes of this chapter, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

(KRS 100.347) (Ord. passed 3-6-79)

#### § 154.244 STAY OF PROCEEDINGS.

An appeal stays all proceedings in furtherance of the action appealed from, unless the City Inspector/Zoning Administrator from whom the appeal is taken, certifies to the Board of Adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings shall not be stayed other than by a court of record on application, or on notice to the City Inspector/Zoning Administrator from whom the appeal is taken and on due cause shown.

(Ord. passed 3-6-79)

#### § 154.245 POWERS OF BOARD.

Upon appeals, the Board of Adjustment shall have the following powers:

(A) To hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusual shape of a site on the effective date of this chapter, or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density) of the zoning code would deprive the applicant of reasonable capacity to make use of the land.

(B) To hear and decide appeals where it is alleged, by the appellant, that there is an error in any order, requirement, decision, grant, or refusal made by a City Inspector/Zoning Administrator in the enforcement of this chapter. An appeal shall be taken within 60 consecutive calendar days.

(C) To hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are

specifically named herein, which may be suitable only in specific locations in the zone only if certain conditions are met as specified in § 154.049.

(D) To hear and decide, in accordance with the provisions of this chapter, requests for interpretation of the official zoning map or for decisions upon other special questions upon which the Board is authorized to act upon.

(E) To hear and decide, in accordance with the provisions of this chapter and the Adopted Comprehensive Plan, requests for the change from one nonconforming use to another.  
(Ord. passed 3-6-79)

§ 154.246 VARIANCES.

(A) The Board of Adjustment shall have the power to hear and decide on applications for variances. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant. (KRS 100.241)

(B) (1) Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

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

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

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

(2) The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulations from which relief is sought.  
(KRS 100.243)

(C) 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 the zoning regulation in the zone in question, or to alter density requirements in the zone in question.

(D) A variance applies to the property for which it is granted, and not to the individual who applied for it. A variance runs with the

land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site. (KRS 100.251)

§ 154.247 CONDITIONAL USE PERMITS.

(A) Conditional use permits shall not be issued without the specific approval of the Board of Adjustment, as provided in this section.

(B) The Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The Board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The Board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) (a) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing, and other regulations.

(b) If the applicant submits a modified plan to the relevant regulatory authorities in order to comply with all of the requirements of building, housing, and other regulations that expands the applicant's conditional use beyond the previously established geographic boundaries of the original conditional use permit, then the expanded conditional use shall be reviewed by the Board. This review shall be limited to an examination solely of the expanded geographic boundaries of the modified plan. The Board may deny the applicant's conditional use permit for the expanded geographic area.

(c) The applicant shall have the duty of informing the Board of modifications made in accordance with division (2)(b) of this section, within 14 days of their submission. The applicant's failure to provide the Board with notification shall be grounds for the Board to revoke the conditional use permit, after a hearing before the Board.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the Board, or within one year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "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 the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "EXERCISED" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The City Inspector/Zoning Administrator shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the City Inspector/Zoning Administrator shall report the fact in writing to the Chairperson of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the Chairperson of the Board of Adjustment. The Board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the Board of Adjustment finds that the facts alleged in the report of the City Inspector/Zoning Administrator are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board of Adjustment may authorize the City Inspector/Zoning Administrator to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

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

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least 14 days in advance of the public hearing on the application to the applicant, City Inspector/Zoning Administrator, the Mayor and City Clerk of any city with a population

of less than 3,000 based upon the most recent federal decennial census so affected, within any county containing a city of the first class, an owner of every parcel of property adjoining the property to which the application applies and such other persons as the local zoning ordinance, regulations, or Board of Adjustment bylaws shall direct. 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 division. Records maintained by the property valuation administrator may be relied upon conclusively 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 which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least 14 days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

(KRS 100.237) (Ord. passed 3-6-79)

#### § 154.248 DECISIONS OF BOARD.

(A) In exercising the aforementioned powers, the Board of Adjustment may, so long as that action is in conformity with the provisions of this chapter, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as made by the City Inspector/Zoning Administrator, from whom the appeal is taken.

(B) A simple majority of the total membership of the Board of Adjustment, as established by regulation or agreement, shall be necessary to reverse any order, requirement, decision, or determination of the City Inspector/Zoning Administrator, so long as that action is in conformity with the provisions of this chapter, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

(C) The details of the decision of the Board shall be forwarded to the City Inspector/Zoning Administrator.  
(Ord. passed 3-6-79)

§ 154.249 ACTIONS OF BOARD TO BE FURNISHED TO NKAPC.

Pursuant to KRS 147.705, the Board of Adjustment shall, after final approval of any dimensional variance, change from one nonconforming use to another, conditional use permits, and other appeals, furnish or cause to be furnished, within 60 days after approval, a copy of same to the Northern Kentucky Area Planning Commission.  
(Ord. passed 3-6-79)

§ 154.998 CIVIL OFFENSE.

(A) Violation of any provision of Chapter 154, §§ 154.036 through 154.047 and 154.053 through 154.208, is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred dollars (\$200.00). Any person electing not to contest citation for said offense shall be fined two hundred dollars (\$200.00). Each day of violation shall constitute a separate offense.

(B) Violation of any provision of Chapter 154, §§ 154.050 or 154.051, is declared to be a civil offense. Any person violating any provision shall be fined not more than five hundred dollars (\$500.00). Any person electing not to contest citation for said offense shall be fined five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

(Ord. 1996-15, passed 10-1-96; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2002-3, passed 5-7-02; Am. Ord. 2004-3, passed 4-6-04; Am. Ord. 2006-18, passed 9-19-06)

§ 154.999 PENALTY.

Any person or entity who violates any of the provisions of this chapter for which no other penalty has been specifically provided shall upon conviction be fined not less than ten dollars (\$10.00) but no more than five hundred dollars (\$500.00) for each conviction. Each day of violation shall constitute a separate offense.

(KRS 100.991(1)) (Ord. passed 3-6-79)

DAYTON - ZONING CODE

176B



APPENDIX A: SPECIFICATIONS FOR PAVING OF OFF-STREET PARKING  
AND LOADING OR UNLOADING AREAS

All new off-street parking facilities shall be paved with asphalt or Portland cement concrete and shall be designed and constructed in accordance with the standards and procedures herein established.

(A) Asphalt concrete pavement.

(1) General design requirements.

(a) Asphalt concrete pavements shall consist of specified thickness of asphalt concrete surface course and a base course, or courses, all constructed on prepared subgrade. Pavement thickness required shall be determined from Table A-1 of this Appendix of the appropriate subgrade soil and traffic use.

(b) Paved areas shall be so designed and constructed that water will quickly drain from the surface and be conducted away from the area through approved systems. Transverse or longitudinal slopes of not less than 5/8-inch in ten feet shall be provided. For large paved areas, approved catch basins, and storm drainage systems shall be provided.

(c) When the pavement includes a granular base, and the pavement is not constructed over granular subgrade, perimeter subsurface drainage shall be provided to prevent lateral flow of water into the base course and to provide for removal of seepage water that may enter the base.

(d) Successive layers of the pavement shall be offset from the edge of the underlying layer a distance equal to the course thickness of the lower layer except when abutting existing construction. When the asphalt layers of the pavement abut a building foundation, barrier curb, or similar vertical surface, the abutting surface shall be heavily painted with asphalt prior to construction of the asphalt course. The surface course shall be finished 1/4-inch above adjacent flush construction to permit proper compaction.

(2) Construction materials and procedures.

(a) Base course shall consist of the following materials. Construction procedures shall conform to the requirements applicable to the base course selected.

1. Asphalt concrete base course. Materials and construction shall conform to the current requirements of the Kentucky Department of Transportation, Bureau of Highways' Specifications for Asphalt Concrete Base Course, Sections 401, 403, except as noted herein.

**TABLE A-1**  
**THICKNESS REQUIREMENTS OF SURFACE AND BASE COURSES**  
**FOR AUTOMOBILE AND TRUCK PARKING FACILITY PAVEMENTS**

VEHICLE TYPE	FULL-DEPTH ASPHALT CONCRETE		ASPHALT CONCRETE WITH GRANULAR SUBBASE			ASPHALT CONCRETE WITH GRANULAR BASE	
	SURFACE KDOT (1) (SEC. 401, 402) TYPE B (INCH)	BASE KDOT (1) (SECT. 401, 403) (INCH)	SURFACE KDOT (1) (SECT. 401, 402) TYPE B (INCH)	BASE KDOT (1) (SECT. 401, 403) (INCH)	GRANULAR SUBBASE KDOT (1) (SECT. 303) (INCH)	SURFACE KDOT (1) (SECT. 401, 402) TYPE B (INCH)	GRANULAR BASE KDOT (1) (SECT. 303) (INCH)
Auto Parking facilities	1-1/2	4	1-1/4	2	6	2	9
Truck Parking Facilities	1-1/2	6-1/2	1-1/2	2-1/2	10	- N.A. -	- N.A. -

(1) Refers to the Kentucky Department of Transportation (KDOT) Bureau of Highways, Standard Specifications for Road and Bridge Construction (1976 Edition or as amended).

(b) Crushed stone base course. Crushed stone base course shall conform to all the current requirements of the Kentucky Department of Transportation, Bureau of Highways, for Dense Graded Aggregate Base Course (Section 303).

(c) Asphalt concrete surface course. Materials and construction shall conform to the current requirements of the Kentucky Department of Transportation, Bureau of Highways, for Asphalt Concrete Surface, Type B (State Highway Designation Section 401, 402).

(d) Asphalt prime and tack coat.

1. Asphalt prime shall conform to the Kentucky Department of Transportation, Bureau of Highways' requirements for Cutback Asphalt Emulsion Primer Type L, as per Section 407. Prime shall be applied to the surface of granular base course at a rate of 0.25 to 0.50 gallons per square yard, as directed by the City Engineer or Inspector.

2. Tack Coat (SS-1h) shall meet the current requirements of the Kentucky Department of Transportation, Bureau of Highways, as per Section 407. It shall be diluted with equal parts of water, when directed by the City Inspector/Zoning Administrator. Tack coat shall be applied, upon direction of the City Engineer, to the surface of the asphalt courses that have become dusty or dry at a rate of 0.10 gallons per square yard of the diluted SS-1h before the subsequent course is constructed.

(B) Concrete paving for parking and access drive areas.

(1) General requirements. Thickness of concrete parking and access drives shall be:

(a) A minimum of four inches for driveways and parking areas serving single- and two-family dwellings;

(b) A minimum of five inches for passenger cars and panel or pickup trucks serving industrial, commercial, and multi-family areas;

(c) A minimum of six inches for light trucks serving industrial, commercial, and multi-family residential areas; and

(d) A minimum of seven inches for heavier commercial or industrial needs.

(2) General requirements. Concrete paving:

(a) Minimum cement content, 564 pounds per cubic yard of concrete (six U.S. bags);

(b) Maximum size of aggregate, 1-1/4 inches;

(c) Maximum water content, 0.49 pounds per one pound of cement (5.5 gallons per bag).

(d) Maximum slump: Five inches when using hand-finishing techniques; three inches when using a mechanical finishing machine.

(e) Strength of concrete. The concrete shall attain a minimum expected strength of concrete at 28 days of 3,500 pounds per square inch compressive strength or 550 pounds per square inch flexural strength "modulus of rupture".

(f) Air entrainment:

<u>Maximum Size Aggregate (Inches)</u>	<u>Entrained Air (Percent)</u>
1-1/4	5 + 1
3/4, 1	6 + 1
3/8, 1/2	7-1/2 + 1

(3) Construction procedures.

(a) All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or tamped, shall be removed and replaced with suitable material, placed and compacted. The subgrade shall be thoroughly compacted with suitable equipment so as to have uniform density at moisture contents of not less than standard optimum (AASHTO-T98).

(b) Longitudinal joint spacing shall not exceed 15 feet and be designed in accordance with the joint details in Table A-2 of this Appendix.

(c) Transverse joint spacings shall be at regular intervals of 20 feet.

(d) All transverse construction joints shall be designed in accordance with the joint details in Table A-2 of this Appendix.

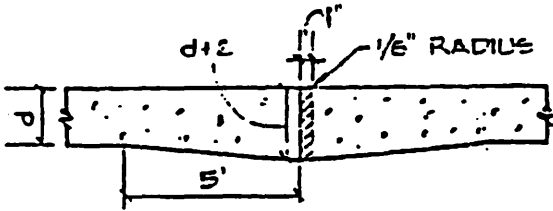
(e) Form offsets at radius points shall be at least two feet.

(f) Pavement joints must be continuous through the curbs.

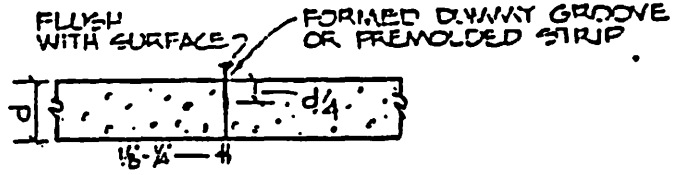
(g) Where curbs are required, they shall be cast integrally.

(h) The pavement shall be struck-off, consolidated, and finished to the grades shown on the plans. All catch basins and manhole castings shall be boxed out and separated from the pavement with expansion joint material. All except premolded or sawed joints

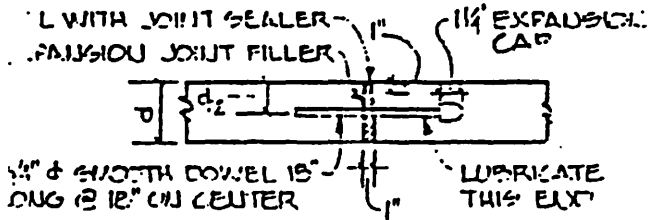
shall be edged with a tool having a maximum radius of 1/8 inch. Sawed and formed joints shall be cleaned and sealed before opening to traffic. Final surface texture shall be that obtained with a burlap drag. Curing shall be that obtained with a uniform coverage of white membrane curing compound or by seven-day coverage of white polyethylene or waterproof paper. The completed pavement shall be closed to traffic for at least 14 days or by the time it has attained a compressive strength of 3,500 pounds per square inch or 550 pounds per square inch flexural strength. This traffic restriction shall apply to the contractor's construction equipment and vehicles, as well as general traffic.



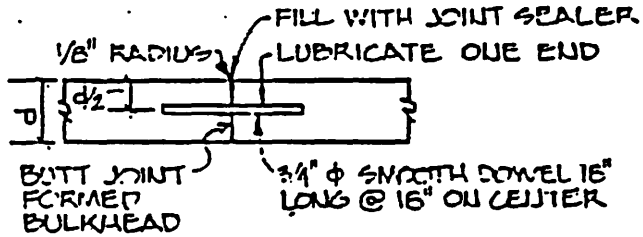
ALTERNATE EXPANSION JOINT



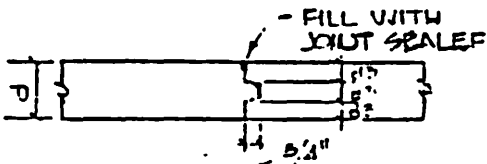
TRANSVERSE CONTRACTION  
(SAWED OR PREMOLDED STRIP)



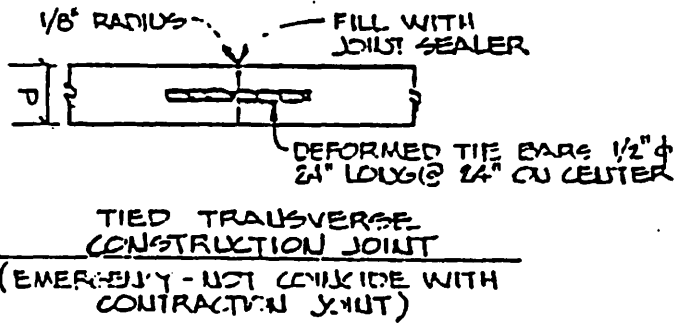
EXPANSION JOINT



TRANSVERSE CONTRACTION JOINT  
(PLATED - COLLIDE WITH CONTRACTION JOINT)



LONGITUDINAL CONSTRICTION JOINT  
KEYWAY



TIED TRANSVERSE CONSTRUCTION JOINT  
(EMERGENCY - NOT COLLIDE WITH CONTRACTION JOINT)

(Ord. passed 3-6-79)

TABLE 7  
THE ZONE REGULATION SUMMARY

ZONE REQUIREMENTS	CO	R-O	R-1BC	R-1C	R-1D	R-1E	R-1G	R-1H	R-1JJ
Minimum Lot Area (in square feet)	(1)	(1)	15,000	12,500	9,000	7,500	5,000	4,000	SF 2,500 TF 3,500
Density - Dwelling Units Per Net Acre	--	--	2.8	3.3	4.8	5.8	8.6	10.9	17.4 - 24.8
Minimum Lot Width At Minimum Building Setback Line (in feet)	(1)	(1)	85	80	70	60	50	40	SF 25 TF 35
Minimum Front Yard Depth (in feet)	(1)	(1)	35	35	30	30	20	20	10
Minimum Side Yard Width On Each Side of Lot (in feet)	(1)	(1)	11	10	10	7	5	5	(2)
Minimum Rear Yard Depth (in feet)	(1)	(1)	25	25	25	25	25	25	25
Maximum Building Height	(1)	(1)	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
<p>(1) As approved by the planning commission according to the site plan.  (2) Total for both sides - 6 feet for single-family; 9 feet for two-family. Minimum on one side - 3 feet.  In the case of a side yard which abuts a street (a corner lot) the yard shall be the average setback of adjacent structures along the same street frontage.</p>									





CHAPTER 155: SUBDIVISION REGULATIONS

Editor's note: The city's subdivision regulations have been included herein as an appendix.



APPENDIX: SUBDIVISION REGULATIONS

Section

ARTICLE I: Application and Authority of Regulations

- 1.0 Short title
- 1.1 Purpose and authority
- 1.2 Schedule of construction and sale of lots
- 1.3 Schedule of improvements
- 1.4 General responsibilities

ARTICLE II: Definitions

- 2.0 Words and phrases

ARTICLE III: Subdivision Procedure

- 3.0 Preliminary information
  - 3.1 Submission of preliminary plat
  - 3.2 Processing of the preliminary plat
  - 3.3 Planning Commission action
  - 3.4 Submission of the final plat
  - 3.5 Processing of the final plat and improvement drawing and plans
  - 3.6 Planning Commission action
  - 3.7 Effect of approval
  - 3.8 Disposition of approved final plat
  - 3.9 Recording
  - 3.10 Withdrawal or modification
  - 3.11 Modification of improvement drawings
  - 3.12 Submission of as-built improvement drawings
  - 3.13 Acceptance of improvements for maintenance
  - 3.14 Establishing a minor subdivision or resubdivision
  - 3.15 Processing a minor subdivision
  - 3.16 Planning Commission action on minor subdivision

ARTICLE IV: Preliminary Plat Requirements

- 4.0 Specifications for and content of the preliminary plat

ARTICLE V: Final Plat Requirements Including Improvement Plans and Specifications

- 5.0 Specifications for and content of the final plat

ARTICLE VI: Design Standards and Principles for the Layout of Land Subdivisions

- 6.0 Streets
  - 6.1 Intersections
  - 6.2 Easements
  - 6.3 Physical considerations
  - 6.4 Flood hazards

Section

ARTICLE VI: Design Standards and Principles for the Layout of  
Land Subdivisions (Cont'd)

- 6.5 Blocks
- 6.6 Lots
- 6.7 Pedestrian ways
- 6.8 Public sites

ARTICLE VII: Improvements

- 7.0 Drainage
- 7.1 Sanitary sewer system
- 7.2 Water system
- 7.3 Streets
- 7.4 Driveways
- 7.5 Off-street parking areas
- 7.6 Telephone and electrical utility lines
- 7.7 Street signs
- 7.8 Street lights
- 7.9 Street trees
- 7.10 Planting screens or fences
- 7.11 Monumentation
- 7.12 Plans for future expansion-extra size and off-site improvements
- 7.13 Plans required for the control of erosion and sedimentation
- 7.14 Construction inspections
- 7.15 Construction responsibilities
- 7.16 Stationings
- 7.17 Repair of damage
- 7.18 Final cleaning up
- 7.19 Agreements and guarantees

ARTICLE VIII: Administration and Enforcement

- 8.0 Administration
- 8.1 Fees
- 8.2 Modifications
- 8.3 Enforcement
- 8.4 Penalties
- 8.5 Severability
- 8.6 Appeals from Planning Commission
- 8.7 Conflict
- 8.8 Variances

ARTICLE IX: Adoption, Amendment and Effective Date

- 9.0 Public hearing
- 9.1 Effective date

- Attachment A: Cement concrete for street, curb and gutter, sidewalk, and driveway construction
- Attachment B: Asphalt concrete pavement for street and driveway construction

## Section

Attachment C: Typical street cross sections  
Attachment D: Certificates, acknowledgements, and approvals  
Attachment E: Application forms

## ARTICLE I

## APPLICATION AND AUTHORITY OF REGULATIONS

SECTION 1.0 SHORT TITLE.

These regulations shall be known and may be cited as the "Subdivision Regulations" of the City of Dayton, State of Kentucky. (Ord. 1971-2, passed 4-6-71)

SECTION 1.1 PURPOSE AND AUTHORITY.

(A) Purpose. These subdivision regulations as herein set forth have been prepared in accordance with an adopted comprehensive plan for the city to promote the public health, safety, morals, and general welfare of the city; to provide for the proper arrangement of streets in relation to existing or proposed streets; to provide for adequate and convenient open spaces for vehicular and pedestrian traffic, utilities, access of fire fighting apparatus, recreation, light and air, and the avoidance of congestion of the population, and to facilitate the orderly and efficient layout and appropriate use of the land. In addition, these regulations also provide for the accurate surveying of land, preparing and recording of plats and the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and subdividers.

(B) Authority. These regulations are adopted in accordance with KRS 100.201 through 100.991. (Ord. 1971-2, passed 4-6-71)

SECTION 1.2 SCHEDULE OF CONSTRUCTION AND SALE OF LOTS.

No lot, tract, or parcel in a subdivision in which the property is located may be sold or transferred and no permit to erect any building upon land in a subdivision may be issued unless a final plat has been approved by the Planning Commission and recorded with the County Clerk of the county in which the property is located, and until the construction of all improvements required in connection therewith have been completed or guaranteed as provided for in these regulations. (Ord. 1971-2, passed 4-6-71)

SECTION 1.3 SCHEDULE OF IMPROVEMENTS.

The subdivider of any tract or parcel of land located within the city shall not proceed with any construction work for a street, sanitary sewer, storm sewer, water main or any other facilities in connection therewith until he has obtained conditional approval or

final approval of his final plat, by the Planning Commission and acceptance by the City Council as provided for herein.  
(Ord. 1971-2, passed 4-6-71)

SECTION 1.4 GENERAL RESPONSIBILITIES.

(A) Subdivider and developer. The subdivider or developer shall use a land surveyor, and a civil engineer, registered in the state of Kentucky to prepare plats and plans consistent with the design standards; accomplish improvements consistent with the improvement requirements; and process said plats and plans in accordance with these regulations.

(B) Planning Commission. The Planning Commission, or its duly authorized representative, is charged with the duty of making investigations and reports on the design and improvements of proposed subdivisions and developments and requiring conformance of such subdivisions and developments with the comprehensive plan for the city, KRS 100.111 through 100.991 and these regulations. The Planning Commission shall require such redesign of street patterns, lot layout, and such other information or plans so as to accomplish the objectives and intent of the comprehensive plan and to insure good traffic patterns, proper design and development of a particular area, and appropriate consideration of abutting development.

(C) City Council. Any street or other public ground which has been dedicated shall not be accepted by the City Council until it has received recommendations from the Planning Commission. No certificate of occupancy shall be granted until the City Council accepts the improvements for maintenance.  
(Ord. 1971-2, passed 4-6-71)

ARTICLE II

DEFINITIONS

SECTION 2.0 WORDS AND PHRASES. For the purpose of these regulations, certain terms, phrases, words, and their derivatives are herewith defined as follows:

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

"ALLEY." A strip of land dedicated to and accepted for maintenance by the City Council for public use, located at the side or rear of lots providing secondary access to abutting property.

"BLOCK." A parcel of land within a subdivision that is bounded by streets or bounded by streets and the exterior boundary of the subdivision. For this definition an "alley" is not considered a street

but part of the "BLOCK."

"BLOCK LENGTH." The distance between intersections of through streets, such distance being measured parallel to the longest street bounding the block and from right-of-way line to right-of-way line of the two intersecting streets.

"CITY ENGINEER." The City Engineer of the City of Dayton, State of Kentucky.

"CIVIL ENGINEER." A registered professional engineer in the state of Kentucky.

"COMMISSION (OR PLANNING COMMISSION OR PLANNING & ZONING COMMISSION)." The Planning and Zoning Commission of the city of Dayton, Campbell County, State of Kentucky.

"COMPREHENSIVE PLAN." The adopted comprehensive plan of the City of Dayton, State of Kentucky.

"CORNER LOT." A lot situated at the intersection of two streets.

"DEVELOPER." Any individual, firm, association, syndicate, co-partnership, corporation, government agency, trust, or any other legal entity commencing proceedings under these regulations, to effect a development of land as defined herein for himself or for another.

"DOUBLE FRONTAGE LOTS." A lot other than a corner lot that has frontage on more than one street.

"DULY AUTHORIZED REPRESENTATIVE." Person or persons designated by the Planning Commission to check, review, and comment on all submissions regarding their conformance to these regulations. The Planning Commission may designate the city engineer, or any other qualified person as the duly authorized representative.

"EASEMENT." The right, granted by the property owner, to use a parcel of land for specified purposes.

"FINAL PLAT." A subdivision plat proposed in accordance with the provisions herein in which said plat is designated to be placed on record with the County Clerk after approval by the Planning Commission and acceptance by the City Council.

"FRONTAGE." All the property abutting on one side of the right-of-way of a street, measured along the right-of-way line of the street between the lot lines as extended to intersect said right-of-way line of said street. In no case shall the line along an alley be considered as acceptable for frontage.

"IMPROVEMENT PLANS." The engineering plans showing types of materials and construction details for the physical structures and facilities to be installed in, or in conjunction with, the subdivision.

"LOT, BUILDING." A parcel of land or any combination of several lots of record, occupied or intended to be occupied by a principal

building or a building group as permitted in the zoning ordinance, together with their accessory buildings or uses and such access, yards and other open spaces required in these regulations and in the zoning ordinance.

"LOT OF RECORD." A designated fractional part of a subdivision according to a specific recorded plat or survey, the map of which has been officially approved by the Planning Commission and recorded in the office of the County Clerk.

"LOT WIDTH MINIMUM." The minimum width of a lot as required by the zoning ordinance as measured along the minimum building front setback line.

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

"MINOR SUBDIVISION." A subdivision which consists of four or less lots in which no new improvements are to be constructed or extended or where all lots created, for other than agricultural purposes, contain an area of at least five acres or more, and no new improvements are to be constructed or extended.

"OFFICIAL MAP." The adopted official map of the city, as provided for in KRS 100.293 through 100.317.

"PRELIMINARY PLAT." A tentative plat of a proposed subdivision prepared in accordance with the provisions herein for presentation to the Planning Commission for its approval or denial.

"RESUBDIVISION." A subdivision which is actually a resubdivision of a previously recorded plat, representing a revision of the old lots, but where no new improvements are to be constructed or extended.

"STANDARD SPECIFICATIONS." Any specifications stated in an ordinance, resolution, or regulations adopted by the Planning Commission or the City Council. The tables, figures, and attachments to these regulations are "STANDARD SPECIFICATIONS."

"STREETS." Any vehicular ways except alleys.

(1) All streets will be within dedicated rights-of-way which have been properly processed, approved, and recorded.

(2) The following shall be used to classify all streets:

(a) Arterial Streets - Public thoroughfares which serve the major movements of traffic within and through the community.

(b) Collector Streets - Public thoroughfares which serve to collect and distribute traffic primarily from local residential streets to Arterial Streets.

(c) Cul-de-Sac - A street having an outlet at one end



only and having the other end permanently closed with facilities permitting vehicles to turn around.

(d) Dead-End Street - A street having an outlet at one end only and terminated at the other end by undeveloped property. It may or may not have facilities permitting vehicles to turn around.

(e) Expressway - A divided arterial highway for through traffic with full or partial control of access and generally with grade separation at major intersections.

(f) Freeway - A divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access.

(g) Frontage Road or Service Road - A street adjacent to a freeway, expressway or an arterial street separated therefrom by a dividing strip and providing ingress and egress from abutting property.

(h) Local Streets - Facilities which are designated to be used primarily for direct access to abutting properties and leading into the collector street system.

"SUBDIVIDER." Any individual, firm, association, syndicate, co-partnership, corporation, trust, governmental agency, or any other legal entity commencing proceedings under these regulations, to create a subdivision of land as defined herein for himself or for another.

"SUBDIVISION." The division of a parcel of land into two or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a "SUBDIVISION." The term includes re-subdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided.

"SURVEYOR." A registered land surveyor in the State of Kentucky.

"TRACT." A parcel of land identified by letter or number, the boundaries of which are shown on the recorded subdivision plat. A tract need not be buildable.  
(Ord. 1971-2, passed 4-6-71)

### ARTICLE III

#### SUBDIVISION PROCEDURE

Any developer desiring to subdivide any lot, tract, or parcel of land or to change or rearrange any such lot, tract, or parcel of land within the city shall comply with the procedures established in this Article and other applicable Articles and Sections of these regulations and in the sequence specified.

SECTION 3.0 PRELIMINARY INFORMATION.

The subdivider or developer may notify the Planning Commission, or its duly authorized representative, of his intention to subdivide a property. Such notification should include mention or illustration of any aspect or feature which will affect the design or layout of the subdivision. For clarity, the subdivider or developer in discussing preliminary information may utilize a map to illustrate various features or aspects of the property.  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.1 SUBMISSION OF PRELIMINARY PLAT.

The subdivider shall file eight copies of the preliminary plat (two copies which shall be retained by the Commission or its duly authorized representative), prepared in accordance with the requirements of Article IV, with the Commission, or its duly authorized representative, at least 15 consecutive working days prior to the next regular meeting of the Planning Commission. At this time, the following material shall also be filed with the Commission, or its duly authorized representative.

(A) Application for preliminary plat approval. Two copies of an application (provided by the Commission) shall be submitted (See Attachment E). At the time of submission, the Commission, or its duly authorized representative, shall indicate on the application, the date of submission and signature of Commission's representative and retain one copy.

(B) Statement that zoning requirements will be met. Two copies of a statement declaring that all zoning requirements shall be met (including identification of zoning district, lot size and yard requirements and proof of any variances or special exceptions which may have been granted). The Planning Commission, or its duly authorized representative, shall retain one copy.

(C) Description of soil conditions. Three copies of a description of soil conditions - surface and subsurface and whether suitable for the types of development intended. The Planning Commission, or its duly authorized representative, shall retain one copy.

(D) Statement by appropriate public bodies insuring water and sewer service. Two copies of a letter (form letter to be furnished by the Planning Commission, or its duly authorized representative) from the appropriate bodies who will provide public water and sewer service, stating that public water and sewer service will be provided to the subdivision prior to the time when the City Council accepts the improvements for maintenance. In the case where individual on-site disposal systems have been approved as per Section 7.1 (C) of these regulations, two copies of a permit to use on-site disposal systems, and two copies of a letter showing results of percolation tests, approved by the County Health Department, shall be required. The Planning Commission, or its duly authorized representative, shall retain one copy of all letters required herein.

(E) Preliminary plat fees. Preliminary Plat Fees shall be submitted in accordance with Article VIII, Section 8.1, of these regulations.  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.2 PROCESSING OF THE PRELIMINARY PLAT.

The preliminary plat, the application, and all other required information, shall be checked by the Planning Commission, or its duly authorized representative, as to: (1) the requirements of the Preliminary Plat as stated in Article IV; (2) the requirements of the Dayton Zoning Ordinance and (3) any other pertinent sections of these regulations. Within three consecutive working days after the filing of the Preliminary Plat, the Planning Commission, or its duly authorized representative, shall transmit the designated items to the listed city departments and/or other agencies for review and comment. The city departments and/or other agencies shall forward their written comments to the Planning Commission, or its duly authorized representative, within ten consecutive working days from receipt of same.

(A) Citizens Telephone Company. One copy of the preliminary plat.

(B) Union Light, Heat and Power Company. One copy of the preliminary plat.

(C) Campbell County Water District Number One. One copy of the preliminary plat.

(D) Northern Kentucky Area Planning Commission.

(1) One copy of the preliminary plat.

(2) One copy of the application for preliminary plat approval.

(3) One copy of the statement that zoning requirements will be met.

(4) One copy of a permit to use on-site disposal systems (if applicable).

(5) One copy of a letter showing the results of the percolation test (if applicable).

(6) One copy of a letter by the appropriate public bodies insuring water and sewer service.

(E) Sanitation District of Campbell and Kenton Counties, District No. One. One copy of the preliminary plat.

(F) Soil conservation service.

(1) One copy of the preliminary plat.

(2) One copy of description of soil conditions.

(G) Other applicable city departments and agencies affected by the subdivision (additional copies of any of the required submissions may be required for this purpose -- e.g., State Highway Department, County Health Department, if on-site disposal systems are to be used). (Ord. 1971-2, passed 4-6-71)

### SECTION 3.3 PLANNING COMMISSION ACTION.

(A) The Planning Commission, or its duly authorized representative, shall review the preliminary plat including determination of its conformance to the requirements of these regulations, and shall consider the recommendations and/or comments of all city departments and/or other agencies and shall then take one of the following actions: (1) approve the plat, (2) approve the plat subject to conditions or (3) disapprove the plat; within 90 consecutive calendar days from the date of receipt, per state enabling legislation (KRS 100.281 (1)), unless such time is extended by agreement between the Planning Commission, or its duly authorized representative, and the subdivider or developer. Approval of the preliminary plat by the Commission does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat.

(B) In the event of disapproval or conditional approval of the preliminary plat, a statement in writing by the Planning Commission, or its duly authorized representative, setting forth the reasons for disapproval or the conditions of approval, shall be made to the subdivider or developer.

(C) Approval or conditional approval of a preliminary plat shall be valid for a period of 12 consecutive calendar months, except that if a portion of an approved preliminary plat is approved and accepted as a final plat, said approval or conditional approval of the remainder of the preliminary plat shall be valid for 12 consecutive calendar months after the date of approval of said final plat, unless further extended by the Planning Commission. The Planning Commission may, upon receipt of a request by the subdivider or developer, grant an extension to this 12-month period if prevailing conditions have not changed appreciably. This extension shall not exceed 12 consecutive calendar months. (Ord. 1971-2, passed 4-6-71)

### SECTION 3.4 SUBMISSION OF THE FINAL PLAT.

(A) General. A final plat shall not be submitted together with the preliminary plat of the same land. The final plat shall only be submitted after the preliminary plat has been approved, or conditionally approved, subject to modifications, by the Planning Commission. The final plat shall conform to the approved or conditionally approved preliminary plat and shall include all changes, additions, deletions, or approvals as may be required on conditional approval by the Commission, and shall be prepared in conformity with Article V and other applicable sections of these regulations.

(B) Preparation. The subdivider or developer may cause, within

12 consecutive calendar months after the approval or conditional approval of the preliminary plat, the subdivision or any part thereof, to be surveyed and a final plat thereof to be prepared. The final plat shall contain only that portion of the approved or conditionally approved preliminary plat which the subdivider or developer wishes to have approved, recorded and developed at that time. Final plats which are a portion of the approved or conditionally approved preliminary plat shall be named and listed as "Filing No. \_\_\_\_\_ of (Name of Subdivision)". Final plats which are re-subdivisions of approved and recorded final plats shall be labeled as "RE-SUBDIVISION OF (Appropriate Listing Title)". The subdivider or developer shall cause only a land surveyor to prepare said final plat.

(C) Filing. The subdivider or developer shall submit to the Planning Commission, or its duly authorized representative, the original final plat drawing and eight copies of the final plat (two of which shall be retained by the Commission, or its duly authorized representative), prepared in accordance with Article V of these regulations, at least 15 consecutive working days prior to the next regular meeting of the Planning Commission. At this time, the following material shall also be filed with the Commission, or its duly authorized representative.

(1) Application for final plat approval. An application (provided by the Commission) shall be submitted in duplicate (See Attachment E). At the time of submission, the Commission, or its duly authorized representative, shall indicate on the application the date of submission and signature of Commission's representative, and retain one copy.

(2) Traverse sheets. Two copies of traverse calculations shall be furnished to the extent prescribed by the Planning Commission, or its duly authorized representative. The minimum traverse calculations required shall include a closed traverse of the subdivision boundaries (See Article V, Section 5.0,(B)(2)). The Planning Commission, or its duly authorized representative, shall retain one copy.

(3) Improvement drawings and plans. The Planning Commission, or its duly authorized representative, shall retain one copy of each of the following items (in the case of the water and sanitary sewerage system plans -- after action as defined in Section 3.5 (F)).

(a) Five copies of the sanitary sewerage system plans and profiles (See Article VII, Section 7.1 -- Three copies should be forwarded to the Campbell County Health Department as per Section 3.5 (F)).

(b) Five copies of the water system plans (See Article VII, Section 7.2) -- These copies shall be forwarded to the Campbell County Health Department as per Section 3.5 (F).

(c) Two copies of the street plans and profiles plus two sets of pavement design computations (See Article VII, Section 7.3).

(4) Drainage report including drainage study and computations. Two sets of drainage reports including computations. (See Article VII, Section 7.0). The Planning Commission, or its duly authorized representative, shall retain one copy.

(5) Plans for the control of erosion and sedimentation (if applicable). If, after review of soils information and recommendations of the Soil Conservation Service or other soils experts, it is determined that plans for soil erosion and sedimentation are necessary, three sets of Plans for the Control of Erosion and Sedimentation shall be submitted. (See Article VII, Section 7.13). The Planning Commission, or its duly authorized representative, shall retain one copy.

(6) Deed Restrictions or Protective Covenants. Two copies of all deed restrictions and protective covenants (may either be placed directly on the final plat or attached thereto in form for recording. If recorded separately, reference to the restrictions which shall be made on the final plat). The Planning Commission, or its duly authorized representative, shall retain one copy.

(7) Final plat fees. Final plat fees shall be submitted in accordance with Article VIII, Section 8.1.

(8) Surety bond. Surety bond (if applicable) per Article VII, Section 7.19 of these regulations.

(9) Recording fees. The subdivider or developer shall pay the recording fee per requirements of Campbell County. (Ord. 1971-2, passed 4-6-71)

### SECTION 3.5 PROCESSING OF THE FINAL PLAT AND IMPROVEMENT DRAWINGS AND PLANS.

The Planning Commission, or its duly authorized representative, shall check the final plat as to description, certification, computations, lot areas and numbers, monuments, conformity with approved preliminary plat and all other pertinent aspects as required in Article VI and other applicable articles and sections of these regulations. The Planning Commission, or its duly authorized representative, shall check the improvement drawings and plans to insure that they are in conformity with the final plat and that they meet the minimum requirements established in Article VII and other pertinent sections of these regulations. Within three consecutive working days after the filing of the final plat, the Planning Commission, or its duly authorized representative, shall transmit the designated items to the listed city departments and/or other agencies for review and comment. The city departments and/or other agencies shall forward their written comments to the Planning Commission, or its duly authorized representative, within 15 consecutive working days from receipt of same.

(A) Telephone Company. One copy of the final plat.

(B) Union Light, Heat, and Power Company. One copy of the final plat.

- (C) Campbell County Water District Number One.
- (1) One copy of the final plat.
  - (2) One copy of the water system plan (after action as defined in Section 3.5 (F)).
- (D) Northern Kentucky Area Planning Commission.
- (1) One copy of the application for final plat approval.
  - (2) One copy of the final plat.
  - (3) One set of traverse closure computations.
  - (4) One set of the drainage report and computations.
  - (5) One copy of the proposed street plan and profiles.
  - (6) One set of pavement design computations.
  - (7) One copy of the water system plan (after action as defined in Section 3.5 (F)).
  - (8) One copy of the sanitary sewerage plan (after action as defined in Section 3.5 (F)).
  - (9) One set of plans for the control of erosion and sedimentation.
  - (10) One set of deed restrictions or protective covenants.
- (E) Sanitation District of Campbell and Kenton Counties No. One.
- (1) One copy of the final plat.
  - (2) One copy of the sanitary sewerage system plan (after action as defined in Section 3.5 (F)).
- (F) The Campbell County Health Department. The Campbell County Health Department shall receive all copies of the water and sanitary sewerage system plans from the Planning Commission and shall follow the procedure defined below:
- (1) Shall forward all five copies of the water system plans to the State Department of Health, Division of Environmental Health for its action. After its action, it shall retain one copy and send one copy to the following agencies:
    - (a) Campbell County Health Department.
    - (b) Northern Kentucky Area Planning Commission.
    - (c) Campbell County Water District No. 1.
    - (d) Planning Commission.

(2) Shall forward all five copies of the sanitary sewerage system plans to the State Water Pollution Control Commission for its action. After its action, it shall retain one copy and send one copy to the following agencies:

- (a) Campbell County Health Department.
- (b) Northern Kentucky Area Planning Commission.
- (c) Sanitation District of Campbell and Kenton Counties

No. One.

- (d) Planning Commission.

(G) United States Post Office. One copy of the final plat.

(H) Other applicable city departments and agencies affected by the subdivision (additional copies of any of the required submissions may be required for this purpose -- e.g., State Highway Department, Soil Conservation Service, etc.).  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.6 PLANNING COMMISSION ACTION.

The Planning Commission, or its duly authorized representative, shall review the final plat, the improvement drawings and plans, and all other pertinent information, including a determination of conformance to the requirements of these regulations and shall consider the recommendations and/or comments of all city departments and/or other agencies and shall take action on the final plat within 90 consecutive calendar days, after its submission, per state-enabling legislation (KRS 100.281 (1)), unless such time is extended by agreement between the Planning Commission, or its duly authorized representative, and subdivider or developer. One of the following actions shall be taken by the Commission.

(A) Conditional approval -- improvements to be constructed. The Planning Commission may conditionally approve a plat provided that a construction agreement acceptable to the Planning Commission, or its duly authorized representative, and other applicable requirements of Section 7.19 are provided (See Article VII, Section 7.19). Written notice of conditional approval shall constitute formal authorization to the subdivider or developer to construct and install all improvements and shall assure the subdivider that the plat will be fully approved provided that the terms of the construction agreement and these regulations have been met.

(B) Final approval. When final approval of a plat is given, it shall be given in one of two ways:

(1) After construction of improvements. After the subdivider has obtained conditional approval as indicated in Article III, Section 3.6 (A) and has installed all required improvements, to the satisfaction of the Planning Commission, or its duly authorized representative, the Planning Commission, or its duly authorized



representative shall certify that the improvements have been satisfactorily installed in compliance with the construction agreement. The Planning Commission then shall give final approval and the City Council shall accept all improvements for maintenance.

(2) Before construction of improvements. The Planning Commission, with approval of the City Council, may give final approval before all required improvements are installed, provided that a construction agreement and a bond acceptable to the city's Legal Counsel and the Planning Commission, or its duly authorized representative, are provided for the purpose of assuring installation of such improvements, in case for some reason, the subdivider or developer is unable to install the required improvements. The amount of the bond shall be based on an estimate made by the subdivider and approved by the Planning Commission, or its duly authorized representative (see Article VII, Section 7.20). Upon determination that all requirements of these regulations have been met, the Planning Commission shall give final approval and shall indicate such approval and date on the original drawing of the final plat.

(C) Disapproval. Should the Planning Commission decide to disapprove the final plat, written notice of such action, including reference to the regulation or regulations violated by the plat or the reasons for disapproval shall be mailed to the subdivider or developer. The action shall be entered on the official records of the Planning Commission.

(Ord. 1971-2, passed 4-6-71)

### SECTION 3.7 EFFECT OF APPROVAL.

Final approval of a plat by the Planning Commission shall not be an acceptance by the public of the offer of dedication of any street, or other public ways or open space upon the final plat unless such acceptance is endorsed by the City Council and/or other appropriate public body upon the original drawing of the final plat. After approval of the final plat by the Planning Commission, it may be recorded as specified in Section 3.9 of these regulations.

(Ord. 1971-2, passed 4-6-71)

### SECTION 3.8 DISPOSITION OF APPROVED FINAL PLAT.

(A) After approval of the original drawing of the final plat by the Planning Commission, such final plat shall be transmitted to the City Council and/or other appropriate public body for necessary acceptance of all public dedications after which the final plat shall be returned to the Planning Commission, or its duly authorized representative.

(B) After necessary action by the City Council (acceptance of improvements for maintenance) and acceptance in fee simple, of lands to be dedicated to the City Council or other public bodies, the Planning Commission, or its duly authorized representative, shall cause to have made at the expense of the subdivider or developer, four copies of the final plat (two copies of which shall be retained by the Planning Commission).

(C) One copy of the final plat shall be transmitted to each of the following agencies and city departments:

(1) City Council.

(2) Northern Kentucky Area Planning Commission.

(3) Other applicable city departments and/or agencies affected by the subdivision (additional copies of the final plat may be required for this purpose).

(D) In the event the final plat is disapproved, the original drawing shall be returned to the subdivider or developer accompanied by a letter from the Planning Commission, or its duly authorized representative, stating the action taken and the reasons for disapproval of the final plat.  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.9 RECORDING.

After approval of the final plat, the City Clerk shall file the approved final plat in the office of the Campbell County Recorder after which lots may be sold, leased, or transferred. A certificate of occupancy, however, may not be issued until all required improvements, as specified in the construction agreement, have been installed and accepted for maintenance by the City Council (see Section 3.13).  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.10 WITHDRAWAL OR MODIFICATION.

Before approval of the final plat, the submitted plat may be withdrawn or modified. If modified, the review process shall be repeated. Modification of plat shall automatically require the proper fee. The recording fee shall be refunded or credited to the modified plat as determined by the Planning Commission, or its duly authorized representative. In case of withdrawal the filing fee shall not be refunded.  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.11 MODIFICATION OF IMPROVEMENT DRAWINGS.

If during the course of construction, any changes or modifications are encountered that are not in conformance with the original approved improvement drawings, the developer or subdivider shall submit the modified improvement drawings to the Planning Commission, or its duly authorized representative, who, if in agreement with such modifications shall affix his signature to these drawings indicating approval of the modifications.  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.12 SUBMISSION OF AS-BUILT IMPROVEMENT DRAWINGS.

(A) After all improvements have been installed in conformance with the construction agreement and these regulations, the subdivider or developer shall submit to the Planning Commission, or its duly authorized representative, four copies of as-built improvement drawings

(showing how all improvements were actually installed).

(B) One copy of the as-built improvement drawings shall be retained by the Planning Commission and the Planning Commission, or its duly authorized representative shall transmit one copy of the as-built drawings to the following city departments and agencies:

- (1) Campbell County Water District No. One.
- (2) Northern Kentucky Area Planning Commission.
- (3) Sanitation District of Campbell and Kenton Counties District No. One.
- (4) Other applicable city departments and agencies affected by the subdivision. (Additional copies of as-built improvement drawings may be required for this purpose.)  
(Ord. 1971-2, passed 4-6-71)

#### SECTION 3.13 ACCEPTANCE OF IMPROVEMENTS FOR MAINTENANCE.

After all improvements have been installed in accordance with the construction agreement and these regulations and the subdivider or Developer has complied with Section 3.12 of these regulations, the City Council shall accept the improvements for maintenance.  
(Ord. 1971-2, passed 4-6-71)

#### SECTION 3.14 ESTABLISHING A MINOR SUBDIVISION OR RESUBDIVISION.

(A) Upon written request by the subdivider, or developer, a subdivision may be deemed a minor subdivision or resubdivision by the Planning Commission or its duly authorized representative, when it meets one of the following requirements.

- (1) Minor subdivision.
  - (a) Where a subdivision consists of four or less lots in which no new improvements are to be constructed or extended.
  - (b) All lots created, for other than agricultural purposes, contain an area of at least five acres or more, and no new improvements are to be constructed or extended.
- (2) Resubdivision. The subdivision is actually a resubdivision of a previously recorded plat representing a revision of the old lots, but where new improvements are to be constructed or extended.

(B) In his request for approval of a minor subdivision, the subdivider or developer may suggest that requirements for specific preliminary information be waived. The Planning Commission, or its duly authorized representative, may, at its discretion, waive the requirements for that preliminary information which it considers unnecessary. The subdivider may then submit only that information required by the Planning Commission, or its duly authorized

representative, to initiate processing of the subdivision.  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.15 PROCESSING A MINOR SUBDIVISION.

(A) The subdivider shall submit to the Planning Commission, or its duly authorized representative, one original drawing of the final plat and three copies (one copy of which shall be retained by the Commission) prepared in accordance with Article V of these regulations, at least 15 working days prior to the next regular meeting of the Planning Commission. The Planning Commission, or its duly authorized representative, shall check the final plat as to its conformity with Articles V and VI and other pertinent sections of these regulations.

(B) Within three consecutive working days after the filing of the final plat, the Planning Commission, or its duly authorized representative, shall transmit two copies each of the plat to the following agencies for review and comment:

(1) Northern Kentucky Area Planning Commission.

(2) Other applicable city departments and agencies affected by the subdivision (additional copies of the final plat may be required for this purpose).

(C) Comments by any of the aforementioned city departments and/or other agencies shall be in writing to the Planning Commission, or its duly authorized representative, within ten consecutive calendar days from date of receipt of same.  
(Ord. 1971-2, passed 4-6-71)

SECTION 3.16 PLANNING COMMISSION ACTION ON MINOR SUBDIVISION.

(A) The Planning Commission, or its duly authorized representative, shall review the final plat and all other pertinent information, including a determination on conformance to the requirements of these regulations and shall consider the recommendations and/or comments of all city departments and/or agencies and shall take action on the final plat within two consecutive regular Planning Commission meetings, but not to exceed 90 consecutive calendar days after its submission, or a mutually agreed upon extension with the subdivider.

(B) If found satisfactory the Planning Commission, or its duly authorized representative, shall approve the subdivision and indicate such approval and date on the original drawing of the final plat. Recording or modification of the final plat shall be as specified in Sections 3.9 and 3.10 of these regulations.

(C) Prior to the recording of the approved final plat, the Planning Commission, or its duly authorized representative, shall cause to have made at the expense of the subdivider or developer, two copies of the approved final plat (one copy of which shall be retained by the Planning Commission) and one copy shall be transmitted to the Northern Kentucky Area Planning Commission.

(D) In the event the final plat is disapproved, the original drawing of the final plat shall be returned to the subdivider accompanied by a letter from the Planning Commission, or its duly authorized representative, stating the action taken and the reasons for disapproval of the final plat.  
(Ord. 1971-2, passed 4-6-71)

#### ARTICLE IV

#### PRELIMINARY PLAT REQUIREMENTS

#### SECTION 4.0 SPECIFICATIONS FOR AND CONTENT OF THE PRELIMINARY PLAT.

The following information shall be clearly shown on or accompany the preliminary plat. The subdivider shall file with the Planning Commission, or its duly authorized representative, eight copies of the preliminary plat for review. Such plat shall be drawn at a scale of one inch to 200 feet or greater.

(A) Information to be contained on preliminary plat.

(1) Proposed name of the subdivision, which shall not duplicate or too closely approximate, phonetically or in spelling, the name of any other subdivision in Campbell County.

(2) The name and address and phone number of the record owner(s).

(3) The name and address and phone number of the subdivider(s) or developer(s).

(4) The name, address and phone number of the person, firm or organization preparing the preliminary plat.

(5) The date, north point, and scale - written and graphic.

(6) A vicinity sketch map drawn at a scale of one inch to 1,000 feet or greater including the following information, if applicable, within at least 1/2 mile of the proposed subdivision:

(a) Proposed subdivision name and location.

(b) Boundary lines of all existing abutting subdivisions or developments and their names.

(c) Existing and proposed streets.

(d) Existing easements on or abutting the proposed subdivision.

(e) Outline and names of owners of all adjacent acreage parcels of lands.

(f) Shopping facilities, existing or proposed.

(g) Existing and proposed schools.

(h) Existing and proposed parks and playgrounds.

(i) Other significant features (e.g., streams, lakes, etc.).

(7) The boundary lines of the tract to be subdivided shall be drawn to scale showing all bearings and distances.

(8) The existing use or uses of the property and to scale, the outline of any existing buildings or improvements and their location in relation to existing or proposed street and lot line locations (addresses if available).

(9) The right-of-way lines and names of all existing or platted streets, other public ways and easements adjacent to or in connection with the subdivision including right-of-way widths and other important features at least within 100 feet of the boundary lines, such as railroad lines, watercourses, etc.

(10) Names of adjacent subdivisions and the property lines, at least within 100 feet of the subdivision boundary, and owners of record of all adjacent parcels that are unsubdivided (for adjacent platted land, refer to subdivision plat by name, plat books and page).

(11) Location and dimensions of all existing easements and rights-of way within the subdivision.

(12) Existing utilities on and adjacent to the subdivision: location, size, grade and invert elevations of sanitary, storm and/or combined sewers; location and size of water mains including location of fire hydrants and valves; location of gas lines and utility poles.

(13) Existing contours at five-foot intervals within the subdivision.

(14) Subsurface conditions on the subdivision; any conditions that are not typical such as old mine shafts, wells, etc.

(15) Proposals.

(a) Streets and alleys. Layout, names, right-of-way widths, approximate corner radii at the right-of-way line, approximate radius of each curve at the street centerline, and the approximate proposed grades of all streets.

(b) Other rights-of-way or easements. Location, width and purpose.

(c) Lots. Lots and blocks numbered and approximate dimensions of all lots.

(16) Statement of the lot area of the smallest lot in the subdivision (reference shall be made to the lot and block number).

(17) Parcels of land intended to be dedicated or temporarily reserved for public use, or to be reserved by deed restriction or

protective covenant for use of all property owners in the subdivision or parcels of land or lots to be used for any purpose other than private shall be so designated.

(18) Proposed uses for all land in the subdivision.

(19) Approximate boundaries of areas subject to inundation, (if known or recorded) and the location, width and direction of flow of all watercourses, lakes, marshy areas and swamps.

(20) Total site data including acreage, number of lots, and, if applicable, approximate areas in parks and other public uses.

(B) Additional information to be submitted at time of filing of preliminary plat.

(1) Two copies of an application for preliminary plat approval (provided by the Commission) shall be submitted -- See Attachment E.

(2) Two copies of a statement declaring that all zoning requirements shall be met (including identification of zoning district, lot size, and yard requirements and proof of any variances or special exceptions which may have been granted).

(3) Three copies of a description of soil conditions -- surface and subsurface and whether suitable for the type development intended, as prepared by a Registered Civil Engineer (Refer to Section 3.1 (C)).

(4) Two copies of a letter (form letter to be furnished by the Planning Commission, or its duly authorized representative) from the appropriate bodies who will provide public water and sewer service stating that public water and sewer service will be provided to the subdivision prior to the time when the City Council accepts the improvements for maintenance. In the case where individual on-site disposal systems have been approved as per Section 7.1 (C) of these regulations, two copies of a permit to use on-site disposal systems and two copies of the letter showing results of percolation tests, approved by the county health department shall be required.  
(Ord. 1971-2, passed 4-6-71)

## ARTICLE V

### FINAL PLAT REQUIREMENTS INCLUDING IMPROVEMENT PLANS AND SPECIFICATIONS

#### SECTION 5.0 SPECIFICATIONS FOR AND CONTENT OF THE FINAL PLAT.

The final plat of the subdivision shall be drawn in black, waterproof india ink on polyester base film or some other equally substantial drawing material so that good legible prints, negatives and half-size reproductions can be made. The dimensions of each sheet of said plat shall be 24 by 36 inches and shall have a border line and a margin outside the border line of two inches on the left side and 1/2 inch on all other sides. The final plat shall be drawn at a scale of

one inch to 100 feet or greater. Where necessary, the final plat may be on several sheets accompanied by an index showing the entire subdivision. The particular number of the sheet, the total number of sheets and the relation of each adjoining sheet shall be clearly shown by a small key map on each sheet. Each sheet of said plat shall show the date of the survey, north point and scale - written and graphic. The final plat shall contain a vicinity map showing the location of the subdivision with relation to at least one east-west and one north-south major arterial. The final plat shall further show the following, including all mathematical information and data necessary to locate and retrace any of the required data thereon.

(A) Information to be contained on final plat.

(1) The boundary lines of the subdivision shall be drawn in heavy solid lines with accurate lengths and bearings. These boundaries shall be determined by an accurate survey in the field, which shall be balanced and closed. All lines shown on the plat which do not constitute a part of the subdivision shall be dashed. Any area enclosed by the subdivision, but not a part thereof, shall be labeled "Not A Part of This Subdivision".

(2) The exact locations and the widths of all existing or recorded streets, intersecting or paralleling the boundaries of the subdivision at least within 100 feet.

(3) The exact location and width of all abutting lot lines. Names of recorded owners of adjoining unplatted land and reference to subdivision plats of adjoining platted land by name, plat book, and page.

(4) The boundary line of the proposed subdivision shall be tied by bearings and distances to a selected point or points (described on the plat) on the nearest established centerline or right-of-way line of any street or highway or a previously established monument(s), (in which the location of said monument shall be identified and accurately described on the plat).

(5) Municipal or county lines.

(6) The exact layout of the subdivision showing:

(a) Street and alley centerlines and right-of-way lines (including the right-of-way width and locations of adjacent streets and other public property within at least 100 feet of the subdivision shall be graphically shown); street names and bearings and distances along centerlines.

(b) Sufficient linear, angular and curve data (at least delta, radius, and length of curve) to readily determine the bearing and length of the boundary lines of every block, lot and tract which is a part of the subdivision.

(c) All easements or other rights-of-way. (The limitation of the easement rights shall be definitely stated or referenced on the plat.)



(d) All lot lines with dimensions and interior angles to street and alley lines.

(7) Setback building lines with dimensions from the edge of the street right-of-way line shown in a fine dashed line and labeled "Minimum Building Setback Line".

(8) All blocks and lots numbered or lettered in a consecutive manner with no omissions or duplications. Ditto marks shall not be used for lot dimensions. Tracts offered for dedication, other than for streets or easements shall be designated by letter or number.

(9) All permanent monuments set or to be set shall be shown on the final plat (See Section 7.11 (A) and 7.11 (B)):

(a) The location of all monuments placed in making the survey shall be shown on the plat.

(b) Concrete and metal monuments depressed below street grade with cast iron ring and cover of a type approved by the Planning Commission, or its duly authorized representative, shall be set at intersections of street centerlines or offsets therefrom, but within the paved area. The exact location of all such monuments shall be shown on the final plat before approval is requested.

(c) Any monument as required by these regulations, that is disturbed or destroyed before acceptance of all improvements, shall be replaced by the subdivider or developer.

(10) The accurate outline of all property which is offered for dedication for public use, with the purpose indicated thereon, and of all property that may be reserved by deed restriction or protective covenant in the deed for the common use of the property owners in the subdivision.

(11) Deed restrictions and protective covenants either placed directly on the final plat or attached thereto in form for recording. If recorded separately, reference to the restrictions shall be made on the final plat.

(12) Elevation and flood profiles shall be shown on the final plat if required (as determined as per Section 6.4 (A) of these regulations).

(13) The easements along the lot sidelines shall be shown by a fine dashed line and clearly labeled and identified on the plat. If the easement is being dedicated by the plat, it shall be properly set out in the owner's certificate of dedication. If an easement shown on the plat is already of record, its recorded reference must be given.

(14) Name of the subdivision and name or number of the large subdivision or tract of which the tract now being subdivided forms a part.

(15) North-point (showing true north), written and graphic.

scale, and date.

(16) Total site data including acreage, number of lots, area of smallest lot, in square feet, and number of square feet or acres in parks and other public uses.

(17) The following certificates, acknowledgements and descriptions shall appear on the title sheet of the final plat. Such certificates may be combined when appropriate. (Representative certificates, acknowledgements and approvals that shall be used on the final plat appear in Attachment D of these regulations.)

(a) Certificate by parties holding title. A notarized certificate shall be signed and acknowledged by all parties having any title interest in the land subdivided, consenting to the preparation and recording of said plat, providing, however, that the signature of parties owning the following types of interest may be omitted if their names and nature of their interest are set forth on the plat.

1. Rights-of-way, easements, or other interest that cannot ripen into a fee.

2. Rights-of-way, easements, or revisions that appear to be no longer of potential use or value, due to changed conditions, long disuse, or laches.

3. Any subdivision including land originally patented by the United States or Kentucky, under patent, reserving interest to either or both of these entities, may be recorded under the provisions of this regulation without the consent of the United States or of Kentucky thereto, or to dedication made thereon.

(b) Dedication certificates. A notarized certificate shall be signed and acknowledged as required in Section 5.0(A)(17)(a) offering for dedication all parcels of land shown on the final plat and intended for public dedication, except those parcels other than streets which are intended for the exclusive use of the lot owners in the subdivision or development, their licenses, visitors, tenants, and servants. This certification shall also show that there are no unpaid taxes or special assessments against the land contained in the plat

(c) Certificate and guarantee of clear title. The final plat shall be accompanied by a statement prepared by a duly authorized title company or a Kentucky licensed attorney, stating that the signatures of all persons whose consent is necessary to the preparation and recording of said plat and to the dedication of the streets and other public places are clearly shown on the plat.

(d) Surveyor's certificate. A notarized certificate shall be signed by a registered land surveyor, in Kentucky, stating that he is responsible for the survey and that the final plat accurately depicts the subdivision and the survey. The signature of such surveyor must be accompanied by his seal and registration number.

(e) Legal description of property. The legal description shall be an accurate reflection of the boundary survey.

Each reference in such description to any tract, development, or subdivision shall show a complete reference to records of the County of Campbell. The description shall also include reference to any vacated area with the book and page number of the instrument of vacation.

(f) Other affidavits, etc. The title sheet shall contain such other affidavits, certificates, acknowledgements, endorsements, and notarial seals as are required by law and by these regulations.

(g) Certificates of approval and acceptance by the following:

1. Chairperson and Secretary of the Planning Commission.

2. City Council, except in the case of a minor subdivision or a resubdivision.

(h) Certificate of acceptance for filing by the County Recorder.

(B) Additional information to be submitted at time of filing of final plat.

(1) Two copies of an application for final plat approval (provided by the Commission - See Attachment E).

(2) Two copies of traverse calculations resulting from an accurate and complete boundary survey of the subdivision. Traverse calculations when computed from field measurements, on the ground, shall close with an error of closure not to exceed one foot to 5,000 feet.

(3) Improvement drawings showing cross sections, profiles, construction details, and specifications for all required improvements shall be prepared by a registered civil engineer in conformance with the provisions in Article VII and any other pertinent sections of these regulations.

(a) Five copies of the sanitary sewerage system plans (See Article VII, Section 7.1).

(b) Five copies of the water system plans (See Article VII, Section 7.2).

(c) Two copies of the street plans and profiles plus two sets of pavement design computations (See Article VII, Section 7.3).

(4) Two sets of drainage reports including computations (See Article VII, Section 7.0).

(5) Three sets of plans for the control of erosion and sedimentation, if applicable (See Article VII, Section 7.13).

(6) Two copies of all deed restrictions or protective covenants (may either be placed directly on the final plat or attached thereto in form for recording. If recorded separately, reference to the restriction shall be made on the final plat).

(7) Final plat fees shall be submitted in accordance with Article VIII, Section 8.1.

(8) Surety bond (if applicable) per Article VII, Section 7.19 of these regulations.

(9) The subdivider or developer shall pay the recording fee per requirements of Campbell County.  
(Ord. 1971-2, passed 4-6-71)

ARTICLE VI

DESIGN STANDARDS AND PRINCIPLES FOR THE  
LAYOUT OF LAND SUBDIVISIONS

SECTION 6.0 STREETS.

(A) Conformity to comprehensive plan and/or official map. Whenever a tract of land to be subdivided or resubdivided includes any part of a proposed arterial or collector street as designated on the comprehensive plan and/or the official map, such street right-of-way shall be platted by the subdivider in the location so designated and at the width indicated in these regulations.

(B) Street extension.

(1) Existing streets. The arrangement of streets in new subdivisions shall make provisions for the proper continuation of existing streets in adjoining areas.

(2) Adjacent property. Where adjoining areas are not subdivided and are appropriate for future subdivision, arrangement of streets in new subdivisions shall make provisions for the proper projection of streets to that adjoining area in a manner which shall provide for the practical development of the adjacent property, permit a feasible extension of the street, and be in general conformity with a plan for the most advantageous development of the entire neighborhood.

(3) Half streets. Dedication of one-half of the rights-of-way (half streets) for streets proposed along the boundaries by land to be subdivided, shall be prohibited.

(4) Dedication of one-foot strip next to undeveloped or unplatted land. A one-foot strip of land shall be required along the boundary line of subdivision wherever the right-of-way line of a street forms such boundary next to undeveloped land. All one foot strips of land located on dedicated rights-of-way shall be dedicated to the city for non-road purposes.

(C) Street classification and function.

(1) Arterial streets. Arterial streets should be planned for continuation of movement of fast traffic between points of heavy traffic generation and from one section of the community or communities to another. Such arterial streets should traverse the entire community or communities and should be spaced approximately one mile apart. Arterial streets should not bisect neighborhoods but should act as boundaries between them. Abutting properties should not face onto the roadway unless separated from it by a frontage or service road.

(2) Collector streets. Collector streets should be designed to provide a traffic route from local streets to arterial streets. These streets should be designed to carry traffic which has an origin or destination within the neighborhood and should be designed to inhibit through traffic.

(3) Local streets. Local streets shall provide direct and full access to each lot and shall be laid out so that their use by through traffic will be discouraged. Local streets intersecting with arterial streets should be discouraged.

(4) Frontage roads. Frontage roads may be required along an existing or proposed arterial street to provide access to lots along such streets.

(5) Alleys. Where alleys are to be provided (e.g., in the case of certain commercial development), they shall be designed to provide only secondary access.

(D) Street rights-of-way.

(1) Widths and grades of new streets. Street right-of-way widths and grades shall conform to the following minimum requirements:

TABLE 1  
STREET RIGHTS-OF-WAY WIDTH AND GRADE REQUIREMENTS

Type of Street	Minimum Right-of-Way Width (in feet)	Grades By Percent	
		Maximum	Minimum
ARTERIAL	*	*	*
COLLECTOR	60	10	.5
LOCAL			
Residential	50	10	.8
Commercial and Industrial Areas	60	10	.8
RESIDENTIAL FRONTAGE ROAD	40	8	.5
ALLEYS	20	4	.5

\* Arterial streets shall be based on current design standards and other pertinent requirements of the Kentucky Department of Highways.

(2) Existing streets. Subdivisions platted along existing streets shall dedicate additional right-of-way, if necessary, to meet the minimum street width requirements set forth in Section 6.0 (D) (1) of these requirements. Such dedication shall be in accordance with the following:

(a) At least the minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street.

(b) When the subdivision is located on only one side of an existing street, one-half of the required width, measured from the centerline of the right-of-way, shall be dedicated. However, in no case shall the owner or owners of such property be forced to dedicate from their land more than one-half of the required rights-of-way width.

(E) Curves and sight distance criteria.

(1) Horizontal curve. Where there is a change in the alignment of a street along the centerline, a curve with a radius adequate to insure safe sight distance shall be made. The minimum radii of curves shall be:

<u>STREET TYPE</u>	<u>MINIMUM CURVE RADIUS</u>
Arterial	*
Collector	300
Local	100

(2) Sight distance. A minimum sight distance of 200 feet shall be provided for local streets and 275 feet for collector streets.\*

(3) Reverse curves. A tangent at least 100 feet shall be provided between reverse curves for local streets and 200 feet for collector streets.\*

(4) Vertical curves. The minimum vertical curve length required shall be calculated by multiplying the algebraic difference in grades, times a "K" factor. Rounded "K" factors for the three street classification types are as follows:\*

- Local
  - K=20 for both crest and sag curves
- Collector
  - K=35 for both crest and sag curves

\*Arterial streets shall be based on current design standards and other pertinent requirements of the Kentucky Department of Highways.

(F) Cul-de-sacs and dead-end streets.

(1) Dead-end streets designed to be dead-end permanently,

shall not be longer than 600 feet, unless local topographic or other physical conditions are such as to render these provisions impracticable, and shall be provided with a turning circle having an outside pavement diameter (curb face to curb face) of at least 80 feet and a street property line diameter of at least 100 feet. If such street is of a temporary nature and a further extension into adjacent land is anticipated, then said turning circle beyond normal street width shall be in the nature of a dedication of the premises included in said turning circle, but beyond the boundaries of the streets proper. Such dedications shall be vacated to abutting property owners when said dead-end street is legally extended into adjacent land. If such dead-end street extends only one lot depth past a street intersection, no temporary turning circle will be required.

(2) In the case of dead-end streets extending to the boundary of the property, a one-foot strip within the dedicated right-of-way shall be dedicated to the city for non-road purposes. Such dedication or restriction shall be vacated or removed when the dead-end street is properly extended.

(G) Street names.

(1) Duplication. The name of a new street shall not duplicate existing or platted street names in Campbell County, or approximate such names in spelling, or sound or pronunciation, or by the use of alternate suffixes such as "Lane", "Way", "Drive", "Court", "Avenue", or "Street".

(2) Continuation of streets. New street names shall bear the same name of any continuation of, or when in alignment with, an existing or platted street.

(3) Approval of street names. All street names shall be approved by the Planning Commission, or its duly authorized representative, before approval of the final plat.

(H) Alleys.

(1) Alleys shall be prohibited in residential zoning districts.

(2) In commercial and industrial areas, adequate alleys shall be provided where the design requires. Alleys shall not serve as part of the required off-street parking, loading and/or unloading space required by the zoning ordinance.

(I) Private streets. New private streets or alleys shall not be created or extended and existing ones shall, whenever practicable, be dedicated to the public.

(Ord. 1971-2, passed 4-6-71)

SECTION 6.1 INTERSECTIONS.

(A) Angle of intersection. The centerline of all streets shall intersect as nearly at a 90 degree angle as possible, but in no case shall the angle of intersection be less than 75 degrees or greater than

105 degrees (unless a special modification is granted by the Planning Commission due to certain exceptional conditions).

(B) Centerline offset of adjacent intersections. The use of four-way type intersections shall be discouraged where possible and the use of T-intersections shall be encouraged. Where T-intersections are used, the following minimum centerline offsets of adjacent intersections shall be as follows:

TYPE OF STREET	MINIMUM CENTERLINE OFFSET OF ADJACENT INTERSECTIONS IN FEET
Local        --    Local	150
Local        --    Collector	150
Collector --    Collector	200

(C) Corner radii. Property lines at street intersections shall be provided with a radius of not less than 15 feet. If because of certain exceptional conditions, a modification is granted permitting an angle of intersection less than 75 degrees, or greater than 105 degrees, then the minimum radii shall be increased or decreased respectively.

(D) Grades approaching intersections. Grades approaching intersections should not exceed 4% for a distance of not less than 100 feet from the centerline of said intersections for local streets and 150 feet for collector streets.

(E) Design adjacent to freeways, expressways or arterials. The following principles and standards shall be used in the design of subdivisions adjacent to freeways, expressways or arterials:

(1) Street design shall have the purpose of making adjacent lots desirable by cushioning the impact of heavy traffic and of minimizing the interference with traffic on such thoroughfares.

(2) The number of intersections with collector streets along said thoroughfares shall be held to a minimum. Wherever practicable such intersections shall be spaced not less than 1/4 mile apart. Frontage or service roads shall be encouraged.

(3) Where frontage roads are not required, residential lots adjacent to such thoroughfares shall be served by a local residential street paralleling said thoroughfare at a generous lot depth therefrom or by a series of cul-de-sacs or loop streets extending towards said thoroughfare from a collector street.

(4) When the rear of any lot borders any such thoroughfare, the subdivider or developer may be required to execute and deliver to the city, an instrument, deemed sufficient by the city's Legal Counsel, prohibiting the right of ingress and egress from said thoroughfare to said lot. This may be in the form of a deed for a one-foot strip for non-road purposes.

(Ord. 1971-2, passed 4-6-71)



SECTION 6.2 EASEMENT.

(A) Utility easements. Public utility easements at least 15 feet in total width may be required along the rear and sides of lots where needed for the accommodation of a public utility, drainage, or sanitary structures or any combination of the foregoing. Where deemed necessary by the Planning Commission, or its duly authorized representative, an additional easement width shall be provided.

(B) Watercourses. The subdivider shall dedicate rights-of-way or provide easements for storm drainage purposes which conform substantially with the lines of any natural watercourses, channels, streams, or creeks which traverse the subdivision or for any new channel which is established to substitute for a natural watercourse, channel stream or creek. Such rights-of-way or easements shall be of a width which will provide for the maintenance needs of the channel and incidental structures as determined by the Planning Commission, or its duly authorized representative.

(Ord. 1971-2, passed 4-6-71)

SECTION 6.3 PHYSICAL CONSIDERATION.

Subdivisions shall be planned to take advantage of the topography of the land, to economize in the construction of drainage facilities, to reduce the amount of danger, to minimize destruction of trees and topsoil and to preserve such natural features as watercourses, unusual rock formations, large trees, sites for historical significance, and other assets which, if preserved, will add attractiveness and value to the subdivision and the community.

(Ord. 1971-2, passed 4-6-71)

SECTION 6.4 FLOOD HAZARDS.

(A) Prohibition of development in areas susceptible to flooding. Land subject to flooding or otherwise uninhabitable shall not be platted for residential, commercial, or industrial uses or for any other use which may increase the danger of health, life, property, or aggravate erosion or flood hazards. Such land within the subdivision shall be set aside on the plat for such uses as will not be endangered by periodic or occasional inundation or will not result in conditions contrary to the public welfare (e.g., use as open space, extensive recreation use, conservation purposes). To insure that lots will be located on land where they will provide flood-free sites, the Planning Commission, or its duly authorized representative, may require the subdivider to provide elevation and flood profiles sufficient to demonstrate the sites will be free from the danger of flooding. Fill may be used in flood danger areas to render lots habitable if such fill does not inhibit the flow of the waters and thereby unduly increase flood heights in other areas and meets with the approval of the Planning Commission, or its duly authorized representative. Such information shall be prepared by a registered civil engineer.

(B) Stream easement. If a stream flows through, or adjacent to, the proposed subdivision, the plat shall provide for a storm water easement or drainage right-of-way along the stream for a floodway of at least ten feet. For the smaller streams, the plat shall provide for

channel improvement to enable them to carry all reasonable floods within banks. The floodway easement shall be wide enough to provide for future enlargement of the stream channels as adjacent areas become more highly developed and run-off rates are increased.

(C) Streets. Approval shall not be given for streets within a subdivision which would be subject to inundation or flooding. All streets must be located at elevations which will make them flood-free in order that no portion of the subdivision would become isolated by floods.

(Ord. 1971-2, passed 4-6-71)

#### SECTION 6.5 BLOCKS.

(A) Arrangement. The arrangement of blocks shall be such as to provide for convenient access, circulation, control and safety of street traffic. Blocks intended to be used for commercial or industrial purposes shall be designed specifically for such uses with space set aside for off-street parking and loading and/or unloading facilities as required by the zoning ordinance.

(B) Length. Blocks should not exceed 1200 feet.

(C) Width. The width of blocks should ordinarily be sufficient to allow for two tiers of lots except for double frontage lots as permitted in Section 6.6 (B) (4) of these regulations.

(Ord. 1971-2, passed 4-6-71)

#### SECTION 6.6 LOTS.

(A) Conformance to zoning. All lots shall conform to or exceed the requirements of the zoning ordinance. Each lot shall front onto a publicly owned street, other than an alley.

(B) Lot frontage and width.

(1) Arterial street frontage. No access onto an arterial street shall be permitted from abutting properties except as provided for in Section 6.0 (C)(4) of these regulations.

(2) Lot width. The lot width at the minimum building setback line shall not be less than that specified by the zoning district in the zoning ordinance controlling said lot.

(3) Corner lots. Corner lots shall have extra width to permit conformance to the setback line on the side street. In no case shall a corner lot be so narrow that minimum zoning requirements of the zoning ordinance cannot be met.

(4) Double frontage lots. Lots shall not be laid out so that they have frontage onto more than one street except: (a) when the lots are adjacent to the intersection of two streets; or (b) when the rear of the lot faces an arterial, freeway, expressway, railroad right-of-way, etc. and the front of the lot faces onto a local residential street.

(C) Lot depth.

(1) Conformance to zoning. Each lot shall be of such a depth that front yard and rear yard requirements of the zoning ordinance, plus a reasonable building site, shall be provided.

(2) Maximum depth. The maximum depth of a lot shall not be greater than three times the width of the lot, except lots which contain over five acres of area. Lots containing over five acres of area shall not be less than 250 feet in width at any location. Exceptional individual site conditions may require variation from these requirements, as permitted by the Planning Commission, or its duly authorized representative.

(3) Extra depth and width in certain cases. Fifty feet in addition to the required lot depth may be required where a residential lot in a subdivision backs up to a railroad right-of-way, a high pressure gasoline or gas line, an arterial street, an industrial area or other existing land use which may have a detrimental effect on the residential use of the property, and where no street is provided at the rear of such lot. Where a residential lot has its side lot line adjacent to any of the aforementioned, an appropriate additional width may also be required.

(D) Usable lots.

(1) Building lots. All subdivisions shall result in the creation of lots which are developable and capable of being built upon. No subdivision shall create lots which are impractical to improve due to steepness of terrain, dangerous soil conditions, locations of watercourses, or other natural physical limitations.

(2) Strips or parcels. No remnants of property shall be left which do not conform to lot requirements, or which are not required for a private or public utility purpose, or which are not accepted by the city and/or any other appropriate public body for an appropriate use.

(3) Side lot lines. The side lot lines of all lots so far as practicable, shall be at right angles to the street which the lot faces or radial to the center of curvature, if such street is curved. In the case of a cul-de-sac on which the lot faces, side lot lines shall be as nearly radial to the center of curvature of the cul-de-sac as practicable.

(E) Large lots. When land is subdivided into very large parcels they should be of such shape and dimensions as to render possible the re-subdivision of any such parcels at some later date into lots and streets which meet the requirements of these regulations and of the zoning ordinance.

(F) Lot division. No lot shall be divided by a city or county boundary line.

(G) Yard requirement. Yard requirements for lots within a subdivision shall conform to the yard requirements set forth in the

zoning ordinance for the zoning district in which they are located.  
(Ord. 1971-2, passed 4-6-71)

SECTION 6.7 PEDESTRIAN WAYS.

Where deemed necessary by the Planning Commission, or its duly authorized representative, pedestrian ways may be required and if provided, they shall not exceed a 15% grade unless steps of an acceptable design, as determined by the Planning Commission, or its duly authorized representative, are to be constructed.  
(Ord. 1971-2, passed 4-6-71)

SECTION 6.8 PUBLIC SITES.

Where a proposed park or other recreational area, school site, or other public ground identified in comprehensive plan is located in whole or in part within the proposed subdivision, the Planning Commission may require a reservation, as a condition precedent to final plat approval, not to exceed two years, for the purchase of such public ground by the applicable public body. If the city has adopted an official map and a short term capital improvement program (as provided for in KRS 100.293 through 100.317) which includes such park or other recreational area, school site, or other public ground, then the Planning Commission may require a reservation, as a condition precedent to final plat approval, not to exceed five years, for the purchase of such public ground by the applicable public body.  
(Ord. 1971-2, passed 4-6-71)

ARTICLE VII

IMPROVEMENTS

The improvements which are hereby required shall be prepared by a registered civil engineer and installed by the subdivider in accordance with the provisions of these regulations and other regulations of the city and state. These improvements shall be installed before the final plat is approved (i.e., through conditional approval) or in lieu thereof, a bond certified by the city's legal counsel as valid and enforceable by the city may be accepted and shall be approved before approval of the final plat. Such bond would secure to the city the actual construction and installation of such improvements within a time required by the construction agreement and according to the approved improvement plans.

Prior to the commencement of any project involving the Planning Commission, or its duly authorized representative, a preconstruction meeting will be held with the Planning Commission, or its duly authorized representative, to discuss the project in regard to procedure, materials, inspections, etc.

SECTION 7.0 DRAINAGE.

A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. The following requirements and methods shall be followed:

(A) Storm drainage. A subdivision plat shall not be considered for final approval until the subdivider shall submit to the Planning Commission, or its duly authorized representative, a report by a registered civil engineer, as to the ability of existing watercourse channels, storm sewers, culverts, and other improvements pertaining to drainage or flood control within the subdivision, to handle the additional run-off which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. This report shall also include:

(1) Estimate of the quantity of storm water entering the subdivision naturally from areas outside the subdivision.

(2) Quantities of flow at each pick-up point (inlet).

(3) Location, sizes, and grades of required culverts, storm drainage sewers, and other required appurtenances.

(B) Drainage requirements (grading).

(1) No final grading or sidewalk or pavement construction or installation of utilities shall be permitted in any proposed street until the final plat has been approved or conditionally approved by the Planning Commission, or its duly authorized representative.

(2) The subdivider shall grade each subdivision in order to establish street, block, and lot grades in proper relation to each other and to topography and further, a grading plan shall be prepared for the streets along with street improvement details. The grading of the roadway shall extend the full width of the right-of-way. Planting strips shall be graded at a gradient of not less than 2% upward from the curb to the sidewalk or property line.

(C) Drainage system requirements.

(1) The design criteria for storm drainage systems shall be based on information from the "Manual for Instruction for Drainage Design" prepared by the Department of Highways, Commonwealth of Kentucky, or any other acceptable drainage manual.

(2) Culverts and storm sewers in all streets shall be designed for at least a five-year storm frequency.

(3) For curbs and gutters, curb and gutter inlets and open channels an intensity of four inches per hour shall be used in all computations.

(D) Road drainage system.

(1) All roadways shall be provided with an adequate storm drainage system.

(2) The road storm sewer system shall serve as the primary drainage system and shall be designed to carry roadway, adjacent land, and building storm water drainage. No storm sewer shall be permitted to be run into the sanitary sewer system within the proposed subdivision.

(3) Curb drainage inlets and catch basins shall be provided at intervals along roadways. Inlet spacing shall be adequate to limit the spread of water to two feet into the roadway. Storm drainage inlets will be placed so that crosswalks will not be flooded during the design storm intensity of four inches per hour.

(E) Off-road drainage systems. The design of the off-road drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage.

(1) When the drainage system is outside of the road right-of-way, the subdivider shall make provisions for dedicating of an easement to the city to provide for the future maintenance of said system.

(2) The size and location of all off-street watercourses or ditches running through the subdivision shall be enclosed or left open subject to the approval of the Planning Commission, or its duly authorized representative. If a watercourse or ditch is left open it may be required to be protected by a fence as determined by the Planning Commission, or its duly authorized representative. The watercourse or ditch easement shall be wide enough to contain ample clearance for the operation of maintenance equipment.

(F) Drainage easement. Easements for drainage purposes shall be a minimum of ten feet in width. Where the watercourse is large, easement widths shall be increased as determined by the Planning Commission, or its duly authorized representative. Where watercourses cross platted lots diagonally, the subdivider should straighten such courses where practicable and should substantially follow subplot lines. Easements shall be shown on the record plat and shall cover all existing or reconstructed watercourses.

(G) Protection of drainage systems.

(1) The subdivider shall adequately protect all ditches to the satisfaction of the Planning Commission, or its duly authorized representative. Ditches and open channels shall be seeded, sodded, or paved depending on grades (slopes) and types of soils.

(2) As a general rule, ditches and channels with grades up to 1% shall be seeded, with grades from 1% to 4% shall be sodded, and with grades over 4% shall be paved. Seeding, sodding and paving operations shall be in compliance with the "Commonwealth of Kentucky, Department of Highways, Division of Design, Guidance Manual" issued by the Kentucky Department of Highways.

(H) Material specifications. Material and construction specifications for all drainage projects (i.e., pipe, tile, seed, sod) shall be in compliance with the "Standard Specifications for Road and

Bridge Construction" issued by the Kentucky Department of Highways. (Ord. 1971-2, passed 4-6-71)

SECTION 7.1 SANITARY SEWER SYSTEM.

The subdivider shall construct a sanitary sewage collection system designed to serve adequately all lots in his subdivision plus lines adequate in size to facilitate the orderly development of nearby land which is an integral part of the neighborhood service or drainage area (See Section 7.12 of these regulations) and connect said collection system to the public sewerage system.

(A) Plans required. When the subdivider submits the final plat for approval he shall submit plans and specifications prepared by a registered civil engineer showing the proposed sanitary sewerage system and facilities. Said plans shall show pipe sizes, gradients, type of pipe, invert elevations, location and type of manholes, the location, type, and size of all lift or pumping stations and such other information as required by the Planning Commission, or its duly authorized representative.

(B) Design standards. The design criteria for the sanitary sewerage system shall be based on the "Standards for Sewage Works" prepared by the Upper Mississippi River and Great Lakes Board of Public Health Engineers and in conformance with the requirements and/or guidelines of the State Water Pollution Control Commission.

(C) Individual on-site disposal systems. Individual on-site disposal systems may be permitted in areas zoned to permit development on a minimum area of one acre with the approval of the Planning Commission, or its duly authorized representative, and the County Health Department. The County Health Department shall have the power to require greater than the one-acre minimum aforementioned. (Ord. 1971-2, passed 4-6-71)

SECTION 7.2 WATER SYSTEM.

(A) The subdivider shall construct a complete water distribution system which shall serve adequately all lots within the proposed subdivision plus lines adequate in size to facilitate the orderly development of nearby land which is an integral part of the neighborhood service area (See Section 7.12 of these regulations). The water distribution system shall include appropriately spaced fire hydrants, valves and other appurtenances necessary.

(B) When the subdivider submits the final plat for approval, he shall submit plans and specifications prepared by a registered professional civil engineer showing the proposed water system. Said plans shall show line sizes, type of pipe, location of hydrants and valves, and other appurtenances, if applicable, supply facilities, booster pumps, elevated or ground-level storage tanks. (Ord. 1971-2, passed 4-6-71)

SECTION 7.3 STREETS.

(A) Plans required. When the subdivider submits the proposed

plat for final approval, he shall submit plans and specifications prepared by a registered professional civil engineer showing the proposed street system. Said plans shall show the proposed right-of-way width, pavement width, location and the proposed alignment, grade, geometric details, and cross sections of each proposed street, curbs and gutters (where applicable), and sidewalks. Said plans and specifications shall show for each proposed street, design criteria such as street classification, pavement classification and thickness, and classification and thickness of base and subbase materials. In addition, the following information shall be required:

(1) The plans and profiles of all surrounding streets which are to connect to a street in the proposed subdivision (for a distance of 100 feet back from the boundary line of the proposed subdivision).

(2) All profiles shall be drawn at a scale of:

1 inch = 100 feet horizontal or 1 inch = 50 feet horizontal  
1 inch = 10 feet vertical or 1 inch = 5 feet vertical

(3) Elevations shall be shown at all P.I. (s) and percent grade between P.I.

(4) Elevations shall be tied to a bench mark (U.S.G.S. or city bench marks when available), when, within a reasonable distance (as determined by the Planning Commission, or its duly authorized representative) and shall be shown on profiles.

(5) Details of curb and gutter, sidewalks, street section, and paving shall be shown.

(B) Pavement specifications. All streets shall be paved with portland cement concrete or asphalt concrete and constructed in accordance with the specifications in Attachment A or B (whichever is applicable) of these regulations.

(C) Minimum pavement widths. Pavement widths shall be measured from curb face to curb face or if no curbs are required (as provided for in Section 7.3 (D) of these regulations) then measurements shall include the entire paved surface. Minimum pavement widths for each street shall be as shown in Table 2 and laid out in the manner indicated by the typical street cross sections shown in Attachment C, Figures 5 and 6 of these regulations.



TABLE 2

## MINIMUM PAVEMENT WIDTHS

Type of Street	Minimum Pavement Width (in Feet)	Median Width (in Feet)
Arterial	*	*
Collector	38	--
Local		
- Residential Area	28**	--
- Commercial and Industrial Areas	38	--
Residential Frontage Roads	28	--
Alleys	10	--

\* Arterial streets shall be based on current design standards and other pertinent requirements of the Kentucky Department of Highways.  
 \*\* Parking shall be limited to one side of the street.

(D) Curbs and gutters. The developer shall construct vertical curbs, at least six inches in height or roll curbs for all residential streets, except in areas zoned to permit single family development on a minimum of one acre lots or greater or any areas zoned for agricultural, conservation, commercial, or industrial purposes, in which case the Planning Commission, or its duly authorized representative, shall determine whether curb and gutter shall be required. If curb and gutter is to be required on commercial or industrial streets, they shall be vertical curbs. All curbs and gutters shall be constructed of portland cement concrete and in accordance with the specifications in Attachment A of these regulations.

(E) Curb radii. The minimum curb radius at intersections shall be as follows:

Type of Street* Intersection	Minimum Curb Radius (in feet)
Local - Local	20
Local - Collector	25
Collector - Collector	30
Collector - Arterial	35
Arterial - Arterial	50

\* In the case of local or collector streets located in commercial or industrial areas, the minimum curb radii shall be increased to 50 feet.

(F) Sidewalks. Sidewalks shall be required on both sides of all local and collector streets in all areas zoned for two- and multi-family development and single-family development requiring 1/2-acre lots or less. The Planning Commission, or its duly authorized representative, shall determine the need for sidewalks (on one or both sides of the street) in all areas zoned to permit single family development at greater than a minimum of 1/2-acre lots or any other zoning (i.e., commercial, industrial, agricultural, or conservation and on all frontage and arterial roads). Sidewalks shall be constructed of portland cement concrete in accordance with the specifications of Attachment A of these regulations, at least five inches thick, where subject to vehicular traffic and four inches thick where not subject to vehicular traffic. All sidewalks shall be constructed with a minimum width of four feet and this width may be increased to five feet for local streets in multi-family residential and commercial and in industrial areas if deemed necessary by the Planning Commission, or its duly authorized representative, and also on collector streets (typical cross sections are shown in Attachment C). Where pedestrian traffic volume indicates the need, the Planning Commission, or its duly authorized representative, may require wider sidewalk widths.

(G) Parking. Parking on any street where pavement width is less than 36 feet shall be limited to one side of the street. Parking lane shall not be shifted from one side to the other from block to block or where the proposed street is the extension of an existing street, parking lane shall extend continuously on the same side of the street. If practicable, the parking lane shall be located on the opposite side of the fire hydrants.  
(Ord. 1971-2, passed 4-6-71)

SECTION 7.4 DRIVEWAYS.

Driveways for residential areas (single- and two-family) shall be provided with a minimum width of ten feet and a minimum radius at the curb of five feet or a five-foot flare. At higher traffic volumes, driveways in multi-family areas and in commercial and industrial areas, increased widths plus an increase to a minimum radii at the curb of ten feet shall be required. All driveways shall be constructed with a pavement thickness of at least five inches and shall be in accordance with the specifications of Attachment A or B (whichever is applicable) of these regulations. Within the street right-of-way area driveway grades shall not exceed 8%.  
(Ord. 1971-2, passed 4-6-71)

SECTION 7.5 OFF-STREET PARKING AREAS.

Off-street parking areas shall be constructed in accordance with the requirements of the zoning ordinance.  
(Ord. 1971-2, passed 4-6-71)

SECTION 7.6 TELEPHONE AND ELECTRICAL UTILITY LINES.

All new telephone and electrical utility lines should be installed underground and, shall be in conformance with the appropriate utility

company's policy and requirements.  
(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.7 STREET SIGNS.

(A) Street name signs. The subdivider shall contact the city to arrange for installation of street signs at all street intersections. The signs shall conform to the specifications of the city and be mounted at a height of approximately seven feet above the top of the curb or the crown of the pavement. They shall be located on diagonally opposite corners on the far right-hand side of the intersection for traffic on the more important streets.

(B) Traffic control signs and devices. The subdivider shall contact the city to arrange for the installation of traffic control signs and devices which shall be in conformance with the "Manual on Uniform Traffic Control Devices" as prepared by the Joint Committee on Traffic Control Devices, U.S. Department of Commerce, Bureau of Public dRoads.  
(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.8 STREET LIGHTS.

The subdivider shall contact the city to arrange for the installation of street lights in the subdivision. The design criteria for street lighting shall be based on the "American Standard Practice for Roadway Lighting" prepared by the American Standards Association, approved November 7, 1963, or any subsequent revision or amendment thereof.  
(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.9 STREET TREES.

Street trees shall be provided if required by the Planning Commission, or its duly authorized representative, as follows:

(A) Species. The trees should be species which are most resistant to damage and disease in this part of the country and which are not likely to cause interference with underground utilities or street lighting or street pavement.

(B) Location. Street trees should be spaced so that there will be approximately ten feet between branch tips when the trees are full grown. No trees shall be planted within 50 feet of the intersection of two street right-of-way lines. Approaches to buildings should be considered when locating trees.

(C) Tree size. When planted, trees should be at least 1-1/2 inches in diameter one foot above the ground. Lowest branches should not be less than seven feet and no more than ten feet above the ground.  
(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.10 PLANTING SCREENS OR FENCES.

(A) The Planning Commission, or its duly authorized representative, may require and permit planting screens, fences, or

masonry walls in accordance with the zoning ordinance (e.g., where double frontage lots abut an arterial street or between an arterial street and a frontage street, and at such other locations as required by the Planning Commission, or its duly authorized representative), provided that such planting screens, fences or walls shall not constitute a safety hazard. A plan of proposed planting screens, fences, or walls shall be submitted for approval with the final plat. (Ord. 1971-2, passed 4-6-71)

SECTION 7.11 MONUMENTATION

(A) Monuments of record - permanent control monuments.

(1) The subdivider or developer shall establish, or confirm the prior establishment of a minimum of:

(a) Three permanent control monuments in each plat of ten lots or less.

(b) Four permanent control monuments in each plat of over ten lots.

(2) Such permanent control monuments shall consist of a concrete monument at least 20 inches in length and four inches in width or diameter having a brass or bronze cap marked with a point or cross at its precise center. All such monuments shall be set in pavement and shall be set in monument boxes. All permanent control monuments shall be clearly noted and described on the final plat.

(B) Other monuments of record.

(1) Other monuments set and shown and described on the final plat shall be considered monuments of record. Such additional monuments shall be metal pins of no less than 1/2 inch in diameter and no less than 24 inches in length. Monuments of this type shall be set at all of the following locations:

(a) At every corner or angle point of every lot, block or parcel of land created;

(b) At every point of intersection of the other boundary of the subdivision with an existing or created right-of-way line of any street, railroad, of other way;

(c) At the P.C. and P.T. of all right-of-way curves.

(2) In such cases where the placement of a required monument at its proper location is impractical it shall be permissible to set a reference monument close by that point providing its location is properly shown on the final plat.  
(Ord. 1971-2, passed 4-6-71)

SECTION 7.12 PLANS FOR FUTURE EXPANSION-EXTRA SIZE AND OFF-SITE IMPROVEMENTS.

All improvements shall be installed to satisfy the service

requirements for the service or drainage area in which the subdivision is located and the improvements shall be of sufficient capacity to handle the expected development of the overall service or drainage area involved.

(A) Extra-size improvements.

(1) Where improvements in excess of the size needed to serve just the proposed subdivision are required, the subdivider shall pay for the total cost of improvements he is required to install to serve his subdivision plus the additional costs which result from the extra size improvement required as determined by the Planning Commission, or its duly authorized representative.

(2) Thus when conditions within the whole drainage area will require an 18-inch sanitary sewer for example, and a 12-inch sewer will adequately serve the subdivision involved, the subdivider shall construct the 18-inch utility.

(B) Off-site extensions. When streets or utilities are not available at the boundary of a proposed subdivision, the Commission, or its duly authorized representative, shall require, as a prerequisite to approval of a preliminary and final plat, assurances that such improvement extensions shall be provided as follows:

(1) Extensions of utilities onto the property involved shall be adequate to serve the total development requirements of the service or drainage area. Utilities leaving the property shall be constructed in such a manner as to make their extension practical for servicing the adjacent areas of the service or drainage area.

(2) If the Planning Commission, or its duly authorized representative, finds that the extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a governmental expense until some future time, the developer shall be required, if he wishes to proceed with the development, to obtain necessary easements or rights-of-way and construct and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land and the subdivider may contract with adjacent property owners and/or subdividers of adjacent land for reimbursement of the oversize and/or off-site improvements constructed.

(Ord. 1971-2, passed 4-6-71)

SECTION 7.13 PLANS REQUIRED FOR THE CONTROL OF EROSION AND SEDIMENTATION.

In the event that any developer shall intend to make changes in the contour of any land proposed to be subdivided, developed, or changed in use by grading, excavating or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon the same shall only be accomplished after the owner of said land or his agent has submitted to the Planning Commission, or its duly authorized representative, for approval a plan for erosion and sedimentation controls, unless there has been a prior determination by the Planning Commission, or its duly authorized representative, that such plans are

not necessary (See Section 3.4 (C)(5)). Such plans shall contain adequate measures for control of erosion and siltation where necessary, using the guidelines and policies contained herein. The Planning Commission, or its duly authorized representative, shall review these plans as submitted, and shall take necessary steps to insure compliance by the developer with these plans as finally approved.

(A) Requirements.

(1) Three sets of plans for the control of erosion and sedimentation shall be submitted to the Planning Commission, or its duly authorized representative, at the time the final plat drawings are submitted.

(2) Measures to be taken to control erosion and sedimentation shall be described and provided for in the construction agreement and the estimated cost of accomplishing such measures shall be covered in the performance bond (as per Section 7.19 (B) of these regulations). In addition, the subdivider shall be required to provide a cash escrow guarantee (to be held by a company which is in the practice of handling escrows, approved by the City Council) in an amount determined by the Planning Commission, or its duly authorized representative, which would insure the city that emergency measures could be taken by the city at the subdivider's expense, if he did not initiate corrective action determined to be needed by the Planning Commission, or its duly authorized representative. In this regard the subdivider shall, at the time of final plat submission, deliver to the City Council, written instructions addressed to the escrow holder which shall authorize and instruct the escrow holder to convey to the subdivider, after completion of the entire subdivision, (as per the construction agreement) upon approval, by resolution of the City Council, the cash guarantee or to convey to the city, when the City Council has approved such action, by resolution, such amounts of the cash guarantee, as the resolution requires.

(3) During the construction phase, further consultive technical assistance will be furnished, if necessary, by the Planning Commission, or its duly authorized representative, or by the local representative of the Soil Conservation Service. The Planning Commission, or its duly authorized representative, shall enforce compliance with the approved plans.

(4) The Planning Commission, or its duly authorized representative, shall make a continuing review and evaluation of the methods used and the overall effectiveness of the erosion and sedimentation control program.

(B) Suggested control measures. The following control measures should be used for an effective erosion and sediment control plan:

(1) The smallest practical area of land should be exposed at any one time during development.

(2) When land is exposed during development, the exposure should be kept to the shortest practical period of time.

(3) Where necessary, temporary vegetation and/or mulching should be used to protect areas exposed during development.

(4) Sediment basins (debris basins, desilting basins, or silt traps) should be installed and maintained to remove sediment from run-off waters from land undergoing development.

(5) Provisions should be made to effectively accommodate the increased run-off caused by changed soil and surface conditions during and after development.

(6) The permanent final vegetation and structures should be installed as soon as practical in the development.

(7) The development plans should be fitted to the topography and soils so as to create the least erosion potential.

(8) Wherever feasible, natural vegetation should be retained and protected.  
(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.14 CONSTRUCTION INSPECTIONS.

(A) Responsible official. The Planning Commission, or its duly authorized representative, shall be responsible for the inspection of all improvements.

(B) Authority and duties of inspectors. Inspectors employed by the city shall be authorized to inspect all work done and all materials furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used. The inspector shall not be authorized to revoke, alter, or waive any requirements of the specifications or plans. He shall be authorized to call the attention of the contractor to any failure of the work or materials to conform to the specifications and contract. He shall have the authority to reject materials which do not meet specification requirements or suspend the portion of the work involved until any question at issue can be referred to and decided by the Planning Commission, or its duly authorized representative.

(C) Final inspection. Upon completion of all the improvements as per the construction agreement, the subdivider shall request, in writing, a final inspection by the Planning Commission, or its duly authorized representative. The Planning Commission, or its duly authorized representative, shall make a final inspection of streets, sidewalks, curbs and gutters, sanitary and storm sewers, water mains, and other improvements required in these regulations and so indicate, in writing, that the inspection was made and approved or disapproved. If disapproved, specific reasons shall be stated as to why disapproval was given. This inspection shall be made within ten calendar days of receipt of written request.  
(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.15 CONSTRUCTION RESPONSIBILITIES.

The subdivider and/or contractor shall have available on the

project, at all times, two copies of all required plans and specifications. He shall cooperate with the inspector and with other contractors in every way possible. The subdivider and/or contractor shall at all times have a competent superintendent acting as his agent on the project. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and he shall receive instructions from the inspector. The superintendent shall have full authority to execute the orders or directions of the inspector and to promptly supply such materials, tools, plant equipment, and labor as may be required. A superintendent shall be furnished irrespective of the amount of work sublet.

(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.16 STATIONINGS.

Pavement and utility grade stakes shall be set at intervals of 25, 50 or 100 feet, depending on the regularity of the ground surface and the accuracy required, and to determine the elevation of the ground surface at each of these points. The Planning Commission, or its duly authorized representative, may ask for additional grade stakes if it is deemed necessary.

(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.17 REPAIR OF DAMAGE.

Any damage done to the improvements by construction traffic, local traffic or by any other means shall be repaired or the damaged materials replaced.

(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.18 FINAL CLEANING UP.

Upon completion of the work and before acceptance, the subdivider and/or contractor shall clean up all ground occupied or affected by him in connection with the work.

(Ord. 1971-2, passed 4-6-71)

#### SECTION 7.19 AGREEMENTS AND GUARANTEES.

(A) Agreements. All bonds and insurance required under this section shall be secured from companies authorized to do business in the State of Kentucky and shall be deposited and remain at all times with the City Clerk/Treasurer.

##### (1) Construction agreement.

(a) To assure construction and installation of improvements and control of erosion and sedimentation (when necessary) required by these regulations, the subdivider shall execute a construction agreement with the City Council in form and substance approved by the city's legal counsel. This agreement shall provide that all such improvements (as specified in this agreement) shall be constructed and installed at the subdivider's expense in compliance with the standards and specifications for each of the various types of improvements; (including, when applicable, measures needed to control erosion and sedimentation); such improvements shall be available to and



for the benefit of the land within such subdivision and surrounding land which is in the same service or drainage area; that such improvements (as specified in this agreement) will be completed and installed within 24 months of the date of conditional or final approval of the final plat or within a mutually agreed upon extension (but never to exceed 12 consecutive calendar months).

(b) The construction agreement shall further provide that, in the case where approval of the final plat has been given before construction of improvements and a performance guarantee has been provided; and if the improvements are not completed within the specified time, the city, upon proper notice, may complete the improvements and recover full costs and expenses thereof from the subdivider and may appropriate such portion of money or bonds posted for the faithful performance of said works.

(2) Commencement of improvements. No construction of any improvements shall be commenced prior to the approval of the construction agreement by the City Council.

(B) Guarantees. The subdivider may execute and file guarantees with the city in lieu of actual installation or completion of the required improvements when requesting approval of the final plat. Such guarantees may be in the form of a performance bond filed with the City Council and in such an amount as the Planning Commission, or its duly authorized representative, shall estimate and determine to be reasonably necessary to complete all of the improvements required to be done by the subdivider (including measures to control erosion and sedimentation, when applicable) and also the Planning Commission, or its duly authorized representative's fee, for a field inspection. The bond may be in the form of a surety bond or a cash bond or negotiable United States Treasury Certificates of the kind approved by law for securing deposits of public money. The bond shall be executed by the subdivider as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the State of Kentucky, as surety. The bond shall be a guarantee of faithful performance of any and all work and the construction and installation of all improvements required to be done by the subdivider together with all engineering and inspection costs and fees incurred by the city. The bond shall contain the further condition that should the subdivider fail to complete all work and improvements required to be done by him within 24 consecutive calendar months of the date of approval of the final plat, or within a mutually agreed upon extension, but never to exceed 12 consecutive calendar months, that the city may, at its option, cause all required work to be done and improvements constructed. The parties executing the bond shall be firmly bound for the payment of all necessary costs therefor. Whenever the subdivider elects to deposit cash or approved negotiable United States Treasury Certificates, the city shall be authorized, in the event of any default on the part of the subdivider or the performance of any work or construction of any improvements for which the cash or negotiable bonds has been deposited, to cause the required work to be done and to withdraw that amount required for payment of all costs therefor.

(C) Liability insurance. The subdivider may be required to furnish such insurance as is deemed necessary by the City Council which

shall indemnify and save harmless the city from any and all liability arising by reason of any conditions which may arise or grow out of the construction or installation of improvements. The insurance shall be of such an amount as determined by the Planning Commission, or its duly authorized representative. A copy of the insurance policy shall remain at all times with the City Clerk/Treasurer.  
(Ord. 1971-2, passed 4-6-71)

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

SECTION 8.0 ADMINISTRATION.

It shall be the responsibility of the Planning Commission, or its duly authorized representative, to administer these regulations except where specific authority is given to some other city office as set forth in these regulations.  
(Ord. 1971-2, passed 4-6-71)

SECTION 8.1 FEES.

(A) Fees for preliminary plats. The Planning Commission shall require a fee for each subdivision plat submitted for approval. The following fee schedule shall be used for all preliminary plats:

(1) For minor subdivisions - \$25

(2) For major subdivisions - \$40 for any major subdivision plat up to and including 25 lots, parcels, and/or tracts and \$1 for each additional lot, parcel, or tract of said plat.

(B) Fees for final plat.

(1) For minor subdivision and resubdivisions - \$35.

(2) For major subdivisions the following fee schedule shall be used:

(a) Up to and including 25 lots, parcels, and/or tracts - \$75.

(b) Twenty-six up to and including 50 lots, parcels, and/or tracts - \$100.

(c) Fifty-one up to and including 100 lots, parcels, and/or tracts - \$125.

(d) All major subdivision plats containing over 100 lots, parcels, and/or tracts - \$175.

(C) Fees for recording final plats. The subdivider or developer shall pay for recording fee per requirements of Campbell County.

(D) Payment of fees. The subdivider or developer shall pay preliminary plat, final plat and recording fees in the following manner:

(1) Preliminary plat fees shall be paid in full at the time of submitting same for approval.

(2) Final plat fees shall be paid in full at the time of submitting same for approval.

(3) Recording fee shall be paid in full at the time of submitting the final plat for approval.

(E) Method of payment. Preliminary plat, final plat and recording fees shall be paid by check or money order only and made payable to the City of Dayton, State of Kentucky and submitted to the Planning Commission, or its duly authorized representative, at the time as specified under payment of fees. All checks found to be backed by insufficient funds will be turned over to the proper authorities within 24 hours for prosecution. All fee payments will be triple receipted on prenumbered receipts with the original going to the payee, one copy attached to the application, and the third remaining on the receipt book.

(F) Fees for inspecting improvements. The city shall establish appropriate fees to be charged for the inspections to be made, during and upon completion, of all improvements. The subdivider or developer shall be held responsible for all inspection fees. The bond posted by the subdivider guarantees the payment of all inspection fees and no bonds shall be released until all inspection fees have been paid in full. For those final plats having conditional approval, no final approval will be given nor shall such a plat be recorded until all inspection fees are paid in full.

(Ord. 1971-2, passed 4-6-71)

#### SECTION 8.2 MODIFICATIONS.

The Planning Commission may grant a modification to these regulations, as specified herein, where unusual or exceptional factors or conditions require such modification provided that the Planning Commission shall:

(A) Find that unusual topographical or exceptional physical conditions exist.

(B) Find that strict compliance with these regulations would create an extraordinary hardship in the face of the exceptional conditions.

(C) Permit any modification to depart from these regulations only

to the extent necessary to remove the extraordinary hardship.

(D) Find that any modification granted will not be detrimental to the public interest nor in conflict with the intent and purpose of these regulations.

(E) Require such other conditions to be met as the Planning Commission may find necessary to accomplish the purposes of these regulations when modified.

(Ord. 1971-2, passed 4-6-71)

SECTION 8.3 ENFORCEMENT.

(A) Admission to county record. No plat of a subdivision of land located within the city shall be admitted to the records of the county or received or recorded by the County Clerk until said plat has received final approval by the Planning Commission. Admission to the records shall not be construed as approval.

(B) Sale of land in subdivision. No person or his agent, owning land composing a subdivision shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the Planning Commission and has been recorded. Any such instrument of transfer, sale or contract shall be void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved. The description of such lot, parcel or tract by metes and bounds in any contract or instrument of transfer to other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have.

(C) Revision of plat after approval. No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after final approval has been given by the Planning Commission and an endorsement is made in writing on the plat, unless the plat is first resubmitted and the changes approved by the Planning Commission.

(D) Improvements in conflict with official map. After the city has adopted an official map, no board, public officer, or authority shall accept, lay-out, improve, or authorize any improvements to be constructed in any street, including rights-of-way, water courses, park and playgrounds, public school or other public building sites shown on the official map, except as provided for in KRS 100.293 through 100.317.

(Ord. 1971-2, passed 4-6-71)

SECTION 8.4 PENALTIES.

Any person, owner, or agent who violates these regulations shall upon conviction be fined not less than \$100 nor more than \$500 for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer.

(Ord. 1971-2, passed 4-6-71)

SECTION 8.5 SEVERABILITY.

If any article, section, subsection, sentence, clause, or phrase of these regulations is, for any reason, held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions hereof. It being the intent of the Planning Commission to enact each section and portion thereof, individually and each such section shall stand alone, if necessary, be in force notwithstanding the validity of any other article, section, subsection, sentence, clause or phrase of these regulations.  
(Ord. 1971-2, passed 4-6-71)

SECTION 8.6 APPEALS FROM PLANNING COMMISSION.

Any appeal from the Planning Commission action may be taken in the following manner:

(A) Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission may appeal from the action to the circuit court of the county in which the land lies. Such appeal shall be taken within 30 consecutive calendar days after the final action of the Planning Commission. Final action shall not include the Commission's recommendation made to other governmental bodies.

(B) All appeals shall be taken in the appropriate circuit court within 30 consecutive calendar days after the action or decision of the Planning Commission and all decisions which have not been appealed within 30 consecutive calendar days shall become final. After the appeal is taken the procedure shall be governed by the rules of civil procedure. When an appeal has been filed, the clerk of the circuit court shall issue a summons to all parties, including the Planning Commission in all cases, and shall cause it to be delivered for service as in any other law action.  
(Ord. 1971-2, passed 4-6-71)

SECTION 8.7 CONFLICT.

All regulations, resolutions, orders, ordinances, and/or codes in conflict herewith are hereby repealed on the effective date of these regulations; providing, however, that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any such subdivision regulations, order, resolutions and/or amendments thereto, hereby repealed prior to the effective date of these regulations.  
(Ord. 1971-2, passed 4-6-71)

SECTION 8.8 VARIANCES.

(A) The Planning Commission is empowered to hear and finally decide applications for variances when a proposed development requires a subdivision and one or more variances. The Commission shall assume all powers and duties otherwise exercised by the Board of Adjustment pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251 in such circumstances.

(B) An applicant for subdivision, at the time of the filing of

the applications for the subdivision, may elect to have any variance for the same development to be heard and finally decided by the Planning Commission at the same public hearing set for the subdivision, or by the Board of Adjustment as provided in the city's zoning ordinance.

(Ord. 1988-20, passed 11-15-88)

ARTICLE IX

ADOPTION, AMENDMENT AND EFFECTIVE DATE

SECTION 9.0 PUBLIC HEARING.

Before adoption of these subdivision regulations by the Planning Commission, or any amendments thereto, a public hearing shall be held by the Planning Commission. A public notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the city in accordance with KRS Chapter 424.

(Ord. 1971-2, passed 4-6-71)

SECTION 9.1 EFFECTIVE DATE.

These subdivision regulations shall take effect and be in force immediately upon their adoption and publication of a notice of such adoption in a newspaper of general circulation in the city.

(Ord. 1971-2, passed 4-6-71)

ATTACHMENT A: CEMENT CONCRETE FOR STREET, CURB AND GUTTER,  
SIDEWALK, AND DRIVEWAY CONSTRUCTION

- Item 1. Grading
- Item 2. Materials
- Item 3. Batching
- Item 4. Measuring air content
- Item 5. Forms
- Item 6. Placing concrete
- Item 7. Consolidating and finishing
- Item 8. Integral curb
- Item 9. Curing
- Item 10. Joints
- Item 11. Tie bars
- Item 12. Joint sealer
- Item 13. Structures encountered in the paved area
- Item 14. Street and traffic signs
- Item 15. Protection and opening to traffic
- Item 16. Curb, gutter, sidewalk, and driveways
- Item 17. Structural design

- Figure 1. Joint details
- Figure 2. Catch basin and manhole detail
- Table 3. Guide for pavement design of concrete streets
- Figure 3. Relationship between California bearing ratio and modulus of subgrade reaction

The work covered by these specifications consists of furnishing all labor, equipment, and materials and in performing all operations in connection with the construction of air-entrained portland cement concrete pavement for streets and alleys in accordance with these specifications and the applicable drawings.

The cement concrete pavement work shall consist of a single course of cement concrete, including reinforcement and longitudinal and transverse joints, when required, constructed on a prepared subgrade or insulation course in conformity with the lines, grades, and cross sections shown on the plans or as established by the Planning Commission, or its duly authorized representative.

ITEM 1.0 GRADING.

This term shall consist of all grading above or below subgrade elevations, of whatever nature, required to bring the street to the proper subgrade elevation, including necessary excavation for curb, gutter, sidewalk, construction of embankments, excavation and proper sloping of all cuts, and other work incidental thereto.

- 1.1 EXCAVATIONS: All excavations shall be made to approximate subgrade elevations and shall be true to grade. Material below subgrade elevation in cuts shall not be loosened by plowing or other methods during the progress of the work.
- 1.2 EXCAVATION BELOW SUBGRADE: Whenever excavation below subgrade elevation to remove spongy material, vegetable matter, or other material is ordered by the Planning Commission, or its duly authorized representative, the contractor shall remove same in a satisfactory manner acceptable to the Planning Commission, or its duly authorized representative, and shall replace it with satisfactory material in layers not to exceed six inches in thickness and shall thoroughly compact each layer before the next layer is placed.
- 1.3 CONSTRUCTION OF EMBANKMENTS: Top soil shall be removed to eliminate all vegetation from the area upon which embankment is to be constructed. Soil so removed may not be used in construction of embankment.

Embankment shall be constructed, of approved materials, to approximate subgrade elevation in layers not to exceed six inches in thickness and extending the full width of the embankment. Each layer shall be compacted to not less than 95% of the density determined from the "Test for Moisture-Density Relationship" (AASHTO Designation T-99), unless otherwise directed by the Planning Commission, or its duly authorized representative, before the next layer is placed.

- 1.4 SUBGRADE PREPARATION: The subgrade shall be in a moist condition at the time the concrete is placed. It shall be thoroughly wetted a sufficient time in advance of the placing of the concrete to insure that there will be no puddles or pockets of mud when the concrete is placed. The subgrade,



however, shall not be allowed to dry out before the concrete is placed.

The subgrade soils shall be of uniform material and density to provide for satisfactory pavement performance. Soft spots that show up during construction should be excavated and re-compacted with the same type of material as found in the adjacent subgrade. Uniform support cannot be obtained merely by dumping extra granular material on the soft spot. With a uniform subgrade, excessive shrink and swell of expansive soils shall be prevented by adequate moisture and density controls during compactions. The compaction of expansive soil to a density of not less than 95% of the density determined from the "Test for Moisture-Density Relationship" (AASHTO Designation T-99) will effectively control shrinking and swelling during periods of dry weather, providing the subgrade is not allowed to dry before the pavement is constructed. Concurrent with compaction, the subgrade shall be shaped to plan elevation, grade, and cross section. Special care shall be taken in compacting the backfill of sewers, drainage facilities, and other permanent structures that may be in the paved area.

Immediately prior to placing the concrete, the subgrade shall be tested for conformity with the cross section shown on the plans by means of an approved template riding on the side forms. If necessary, material shall be removed or added, as required, to bring all portions of the subgrade to the correct elevation. It shall then be thoroughly compacted and again tested with the template. Concrete shall not be placed on any portion of the subgrade which has not been tested for correct elevation. The subgrade should also be cleared of any loose material which may have fallen upon it.

- 1.5 EQUIPMENT FOR COMPACTION OF EMBANKMENT AND SUBGRADE: Any compaction equipment capable of uniformly producing the required embankment and subgrade densities, without lamination of, or within, successive layers, will be permitted by the Planning Commission, or its duly authorized representative. All compaction equipment shall be in good condition and shall be operated efficiently to assure uniform compaction.
- 1.6 SUBGRADE FOR CURBS, GUTTERS, SIDEWALKS AND DRIVEWAYS: Subgrade areas to be occupied by curbs, gutters, sidewalks and driveways shall be excavated, backfilled, as required, and compacted to establish grade. This work shall be done with particular care in accordance with all requirements herein.
- 1.7 EXCESS EXCAVATION: Excavated material, that is not suitable for or required for the construction of embankments, or the backfilling of excavations from which unsuitable material has been removed, shall belong to and be disposed of by the contractor. The contractor shall not deposit excess material on private property.

- 1.8 **BORROW MATERIAL:** If sufficient soil of approved quality is not available on the construction site for replacing unsuitable material excavated and removed, or for embankment construction, the contractor shall obtain and supply suitable borrow soil for such construction.
- 1.9 **SUBBASE:** Subbase may be required for streets that carry large numbers of heavy trucks. When subbases are required, they shall be constructed with same care used in the design and placing of the concrete pavement.
- 1.10 **EQUIPMENT OPERATED ON THE STREETS:** The contractor shall be permitted to operate only pneumatic-tired equipment over any paved street surfaces and shall be responsible for correction of any damage to street surfaces in any manner resulting from the contractor's operations.
- 1.11 **PROTECTION OF UTILITY LINES:** The contractor shall at all times take proper precautions for the protection of utility lines, the presence of which are known, or can be determined by the examination of appropriate maps of the utility companies and the city. The contractor shall be financially responsible for the repair of any damage to such service lines.
- 1.12 **PROTECTION OF MISCELLANEOUS PUBLIC AND PRIVATE INSTALLATIONS:** The contractor shall at all times take proper precautions for the protection of and replacement or restoration of driveway culverts, street intersections, culverts or aprons, mail boxes, driveway approaches, and all other public and private installations that may be encountered during construction. Written approval for complete replacement or restoration work may be required by the Planning Commission, or its duly authorized representative.

(Ord. 1971-2, passed 4-6-71)

#### ITEM 2.0 MATERIALS.

Concrete shall be composed of portland cement, air-entraining agent, aggregates, and water. These materials shall be furnished only from sources of supply approved by the Planning Commission, or its duly authorized representative, before shipments are started. The basis of approval of such sources shall be the ability to produce materials of the quality and in the quantity required.

- 2.1 **PORTLAND CEMENT:** Cement of the type specified shall conform to requirements of the current ASTM Specifications for portland cement Type I, or Type III (Designation C-150). Cement which for any reason has become partially set or which contains lumps of caked cement shall be rejected. Either packaged or bulk cement may be used.
- 2.2 **AIR-ENTRAINING AGENT:** Air-entraining agents shall conform to the requirements of the current ASTM Specifications for air-entraining agents for concrete (Designation C-260).

- 2.3 CHEMICAL ADMIXTURES FOR CONCRETE: Admixture of the type specified shall conform to requirements of the current ASTM Specifications for admixtures of Type A and Type D (Designation C-494).
- 2.4 AGGREGATES: All aggregates for concrete shall meet the current standard requirements for concrete pavements of the Kentucky Department of Highways or the current ASTM Specification for concrete aggregates (Designation C-33).

Aggregates shall be so handled that moisture content and gradation are reasonably uniform and do not change appreciably from batch to batch or hour to hour.

No aggregates shall be used which have become contaminated or intermixed. Frozen aggregates or aggregates containing frozen lumps shall be thawed before use.

- 2.5 WATER: Water used in mixing or curing concrete shall be clean and free from injurious amounts of oil, acids, salt, alkali or organic materials or other substances harmful to concrete. Normally water from public supplies or which is suitable for drinking is always satisfactory.
- 2.6 REINFORCING STEEL: Reinforcing steel, if specified, shall conform to current Standard Specifications of the Kentucky Department of Highways.

Tie bars which are to be bent after one end is encased in concrete shall be structural grade.

2.7 JOINTS:

- 2.7.1 EXPANSION JOINTS: Expansion joints shall be non-extruding performed joint fillers and shall conform to current Standard Specifications of the Kentucky Department of Highways, the selection of the type will be at the contractor's option.
- 2.7.2 JOINT SEALING COMPOUND: Sealing material for filling all types of pavement joints shall comply with current Standard Specifications of the Kentucky Department of Highways, the selection of the type will be at the contractor's option.
- 2.7.3 PREMOLDED JOINT MATERIAL: Premolded parting strips, when called for on the plans, shall be at least 1/8 inch thick and of width shown on the plans. They shall consist of strips which have been formed from layers of felt or shredded felt, cane, wood or other suitable fibers, securely bound together and uniformly impregnated with a suitable binder. They shall be of such character that they will not be permanently deformed by ordinary handling during hot weather or become hard and brittle in cold weather.

**2.8 CURING**

- 2.8.1 **BURLAP OR COTTON MATS:** Shall at time of using be in good condition, free from holes, dirt, clay or any other substance which would have a deleterious effect upon concrete. Burlap or cotton mats shall be of quality specified by AASHO (Designation M-182 and M-73 respectively).
- 2.8.2 **WATERPROOF PAPER OR PLASTIC SHEETS:** For curing concrete shall conform to the current ASTM or AASHO Specifications for waterproof paper for curing concrete, C-171 and M-139 respectively. Moisture retention shall conform to the requirements of ASTM (Designation C-156).
- 2.8.3 **MEMBRANE CURING COMPOUNDS:** Shall be the white pigmented type and conform to the requirements for the current AASHO Standard Specifications for liquid membrane forming compounds for curing concrete (Designation M-148 or ASTM Designation C-309).

(Ord. 1971-2, passed 4-6-71)

**ITEM 3.0 BATCHING.**

Measurement and batching of cement, fine and coarse aggregates shall be by weight. Scales in use shall be accurate when static load tested to + 0.4 percent of the total capacity of the scale. One sack of cement shall be considered to weigh 94 pounds net. Bulk and cement from fractional sacks shall be weighed.

- 3.1 **STRENGTH OF CONCRETE:** The concrete shall attain a minimum expected strength of concrete at 28 days of 3,500 pounds per square inch compressive strength and/or 550 pounds per square inch flexural strength "modulus of rupture".

Concrete specimens to check the adequacy of the delivered concrete for strength shall be made and cured in accordance with ASTM C-31, making and curing concrete compressive and flexural test specimens in the field. Compressive strength specimens shall be tested in accordance with ASTM C-39, and flexural strength determination shall be in accordance with ASTM C-78. If concrete test(s) is ordered by the Planning Commission, or its duly authorized representative, testing shall be performed by a commercial laboratory.

- 3.2 **PROPORTIONING CONCRETE:** It shall contain not less than six sacks of cement (94 lbs. per sack) per cubic yard of concrete and a maximum of 5-1/2 gallons of water per sack of cement, including surface water contained in the aggregates. The proper proportions of cement, water and aggregates shall be determined in accordance with ACI Standard 613, "Recommended Practice for Selecting Proportions for Concrete", or the Portland Cement Association booklet "Design and Control of Concrete Mixers".

The entrained air shall be obtained by using air-entraining agent. All concrete shall be air-entrained in accordance with the following:

Maximum size of Aggregate (inches)	Air Content Percent by Volume
1-1/2, 2, 2-1/2	5 ± 1%
3/4, 1	6 ± 1%
3/8, 1/2	7-1/2 ± 1%

The air content of freshly mixed air-entrained concrete shall be checked by the Planning Commission, or its duly authorized representative. Concrete with air contents above or below the amount specified shall be corrected by adjustments in the mix design or quantities of air-entraining admixture being used.

- 3.3 **CONSISTENCY:** The slump of the concrete shall be from 1 to 4 inches when hand finishing techniques are employed and 1 to 3 inches when a mechanical finishing machine is used. The consistency shall be measured as described in the current ASTM Standard Method of Slump Test for Consistency of Portland Cement Concrete (Designation C-143) or the Method of Test for Ball Penetration for Portland Cement Concrete, ASTM (Designation C-360).
- 3.4 **READY-MIXED CONCRETE:** All ready-mixed concrete shall be furnished in accordance with the current ASTM specifications for ready-mixed concrete (Designation C-94).

When construction conditions are such that it is absolutely necessary for trucks hauling concrete to operate on the grade between forms, they shall not back over previously deposited fresh concrete.

- 3.4.1 **TIME OF DELIVERY:** Concrete shall be delivered and discharged from a truck mixer or agitator truck within a period of 1-1/2 hours at air temperatures up to 85°F. and one hour at air temperatures higher than 85°F. after introduction of the water to the cement and aggregates or of the cement to the aggregates. Delivery tickets shall have this time clearly shown thereon, and the contractor shall check the same to be certain that delivery is made within the period specified.
- 3.4.2 **TYPE OF DELIVERY EQUIPMENT:** Concrete shall be delivered in truck mixers or agitator truck (trucks providing mechanical agitation by revolving drums or revolving blades in a stationary drum) operated after time required for thorough mixing of the concrete at the speed designated by the manufacturer as agitating speed.

- 3.5 **JOB-MIXED CONCRETE:** Job-mixed concrete shall be mixed in a

drum mixer which shall conform to the concrete paving mixer standards of the Mixer Manufacturers Bureau of the Association General Contractors of America. The mixer shall be capable of combining the aggregates, cement, and water into a thoroughly mixed and uniform mass within the specified time and of discharging the material without segregation. The entire contents of the drum shall be discharged before recharging. The volume of the mixed materials per batch shall not exceed the manufacturer's guaranteed capacity of the mixer.

3.5.1 TIME OF MIXING: The mixing of each batch shall continue for not less than one minute after all materials, except water are in the mixer. The mixer shall rotate at the rate recommended by its manufacturer. The mixer shall be provided with a batch timing device which shall be subject to inspection and adjustment by the Planning Commission, or its duly authorized representative, at any time.

3.6 RETEMPERING OF CONCRETE: Retempering of concrete which has partially hardened, by remixing, with or without water, shall not be permitted.

(Ord. 1971-2, passed 4-6-71)

ITEM 4.0 MEASURING AIR CONTENT.

The air content of freshly mixed air-entrained concrete may be checked by the Planning Commission, or its duly authorized representative. Concrete with air contents above or below the amount specified shall be corrected by adjustments in the mix design or quantities of air-entraining admixture being used.

The air content shall be measured in accordance with ASTM Method of Test for Air Content of Freshly Mixed Concrete by the Pressure Method (Designation C-231) or ASTM Method of Test for Air Content of Freshly Mixed Concrete by the Volumetric Method (Designation C-173).

(Ord. 1971-2, passed 4-6-71)

ITEM 5.0 FORMS.

Forms may be made of wood or metal and shall have a depth equal to or greater than the prescribed edge thickness of the pavement. Each section of form shall be straight, free from bends or warps.

The method of connections between the form sections shall be such that the joint thus formed is tight and free from movement in any direction.

Forms shall be of such cross sections and strength and so secured as to resist the pressure of the concrete when placed and the impact and vibration of any equipment which they support without springing or settlement.

Approved forms shall be used for curved construction where the radius is 100 feet or less.

- 5.1 **SETTING FORMS:** The subgrade under the forms shall be compacted and shaped so that the form when set will be uniformly supported for its entire length at the specified elevation. The supply of forms shall be sufficient to permit their remaining in place for at least 12 hours after the concrete has been placed. All forms shall be cleaned and oiled each time they are used.
- 5.2 **GRADE AND ALIGNMENT:** The alignment and grade elevation of the forms shall be checked by the contractor immediately ahead of concrete placement and necessary corrections will be made. Any forms that have been disturbed or subgrade that has become unstable shall be corrected and forms reset and rechecked. Any variations in grade and alignment shall be subject to approval by the Planning Commission, or its duly authorized representative, prior to placing the concrete.

(Ord. 1971-2, passed 4-6-71)

ITEM 6.0 PLACING CONCRETE.

The concrete shall be mixed in quantities required for immediate use and shall be deposited on the subgrade to the required depth and width of the construction land in successive batches and in a continuous operation without the use of intermediate forms or bulkheads. The concrete shall be placed as uniformly as possible in order to minimize the amount of additional spreading necessary. While being placed, the concrete shall be vibrated and compacted with suitable tools so that the formation of voids or honeycomb pockets is prevented. The concrete shall be especially well vibrated and tamped against the forms and along all joints.

No concrete shall be placed around manholes or other structures until they have been brought to the required grade and alignment. Additional tamping and compaction will be required after raising manholes.

- 6.1 **COLD WEATHER CONCRETING:** Concrete may be placed when the air temperature in the shade and away from artificial heat is more than 35°F. and rising. Concrete shall not be placed when the air temperature in the shade and away from artificial heat is less than 40°F. and falling.
- 6.2 **HOT WEATHER CONCRETING:** Except by written authorization, concrete placing shall cease if the temperature of the plastic concrete cannot be maintained at 90°F. or lower.

To facilitate the placement of concrete in hot weather, a retarding chemical admixture Type B or D in conformance with ASTM C-494 may be used.

(Ord. 1971-2, passed 4-6-71)

ITEM 7.0 CONSOLIDATING AND FINISHING.

The pavement shall be struck off and consolidated with a mechanical finishing machine or by hand-finishing methods. When a mechanical finishing machine is used, the concrete shall be struck off at such a

height that after consolidation and final finishing, it shall be at the elevation as shown on the plans.

The finishing machine shall be provided with a screed which will consolidate the concrete by pressure, vibration or both. The concrete shall be brought to a true and even surface, free from rock pockets. The edge of the screeds along the curb line may be notched out to allow for sufficient concrete to form the integral curb. Hand-finishing tools shall be kept available for use in case the finishing machine breaks down.

When hand-finishing is used, the pavement shall be struck off and consolidated by a vibrating screed to the elevation as shown on the plans. When the forward motion of the vibrating screed is stopped, the vibrator shall be shut off; it shall not be allowed to idle on the concrete.

- 7.1 SCRAPING AND STRAIGHTEDGING: The pavement shall be scraped with a straightedge equipped with handles to permit it to be operated from the edge of the pavement.

When irregularities are discovered, they shall be corrected by adding or removing concrete. All disturbed places shall be floated with a wooden or metal float not less than three feet long and not less than six inches wide and again straightedged.

- 7.2 EDGING: Before final finishing is completed and before the concrete has taken its initial set, the edges of the slab and curb shall be carefully finished with an edger, having a radius of 1/8 inch.

- 7.3 FINAL SURFACE FINISH: A burlap drag shall be used as the final finishing method for concrete pavement. The drag shall be at least three feet in width and long enough to cover the entire pavement width. It shall be laid on the surface of the pavement and dragged forward in the direction in which the pavement is being laid. The curb shall have the same final finish as the pavement.

The final surface of the concrete pavement and curb shall have a uniform gritty texture, free from excessive harshness and true to the grades and cross sections shown on the plans. The Planning Commission, or its duly authorized representative, may require changes in the final finishing procedure as required to produce the desired final surface texture.

(Ord. 1971-2, passed 4-6-71)

ITEM 8.0 INTEGRAL CURB.

When integral vertical curbs are required along the edges of all street pavement, depressed curbs shall be provided at all driveway entrances and at such other locations as designated by the Planning Commission, or its duly authorized representative.



The integral curb shall be constructed with or immediately following the finished operation. Special care shall be taken so that the curb construction does not lag the pavement construction and form a "cold joint".

In placing curb concrete, sufficient spading shall be done to secure adequate bond with paving a slab and eliminate all voids in the curb.

Curbs shall be formed to the cross section as shown on the drawings. (Ord. 1971-2, passed 4-6-71)

#### ITEM 9.0 CURING.

Concrete shall be cured by protecting it against loss of moisture, rapid temperature change, from rain, flowing water and mechanical injury for a period of not less than five days from the beginning of the curing operation. Moist curing, waterproof paper, white pigmented liquid membrane compound or a combination thereof may be used for curing. Immediately after finishing operations have been completed, the entire surface of the newly laid concrete shall be covered by the curing medium which is applicable to local conditions and approved by the Planning Commission, or its duly authorized representative.

The edge of concrete slabs exposed by the removal of forms shall be protected immediately to provide these surfaces with continuous curing treatment equal to the method selected for curing a slab surface and to prevent injury to concrete edges.

The covering material shall be kept free of any substances which may be detrimental to the surface of the concrete. The initial curing medium shall be effective and shall be applied so as to prevent checking, cracking and the appearance of dry spots in the surface of the concrete. The contractor shall have the equipment needed for adequate curing at hand and ready to install before actual concrete placement begins. In all cases in which the curing medium requires the use of water, the curing shall have prior right to all water supply. Failure to provide sufficient cover material of the type selected, failure to maintain saturation for the entire curing period in the moist-curing methods, lack of water to adequately care for both curing and other requirements or other failures to comply with curing requirements shall be cause for immediate suspension of concreting operations.

- 9.1 MOIST CURING: Moist curing shall be accomplished by covering of burlap, cotton mats, or other approved fabric mat used singly or in combination.

Curing mats shall be thoroughly wet when applied and kept continuously wet and in intimate contact with the pavement surface for the duration of the moist curing period. Other fabric mats shall conform in design and shall provide a curing medium at least equal to cotton mats. Cotton mats, other fabric mats, burlap mats, and burlap strips shall be furnished in the widths or lengths, after shrinkage, required to cover the entire width and edges of the pavement lane. Mats or burlap shall be lapped at joints between adjacent

sheets to prevent drying of this location. Moist curing, when used as initial curing, shall be continued for not less than 24 hours. Type and weight of cotton mats for curing concrete shall conform to ASTM C-440 or AASHO M-73. Burlap strips shall conform to AASHO M-182.

9.2 WATERPROOF PAPER AND POLYETHYLENE SHEETING CURING: The surface of the concrete shall be wetted with a fine spray of water and then covered with the waterproof paper or sheeting. The paper or sheeting shall be in pieces large enough to cover the entire width and edges of the slab and shall be lapped not less than 12 inches. Paper or sheeting shall be adequately weighted to prevent displacement or billowing due to wind. Paper or sheeting folded down over the side of the pavement widths shall be secured by a continuous bank of earth. Tears or holes appearing in the paper or sheeting during the curing period shall be immediately repaired.

9.3 LIQUID MEMBRANE CURING COMPOUND: Pigmented liquid membrane during compound shall meet the specifications under ASTM C-309. The curing compound must be applied to cover the surface completely and uniformly at a rate which will achieve the performance requirement specified in AASHO specifications M-148 or ASTM Designation C-309. This method of curing shall be applied immediately behind the final finishing operation or after the initial curing when a combination of methods are used. Failure to provide complete and uniform coverage at the required rate will be cause for discontinuance of this method of curing and the substitution of one of the other approved methods. The compound shall be kept agitated to prevent the pigment from settling. Special care shall be taken to apply the curing compound to the pavement edges immediately after the forms have been removed.

(Ord. 1971-2, passed 4-6-71)

#### ITEM 10.0 JOINTS.

Longitudinal and transverse joints shall be constructed as shown on the plans and construction joints wherever construction may require them.

Longitudinal joints are those joints parallel to the lane of construction. They may be either intermediate center joints or the construction joints between construction lanes.

Expansion joints may be either longitudinal or transverse. They are used only where specifically shown on the plans.

Transverse joints shall be contraction, expansion or construction joints.

The edges of the pavement and those joints where such edging is shown on the plans shall be rounded with an edger having a radius of 1/8 inch. Transverse joints, except keyed and tied construction joints, shall be continuous across the entire paved area including the curb.

- 10.1 EXPANSION JOINTS: Expansion joints, where shown on the plans shall conform to the specifications in Item 2.7.1 of Attachment A of these regulations. They shall extend the entire width of the pavement. They shall be of the dimensions and spacing as shown on the plans. The filler shall be held accurately in place during the placing and finishing of the concrete by a bulkhead, a metal channel cap or other approved method.

Under no circumstances shall any concrete be left above the expansion material or across the joint at any point. Any concrete spanning the ends of the joint next to the forms shall be carefully cut away after the forms are removed.

Before the pavement is opened to traffic, the groove above the filler shall be cleaned and sealed with specified joint sealing material covered under Item 2.7.2 of Attachment A of these regulations.

- 10.2 TRANSVERSE JOINTS: Transverse contraction joints shall be of sawed, formed dummy groove or premolded strip type. All transverse joints shall be 1/4 of the pavement thickness. The spacing of undoweled contraction joints shall be specified by the design engineer and shall be based on accurate performance records from streets in service. In no case shall the contraction joints be spaced at intervals greater than 20 feet. In the event that coarse aggregate consists of Calcareous gravel, Siliceous gravel, gravel smaller than 3/4 inch and slag, the joint spacing shall not exceed 15 feet. In the event that distributed steel is used, an alternate joint spacing shall be permitted as specified by the design engineer and approved by the Planning Commission, or its duly authorized representative.

If sawed joints are specified on the plans, they shall be sawed early enough to control cracking, but late enough to prevent any damage by blade action in the slab surface and to the concrete immediately adjacent to the joints.

- 10.3 CONSTRUCTION JOINTS: Transverse construction joints of the type shown on the plans shall be placed wherever the placing of concrete is suspended for more than 30 minutes. A transverse construction joint with smooth bars shall be used if the joint occurs at the location of a contraction joint. Keyed joints with tie bars are used if the joint occurs at any other locations.

- 10.4 LONGITUDINAL JOINTS: Longitudinal joints shall be placed as shown on the plans. They shall be of the sawed, dummy groove, premolded strip or the keyed construction type. All longitudinal sawed joints shall conform to Item 10.2 of Attachment A of these regulations. Joints between construction lanes shall be the keyed construction type. The depth of longitudinal joints, except for construction joints, shall be at least 1/4 of the pavement thickness. They shall coincide with lane markings wherever possible and shall be

provided between each traffic lane.

10.5 INTEGRAL CURB JOINTS: In the construction of transverse joints of concrete integral curb pavement, special care must be taken to see that all transverse joints extend continuously through the pavement and curb, except tied transverse construction joints.

(Ord. 1971-2, passed 4-6-71)

ITEM 11.0 TIE BARS.

Tie bars, when shown on the plans, shall be of deformed steel or threaded J-bar type and of the dimensions and at the spacing specified by the design engineer.

(Ord. 1971-2, passed 4-6-71)

ITEM 12.0 JOINT SEALER.

After the curing period, all sawed and dummy groove joints in the pavement shall be cleaned and sealed with material, joint sawing residue, dirt and curing membrane shall be removed. Any excess material should be removed from the pavement surface as soon after sealing as possible.

(Ord. 1971-2, passed 4-6-71)

ITEM 13.0 STRUCTURES ENCOUNTERED IN THE PAVED AREA.

13.1 MANHOLES AND CATCH BASINS: All manholes and catch basins encountered in the areas to be paved shall be raised or lowered to the surface of the new pavement. All catch basins shall be separated from the pavement and curb by boxing out around basin. Expansion joint material shall extend completely through curb and slab. Manhole castings within the pavement limits shall be boxed in like manner.

When a joint falls within five feet of or contacts basins, manholes, or other structures one or more panels either side of opening shall be shortened to permit joint to fall on round structures and at or between corners of rectangular structures as shown in Figure 2, of Attachment A of these regulations.

13.2 WATER SERVICES: When directed by the Planning Commission, or its duly authorized representative, water services encroaching on construction shall be lowered to conform to requirements of the new cross section and other construction details.

Any work involving the cutting of water pipe in connection with this item or with other items in the contract shall be subject to inspection and approved by a representative of the Campbell County Water District Number One.

13.3 MOVING WATER BOXES AND WATER METERS: When directed by the Planning Commission, or its duly authorized representative, water stop boxes or water meters encountered shall be

relocated and subject to the approval of the representative of the Campbell County Water District Number One.  
(Ord. 1971-2, passed 4-6-71)

ITEM 14.0 STREET AND TRAFFIC SIGNS.

This item shall consist of the removal and replacement of all street signs which are in place. The signs shall be removed as the work progresses in such manner as to avoid any damage to the signs. They shall then be replaced as directed by the Planning Commission, or its duly authorized representative. In the event any stop signs or traffic direction signs are removed and traffic is permitted across the intersection so affected, the contractor shall furnish such portable signs or other protection as may be necessary for the proper handling of the traffic, including the furnishing of flagmen at particularly dangerous intersections.

(Ord. 1971-2, passed 4-6-71)

ITEM 15.0 PROTECTION AND OPENING TO TRAFFIC.

The contractor shall protect the pavement against all damage prior to final acceptance of the work. Traffic shall be excluded from the pavement by erecting and maintaining barricades and signs until the concrete is at least seven days old or has attained a compressive strength of 3,500 pounds per square inch and/or 550 pounds per square inch flexural strength. This traffic restriction shall apply to the contractor's construction equipment and vehicles as well as general traffic. As soon as curing and sealing are completed, the contractor shall clean up the pavement free from all debris and construction equipment.

(Ord. 1971-2, passed 4-6-71)

ITEM 16.0 CURB, GUTTER, SIDEWALK AND DRIVEWAYS.

Construction of curb, gutter, sidewalk and driveways shall require the same care as the pavement. The preceding requirements shall apply, where pertinent, to the construction of curb, gutter, sidewalk and driveways. In addition, sidewalks or driveways shall be constructed so that the transverse joint spacing shall be equal to the width of the sidewalks or driveway, but in no case shall the transverse joint spacing for driveways exceed 12 feet and not greater than five feet for sidewalk spacing. Sidewalk and driveways shall be constructed with a pavement thickness of at least four and five inches, respectively.

(Ord. 1971-2, passed 4-6-71)

ITEM 17.0 STRUCTURAL DESIGN.

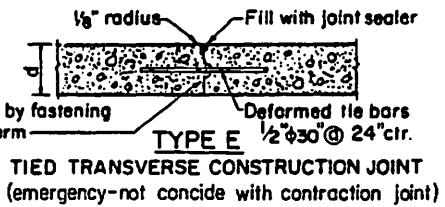
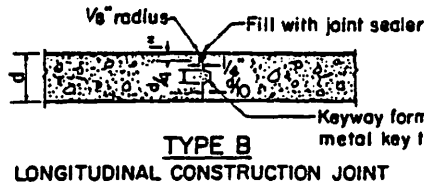
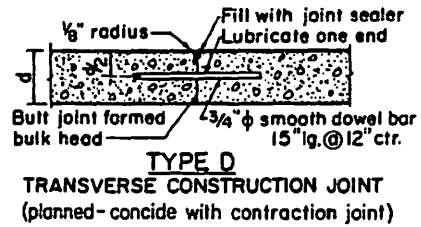
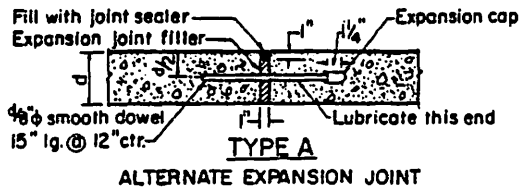
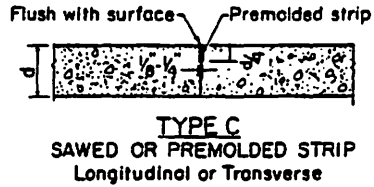
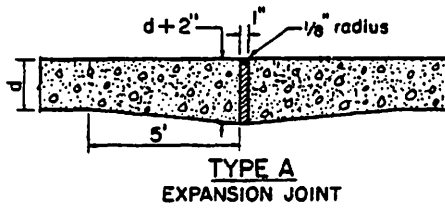
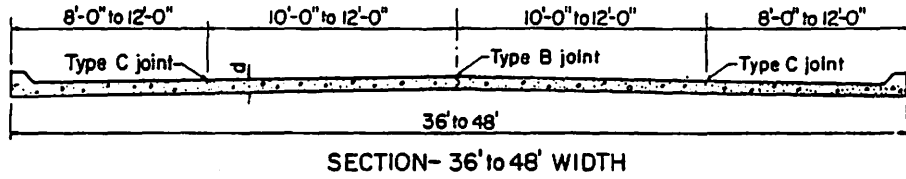
A concrete pavement slab shall be designed for the loads it is to carry. The designing engineer must take into account the traffic to be carried, the support offered by the subgrade, the strength of the concrete, and any other pertinent information.

Table 3 is provided as a guide to the engineers in designing city street pavements when only meager traffic information is available. Streets that are subjected to exceptionally heavy truck traffic shall require a more complete detailed analysis. Figure 3 is provided to

determine (K) values, as used in Table 3, for those engineers familiar with the California Bearing Ratio Method (CBR).

Approval as to the pavement design, shall be obtained from the Planning Commission, or its duly authorized representative, if the street does not fall within the street classification listed in said table.  
(Ord. 1971-2, passed 4-6-71)

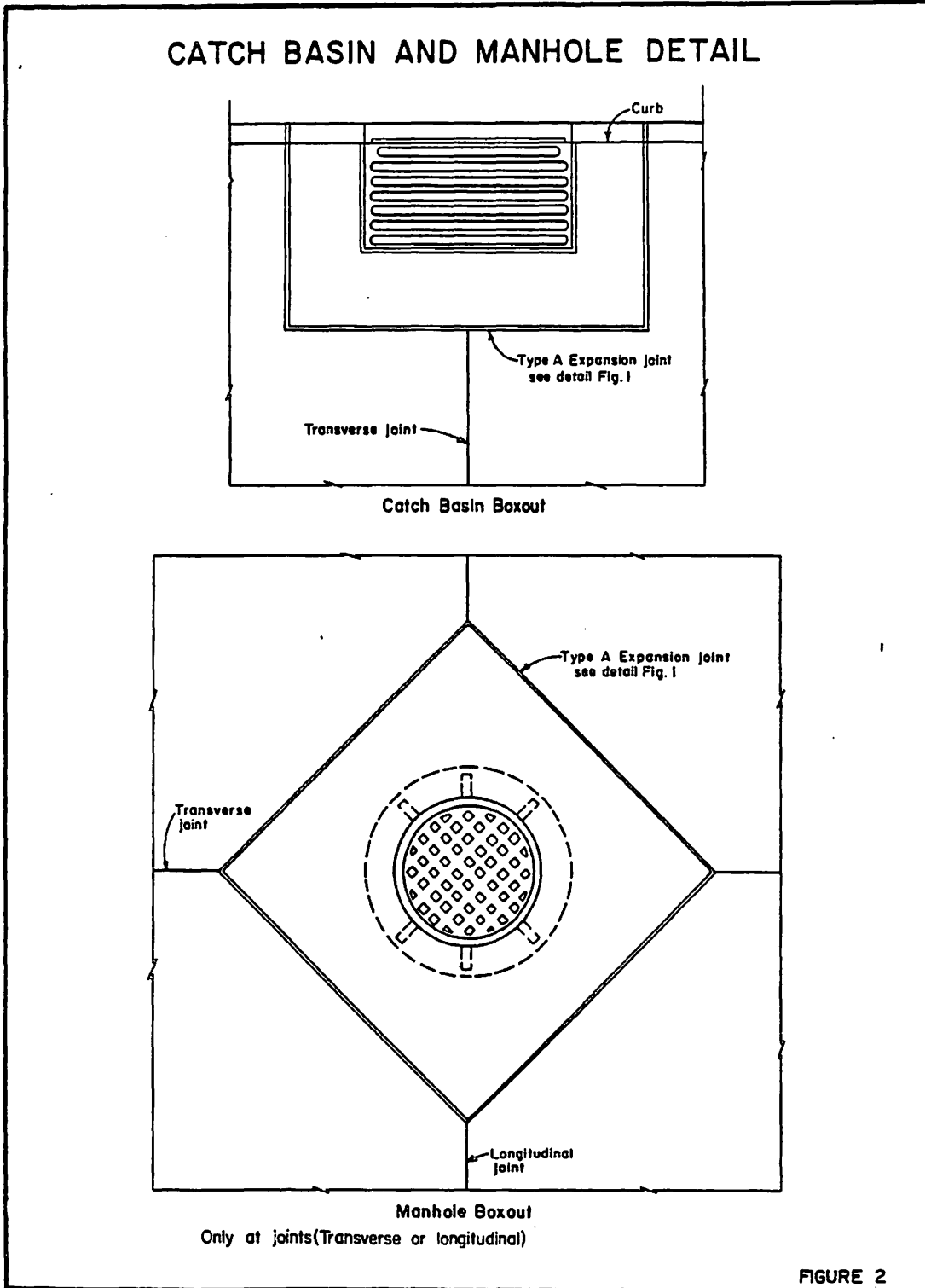
JOINT DETAILS



NOTE: If distributed steel is used, it shall be placed in the slab at a distance of two(2) inches below the top of the slab.

FIGURE 1

(Ord. 1971-2, passed 4-6-71)



(Ord. 1971-2, passed 4-6-71)



TABLE 3  
 GUIDE FOR PAVEMENT DESIGN OF CONCRETE STREETS

Design flexural strength (psi)	Pave-ment thick-ness (in.)	Subgrade k-100				Subgrade k-200				Subgrade k-300			
		Thickness satisfactory for this class of street	Will carry this axle load unlimited	Will carry this number of *		Thickness satisfactory for this class of street	Will carry this axle load unlimited	Will carry this number of *		Thickness satisfactory for this class of street	Will carry this axle load unlimited	Will carry this number of *	
				18,000 lb. axle loads	22,400 lb. axle loads			18,000 lb. axle loads	22,400 lb. axle loads			18,000 lb. axle loads	22,400 lb. axle loads
550	6	Local	11,000	3,000	200	Local	12,000	8,000	1,150	Local	13,000	14,500	2,500
	7	Collector	15,000	37,000	7,000	Collector	17,000	70,000	17,500	Collector	18,000	**	28,500
	8	Arterial	20,000	**	52,000	Arterial	22,000	**	**	Arterial	24,000	**	**
600	5	--	--	--	--	--	--	--	--	Local	10,000	1,800	100
	6	Local	12,000	7,500	1,100	Local	13,000	18,800	3,500	Collector	15,000	31,500	6,500
	7	Collector	17,000	74,000	16,500	Collector	19,000	**	35,500	Arterial	20,000	**	54,000
	8	Arterial	22,000	**	**	Arterial	25,000	**	**	Arterial	26,000	**	**
650	5	--	--	--	--	Local	10,000	2,000	150	Local	11,000	4,500	800
	6	Local	13,000	17,500	2,800	Collector	15,000	37,000	8,000	Collector	16,000	57,000	15,500
	7	Collector	19,000	**	34,000	Arterial	21,000	**	68,000	Arterial	22,000	**	**
700	5	Local	10,000	1,500	100	Local	11,000	5,000	800	Local	12,000	10,000	1,800
	6	Collector	15,000	32,500	6,000	Collector	16,000	68,000	17,500	Collector	18,000	**	29,500
	7	Arterial	20,000	**	59,000	Arterial	23,000	**	**	Arterial	25,000	**	**

\* Any pavement thickness shown will carry the number of axle loads in either the 18,000 lb. or the 22,400 lb. column, but not both.

\*\* Unlimited repetitions of this load are allowable.

K = Modulus of subgrade reaction (PSI/IN.)

NOTE: The supporting power of the subgrade (K) may be determined from plate bearing tests or by correlation with other soils of known "K" values. For those engineers familiar with the California Bearing Ratio Method (CBR) a Comparison Curve, Figure 3 is shown.

HOW TO USE THIS TABLE: (1) Determine the support available from the subgrade on which the pavement is to be built; (2) Select the concrete strength obtainable under local conditions; (3) Locate on this table the block of pavement thicknesses encompassed by the values in points 1 and 2 above, and; (4) Review the load applications allowed by the pavement thicknesses shown for the street classification in question and compare with the applications estimated over the life of the proposed pavement. If the comparison is favorable (total expected load applications equal to or less than allowable), this thickness will provide excellent service. If the comparison is unfavorable, or if the street classification is not found in this block, an investigation should be made of (a) increasing the concrete strength, or (b) increasing the pavement thickness.

### RELATIONSHIP BETWEEN CALIFORNIA BEARING RATIO AND MODULUS OF SUBGRADE REACTION

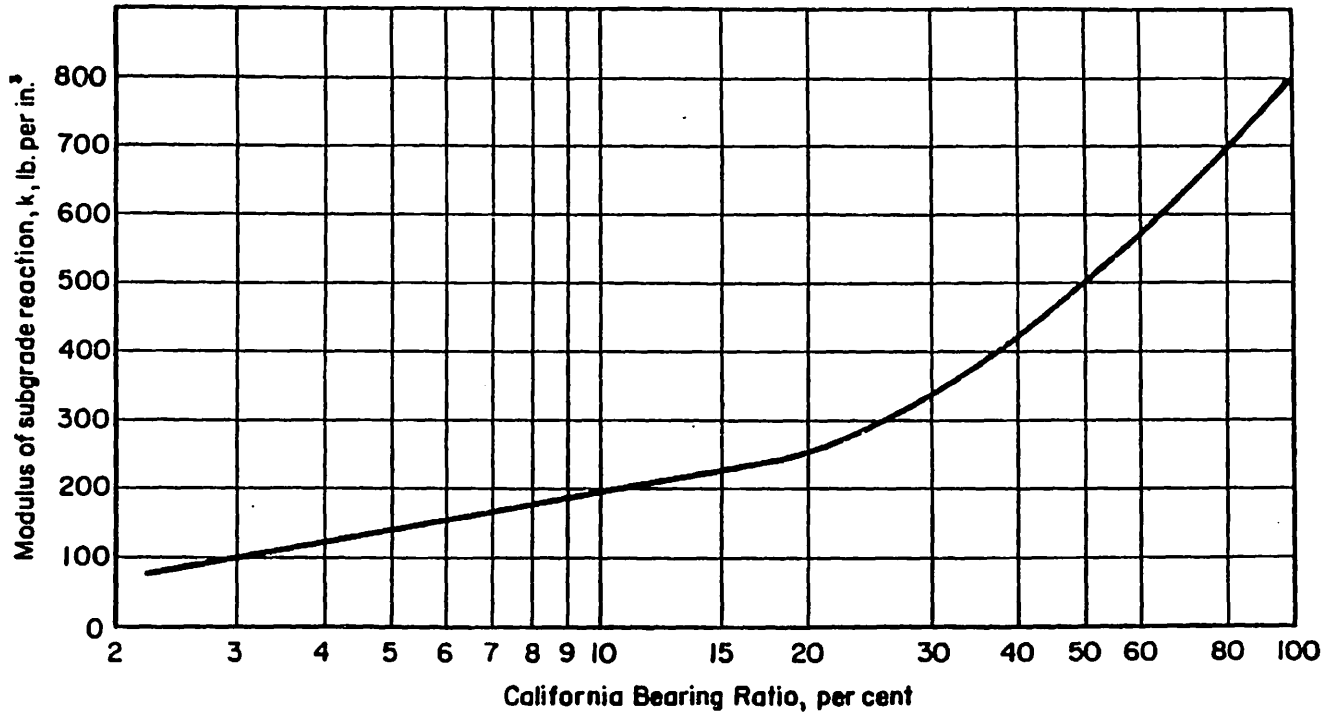


FIGURE 3

ATTACHMENT B: ASPHALT CONCRETE PAVEMENT FOR  
STREET AND DRIVEWAY CONSTRUCTION.

- Item 1. Grading
- Item 2. Preparation of existing granular base courses for surfacing
- Item 3. Asphalt pavement
- Item 4. Design of asphalt pavement structure
- Item 5. Lowering water services
- Item 6. Moving water boxes and water meters
- Item 7. Adjusting manhole tops
- Item 8. Street and traffic signs
- Table 4. Conversion factors applicable to bases
- Table 5. Composition limits for asphalt mixtures
- Table 6. Thickness requirements of surface and base courses for asphalt paved streets and driveways
- Figure 4. Determination of pavement thickness

The work covered by this item of the specifications consists of furnishing all labor, equipment, and materials and in performing all operations in connection with the construction of asphalt concrete pavement for streets and alleys in accordance with this item of the specifications and the applicable drawings.

ITEM 1.0 GRADING.

- 1.1 DESCRIPTION: This item shall consist of all grading above or below subgrade elevation, of whatever nature, required to bring the street to the proper subgrade elevation, including necessary excavation for curb, gutter, sidewalk and alley intersections, construction of embankments, excavation, and proper sloping of all cuts, and other work incidental thereto,
- 1.2 EXCAVATIONS: All excavations shall be made to approximate subgrade elevations and shall be true to grade. Material below subgrade elevation in cuts shall not be loosened by plowing or other methods during the process of the work. No excavation shall be made below subgrade elevation except to remove a spongy material, vegetable matter, or other material as ordered or approved by the Planning Commission, or its duly authorized representative. In the event the contractor does excavate any other area below subgrade elevation, he shall replace the excavated material with satisfactory material and shall thoroughly compact same.
- 1.3 EXCAVATION BELOW SUBGRADE: Whenever excavation below subgrade elevation to remove spongy material, vegetable matter, or other material is ordered by the Planning Commission, or its duly authorized representative, the contractor shall remove the same to the satisfaction of the Planning Commission, or its duly authorized representative,

and shall replace it with satisfactory material in layers not to exceed six inches in thickness and shall thoroughly compact each layer before the next layer is placed.

- 1.4 CONSTRUCTION OF EMBANKMENTS: Top soil shall be removed to eliminate all vegetation from the area upon which embankment is to be constructed. Soil so removed may not be used in construction of embankment.

Embankment shall be constructed, of approved materials, to approximate subgrade elevation in layers not to exceed six inches in thickness and extending the full width of the embankment. Each layer shall be compacted to not less than 99% of the density determined from the Test for Moisture-Density Relationship (AASHTO Designation T-99), unless otherwise directed by the Planning Commission, or its duly authorized representative, before the next layer is placed.

- 1.5 CONSTRUCTION OF SUBGRADE: Subgrade is defined as the six-inch layer of soil immediately below the plan subgrade elevation, grade, and cross section. After completion of excavation and/or embankment to approximate subgrade elevation, grade, and cross section, the subgrade shall, upon direction of the Planning Commission, or its duly authorized representative, be scarified to a depth of six inches, wetted or aerated if needed, and compacted to a density of not less than 95% of the density determined from the Test for Moisture-Density Relationship (AASHTO Designation T-99). Concurrent with compaction, the subgrade shall be shaped to plan elevation, grade and cross section.

- 1.6 EQUIPMENT FOR COMPACTION OF EMBANKMENT AND SUBGRADE: Any compaction equipment capable of uniformly producing the required embankment and subgrade densities, without lamination of, or within, successive layers, will be permitted upon approval of the Planning Commission, or its duly authorized representative. All compaction equipment shall be in good condition and shall be operated efficiently to assure uniform compaction.

- 1.7 SUBGRADE FOR CURBS, GUTTERS, SIDEWALKS, AND DRIVEWAYS: Subgrade areas to be occupied by curbs, gutters, sidewalks and driveways, shall be excavated, backfilled, as required, and compacted to established grade. This work shall be done with particular care in accordance with all requirements herein.

- 1.8 EXCESS EXCAVATION: Excavated material that is not suitable for, or required for, the construction of embankments, or the backfilling of excavations from which unsuitable material has been removed, shall belong to and be disposed of by the contractor. The contractor shall not deposit excess material on private property.

- 1.9 BORROW MATERIAL: If sufficient soil of approved quality is not available on the construction site for replacing

unsuitable material excavated and removed, or for embankment construction, the contractor shall obtain and supply suitable borrow soil for such construction.

- 1.10 EQUIPMENT OPERATED ON STREETS: The contractor shall be permitted to operate only pneumatic-tired equipment over any paved street surfaces and shall be responsible for correction of any damage to street surfaces in any manner resulting from the contractor's operation.
- 1.11 PROTECTION OF UTILITY LINES: The contractor shall, at all times, take proper precautions for the protection of utility lines, the presence of which are known, or can be determined by the examination of appropriate maps of the utility companies and the city. The contractor shall be financially responsible for the repair of any damage to such service lines.
- 1.12 PROTECTION OF MISCELLANEOUS PUBLIC AND PRIVATE INSTALLATIONS: The contractor shall, at all times, take proper precautions for the protection of and replacement or restoration of driveway culverts, street intersections, culverts or aprons, mail boxes, driveway approaches, and all other public and private installations that may be encountered during construction. Written approval for complete replacement or restoration work may be required by the Planning Commission, or its duly authorized representative.

(Ord. 1971-2, passed 4-6-71)

ITEM 2.0 PREPARATION OF EXISTING GRANULAR BASE COURSES FOR SURFACING.

- 2.1 DESCRIPTION AND GENERAL REQUIREMENTS: In areas where granular base course has been placed as a previous stage of street, or road construction, the contractor shall blade, shape and compact the base course in conformance with the required dimensions, line, grade, and cross section to permit completion of the paving work. When directed by the Planning Commission, or its duly authorized representative, additional base course aggregate shall be provided or excess aggregate removed and disposed of, by the contractor, as to provide conformance with the required roadway section.
- 2.2 THICKNESS OF SURFACING REQUIRED FOR EXISTING GRANULAR BASE COURSES: The existing thickness of granular base comprises a portion of the required design thickness as specified in Section 4.4, Attachment B of these regulations.

The existing thickness of granular base must be divided by the appropriate conversion factor, contained in Table 4, for the in-place base type to determine the portion of the design thickness, the equivalent thickness, represented by the existing granular base course. The difference between the design thickness and the equivalent thickness is the thickness of surfacing that shall be required to be

constructed over the existing granular base course. Composition and construction of the required surfacing shall meet all requirements herein specified.

(Ord. 1971-2, passed 4-6-71)

ITEM 3.0 ASPHALT PAVEMENT.

- 3.1 DESCRIPTION AND GENERAL REQUIREMENTS: This item shall consist of furnishing all materials and performing all construction procedures required to build an asphalt pavement, on prepared and approved subgrade, conforming to the requirements of these specifications and to the pavement designs shown on the approved plans. It may include any, or all, but is not necessarily limited to, materials and methods specified under this Item (Item 3).

Asphalt pavement shall consist of an asphalt concrete surface course, or courses, constructed on a base course, or courses, and/or subbase course designed in compliance with the requirements of Item 4.4 of Attachment B of these regulations.

Successive layers of the pavement shall be offset from the edge of the underlying layer a distance equal to the course thickness of the lower layer except when abutting existing construction. When the asphalt layers of the pavement abuts a building foundation, barrier curb or similar vertical surface, the abutting surface shall be heavily painted with asphalt prior to construction of the asphalt course. The surface course shall be finished 1/4 inch above adjacent flush construction to permit proper compaction.

All catch basins, in pavement with granular base, shall be constructed with weep holes, at subbase level, to provide for drainage of seepage water from the granular layer. Weep holes shall be constructed of pipe, or other approved material, having an opening not less than 1.5 inches clear opening. Suitable provisions shall be made to prevent clogging of the opening. Three or more weep holes shall be suitably located around the perimeter of each catch basin.

3.2 MATERIALS AND CONSTRUCTION REQUIREMENTS

3.2.1 ASPHALT CONCRETE SURFACE COURSE: Asphalt concrete surface course materials and construction shall conform to the current requirements of the Kentucky Department of Highways for Asphalt Concrete Surface, Class I. Surface course mixture composition may conform to the requirements of either surface course I or II as set forth in Table 5. Minimum asphalt concrete surface course thickness shall be as stated in Table 6 of these regulations.

3.2.2 ASPHALT CONCRETE BASE COURSE: Asphalt concrete base course materials and construction shall

conform to the current requirements of the Kentucky Department of Highways, Specifications for Asphalt Concrete Base Course, Class I, except as noted herein.

Composition requirements of the mixture shall conform to the gradation limits for asphalt concrete base Course I or II set forth in Table 5. Asphalt content used shall fall within the range shown and shall be approved by the Planning Commission, or its duly authorized representative.

Uncrushed gravel and natural sand may be used as aggregate provided all other requirements of the specification are complied with.

3.2.3 ASPHALT TREATED BASE COURSE: Asphalt treated base course materials and construction procedures shall conform to the following requirements:

Aggregates may be crushed or uncrushed material conforming to the gradation requirements, shown in Table 5 for either base III or base IV. The aggregate shall be composed of hard durable particles and shall contain no more than a total of 5% deleterious substances. The sand equivalent of the aggregate shall not be less than 25 when tested in accordance with AASHTO Designation: T-176-56. The liquid limit of that portion of the aggregate finer than a No. 40 sieve shall not exceed 25 nor the plasticity index exceed six when tested in accordance with AASHTO Designations: T-89 and T-91 respectively.

Asphalt cement shall conform to cement requirements of the Kentucky Department of Highways for penetration grades 60-70 or 85-100. Asphalt content shall be within the limits shown in Table 5.

The contractor shall set a single gradation and asphalt content, within the specified limits, as the Job Mix Formula to be used on the project. This formula must be approved by the Planning Commission, or its duly authorized representative, prior to use. Gradation and asphalt content may vary during construction within the following tolerances:

% Passing 3/4" or 3/8" Sieve	- +	10%
% Passing No. 8 Sieve	- +	8%
% Passing No. 50 Sieve	- +	6%
% Passing No. 100 Sieve	- +	3%
% Asphalt	- +	.4%

Other construction requirements shall conform to

those specified by the Kentucky Department of Highways for Asphalt Concrete except that a gradation unit on the plant shall not be required provided the aggregate can be controlled by other means to produce a consistently uniform gradation.

### 3.2.4 CRUSHED AGGREGATE BASE COURSE

3.2.4.1 DESCRIPTION: Crushed aggregate base course, when provided for in the approved structural design of the pavement, shall consist of a granular layer constructed on prepared subgrade or subbase in accordance with these specifications and in conformity with the approved dimensions, lines, grades, and cross sections.

3.2.4.2 MATERIALS AND CONSTRUCTION METHODS: Crushed aggregate base course shall conform to all the current requirements for materials and construction methods of the Kentucky Department of Highways for dense graded aggregate base course except that 100% crushed gravel (at least one major crushed face on all aggregate coarser than a No. 4 sieve) may be used. When use of a crushed gravel is elected, aggregate shall conform to all other requirements of the referenced specification. In addition, fine aggregate (finer than a No. 4 sieve shall consist of angular particles produced from crushing larger gravel particles. If necessary, fine aggregate produced from crushed stone may be blended, by approved mechanical methods, at the mixing plant to produce the required gradation.

### 3.2.5 GRANULAR SUBBASE COURSE

3.2.5.1 DESCRIPTION: Subbase, when provided for in the approved structural design of the pavement, shall consist of a granular layer conforming to the following material and construction specifications.

3.2.5.2 AGGREGATE REQUIREMENTS: Material for granular subbase may be crushed or uncrushed aggregate containing no more than a total of 5% deleterious substances, such as, but not limited to, shale, soft particles, coal, or lignite. The subbase aggregate shall have a sand equivalent, as determined from AASHO



Designation T-176, of not less than 25. That portion of the aggregate passing a No. 40 sieve shall have a liquid limit of not more than 25 and a plasticity index of not more than six when tested in accordance with AASHO Designations T-89 and T-91, respectively. Gradation of granular subbase shall be reasonably uniform and consistent and shall conform to the gradation requirements set forth in Table 5 for asphalt treated base III or IV.

3.2.5.3 CONSTRUCTION OF SUBBASE: Subbase shall be constructed on completed and approved subgrade to the required dimensions, grade, and cross section. Aggregate shall be spread by mechanical spreaders, or other equipment approved by the Planning Commission, or its duly authorized representative, capable of spreading material uniformly in layers not exceeding six inches compacted depth. Subbase shall be compacted with approved equipment to not less than 100% AASHO Designation T-99 density.

3.2.6 ASPHALT PRIME COAT: Asphalt prime coat shall be applied to the surface of granular courses upon which asphalt base or surface courses will be constructed.

Asphalt prime shall conform to the Kentucky Department of Highways requirements for cutback asphalt emulsion primer type L. Prime shall be applied to the surface of granular base course at a rate of 0.20 to 0.40 gallons per square yard, as directed by the Planning Commission, or its duly authorized representative, in conformance with requirements of the referred to specification.

3.2.7 ASPHALT TACK COAT: Tack coat shall consist of SS-1h, meeting the current requirements of the Kentucky Department of Highways. It shall, when directed by the Planning Commission, or its duly authorized representative, be diluted with equal parts of water. Application equipment and procedure shall conform to the requirements of the Kentucky Department of Highways for Tack coats. Tack Coat shall be applied to the surface of asphalt courses that have become dusty or dry from traffic use before the subsequent course is constructed or in other circumstances when the Planning Commission, or its duly authorized representative, so directs.

ITEM 4.0 DESIGN OF ASPHALT PAVEMENT STRUCTURE.

- 4.1 DESCRIPTION: Asphalt pavement structures for subdivision streets shall be designed in conformance with the requirements of this specification. Thickness of the total pavement, and of component layers, shall be determined on the basis of street classification, subgrade support, and relative strength of component materials in compliance with the procedures hereinafter set forth. Two design procedures are provided and either may be used. The first provides minimum thickness standards for each street classification and soil classification. The second provides for adjustment of pavement design thickness for each street classification to reflect the measured subgrade strength.
- 4.2 STREET CLASSIFICATION: Subdivision streets are classified into three groups - local, collector, and arterials. These street classifications are defined in Article II of these regulations.
- 4.3 SUBGRADE SUPPORT: Soil support shall be determined from one of the following procedures:
- 4.3.1 CALIFORNIA BEARING RATIO: Representative samples of soil, or soils, to be used in construction of the subgrade, or from prepared subgrade, shall be tested in accord with the current requirements of the Kentucky Department of Highways Test Procedure for California Bearing Ratio (CBR) except that the CBR-value at 0.1 inch penetration shall be used.
- 4.3.2 SOIL CLASSIFICATION: Soil to be used, or that has been used, for subgrade construction shall be sampled and classified in accordance with AASHO Designation M-147. Soil ratings to express their relative effectiveness as subgrade for design purposes are designated as soil groups A, B, or C in terms of the referred to street classification system. Where prior testing has established typical classification for frequently encountered soils, the Planning Commission, or its duly authorized representative, may approve designation of a soil group without additional tests. Soil groups are defined as follows:
- Soil Group A - Granular soils that drain well; sand, gravel, or combinations of sand and gravel. This soil group includes AASHO Soil Classifications A-1a, A-1-b, A-2-4, A-2-5, and A-3.
- Soil Group B - Soils, including silty-clay, sandy-clay and sands or gravels containing considerable silt and clay, which retain considerable strength when wet. This soil group includes AASHO Soil Classifications A-2-6, A-4, and

some A-6 soils. A-6 soils included are those having a group index of ten or less.

Soil Group C - Heavy clay soils, that lose most of their strength when wet, and highly resilient silts. This soil group includes AASHO Soil Classifications A-5 and A-6 soils having a group index greater than ten, A-7 and A-2-7.

4.4 PAVEMENT THICKNESS REQUIREMENTS: Thickness of component layers of the pavement for streets and driveways and of the total pavement structure shall be determined by one of the following methods:

4.4.1 Method A: Method A shall apply when subgrade strength tests (CBR) are not available. Design thickness of both the total pavement and its components shall be determined from Table 6 for the appropriate soil classification and street classification.

4.4.2 Method B: Method B shall apply when subgrade soil has been tested to determine its representative California Bearing Ratio (CBR). Required design thickness for the appropriate street classification shall be determined from Figure 4 for asphalt pavement thickness. Thickness determined from this Figure, for any street classification and CBR-value, will be in inches of asphalt concrete surface and base and the design thickness.

Base types, herein specified, other than asphalt concrete base type I or type II may be used. These other base types are asphalt base type III or type IV, granular base and/or subbase as herein specified. When bases other than asphalt concrete are used, the minimum thickness of asphalt concrete surface course, type I or type II for the base type selected, as specified in Table 6, shall be used.

(Ord. 1971-2, passed 4-6-71)

#### ITEM 5.0 LOWERING WATER SERVICES.

5.1 DESCRIPTION AND REQUIREMENTS: When directed by the Planning Commission, or its duly authorized representative, water services encroaching on construction shall be lowered to conform to requirements of the new cross section and other construction details.

Any work involving the cutting of water pipe in connection with this item or with other items in the contract shall be subject to inspection and approval by the Campbell County Water District Number One.

(Ord. 1971-2, passed 4-6-71)

ITEM 6.0 MOVING WATER BOXES AND WATER METERS.

6.1 DESCRIPTION: When directed by the Planning Commission, or its duly authorized representative, water stop boxes or water meters encountered shall be relocated subject to the approval of the Campbell County Water District Number One.

(Ord. 1971-2, passed 4-6-71)

ITEM 7.0 ADJUSTING MANHOLE TOPS.

7.1 DESCRIPTION: The contractor shall raise or lower existing manhole tops to coincide with the finished grade elevation of the paving.

(Ord. 1971-2, passed 4-6-71)

ITEM 8.0 STREET AND TRAFFIC SIGNS.

8.1 DESCRIPTION: This item shall consist of the removal and replacement of all street signs which are in place. The signs shall be removed as the work progresses in such manner as to avoid any damage to the signs. They shall than be replaced as directed by the Planning Commission, or its duly authorized representative. In the event any stop signs or traffic direction signs are removed and traffic is permitted across the intersection so affected, the contractor shall furnish such portable signs or other protection as may be necessary for the proper handling of the traffic, including the furnishing of flagmen at particularly dangerous intersections.

(Ord. 1971-2, passed 4-6-71)

TABLE 4

## CONVERSION FACTORS APPLICABLE TO BASES

Base Material	Conversion Ratio
Asphalt Concrete	1.0
Asphalt Treated Base, Gradations III or IV	1.0
Granular Base	
Granular Subbase	

*Passes*

Note: The Conversion Factor for each material, multiplied by the thickness of Concrete to provide the same degree of performance.

ach

*1000 + 2 = 1000*

TABLE  
COMPOSITION LIMITS FOR

Sieve Size	Percent Pass. by weight					
	Asphalt Concrete				Asph. Treated Base	
	Base I	Base II	Surface I	Surface II	Base III	Base IV
1 1/2"	100	--	--	--	100	--
1"	85-100	100	--	--	--	--
3/4"	--	80-100	--	--	70-100	100
1/2"	50-80	--	100	100	--	--
3/8"	--	54-76	80-100	--	40-80	70-100
No. 4	30-50	37-57	55-75	75-95	--	--
No. 8	25-45	25-45	35-60	60-85	25-60	40-100
No. 16	15-35	15-35	25-50	45-70	--	--
No. 50	5-20	5-20	9-21	15-40	5-30	15-50
No. 100	3-10	3-10	5-14	5-25	3-15	5-25
No. 200	--	--	3-7	4-10	--	--
% Asphalt	3.5-6.0	4.0-7.0	5.0-8.0	6.0-9.0	3.5-6.0	4.0-8.0

(Ord. 1971-2, passed 4-6-71)

TABLE 6  
THICKNESS REQUIREMENTS OF SURFACE AND BASE COURSES  
FOR ASPHALT PAVED STREETS AND DRIVEWAYS

STREET CLASSIFICATION	SOIL CLASSIFICATION	PAVEMENT DESIGN										DESIGN TRAFFIC
		Total Minimum Thickness (Method 1)		Total Minimum Thickness (Method 2)		Total Minimum Thickness (Method 3)			Total Minimum Thickness (Method 4)			
		Surface Type I or II (Inch)	Base Type I or II (Inch)	Surface Type I or II (Inch)	Base Type III or IV (Inch)	Min. Surface Type I or II (Inch)	Min. Base Type I or II (Inch)	Min. Granular Base (Inch)	Min. Surface Type I or II (Inch)	Min. Base Type I or II (Inch)	Min. Granular Subbase (Inch)	
Local	A	1	4	2	4	1	2	4	1	3	4	Local street based on Method 1 through 4 will carry 21,900 repetition of 18,000 lb. axle load or 9,640 repetition of a 22,400 lb. axle load.
	B	1	5	2	5	1	2	6	1	3	6	
	C	1	6	2	6	1	2	8	1	3	9	
Collector	A	1	5	2	5	1	3	4	1	4	4	Collector street based on Method 1 through 4 will carry 73,000 repetition of an 18,000 lb. axle load or 32,500 repetition of a 22,400 lb. axle load.
	B	1	6.5	2	7	1	3	7	1	4	8	
	C	1	8	2	9	1	3	10	1	4	10	
Arterial	A	1	7	2	8	1	5	4	1	5	6	Arterial street based on Method 1 through 4 will carry 730,000 repetition of an 18,000 lb. axle load or 325,000 repetition of a 22,400 lb. axle load.
	B	1	8.5	2	10	1	5	7	1	5	11	
	C	1	10.5	2	12	1	5	11	1	5	17	
Driveway	A	1	4	2	4	1	2	4	---	---	---	---
	B	1	5	2	5	1	2	6	---	---	---	
	C	1	6	2	6	1	2	8	---	---	---	

NOTE: (1) Methods 1 through 4 will produce approximately the same pavement quality and strength.

(2) Selection of the method shall be at contractor's option.

(3) Following designations pertinent to surface and base type used in this table correspond to Kentucky Department of Highways standard specifications:

Surface Type I - Class I, Type A (State Highway Designation)  
 Surface Type II - Class I, Type L (State Highway Designation)  
 Base Type I - Class I, Base (State Highway Designation)  
 Base Type II - Class I, Binder (State Highway Designation)

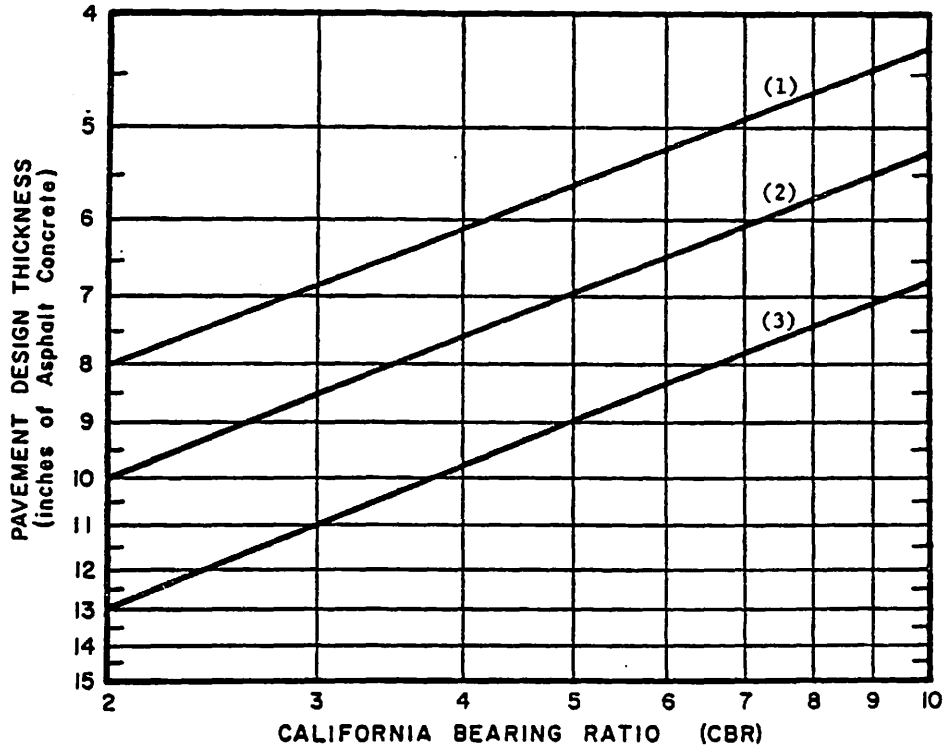
Base Type III and IV will be a local mix and shall be in conformity to the composition limits set forth in Table 5.  
 Granular base and granular subbase of methods 3 and 4 shall conform to composition limits specified in sections 3.2.4 and 3.2.5, respectively.

HOW TO USE THIS TABLE: (1) Locate on this table the appropriate street classification; (2) Determine the appropriate soil classification relative to the subgrade; (3) Select a method for total minimum thickness determination and; (4) Based on points 1, 2 and 3 above, obtain the required minimum thickness. If the street classification is not found in this table, an investigation should be made to increase the pavement thickness.

DAYTON - ATTACHMENT B

FIGURE 4

## DETERMINATION OF PAVEMENT THICKNESS



## Curves:

- (1) Local Streets\*
- (2) Collector Streets\*
- (3) Arterial Streets

## How to use this Chart:

1. Determine Subgrade CBR-value
2. Determine Street Classification.
3. Locate CBR-value on Horizontal Scale.
4. Draw line vertically from CBR-value to intersect diagonal line representing Street Classification.
5. From intersection of CBR line and Street Classification line, draw horizontal line to intersect vertical scale on left margin.
6. Read thickness, in inches of Asphalt Concrete, from left scale.
7. To use granular base, deduct surface course thickness from Chart Thickness and multiply remaining thickness by two (2). Product is thickness of granular base required.

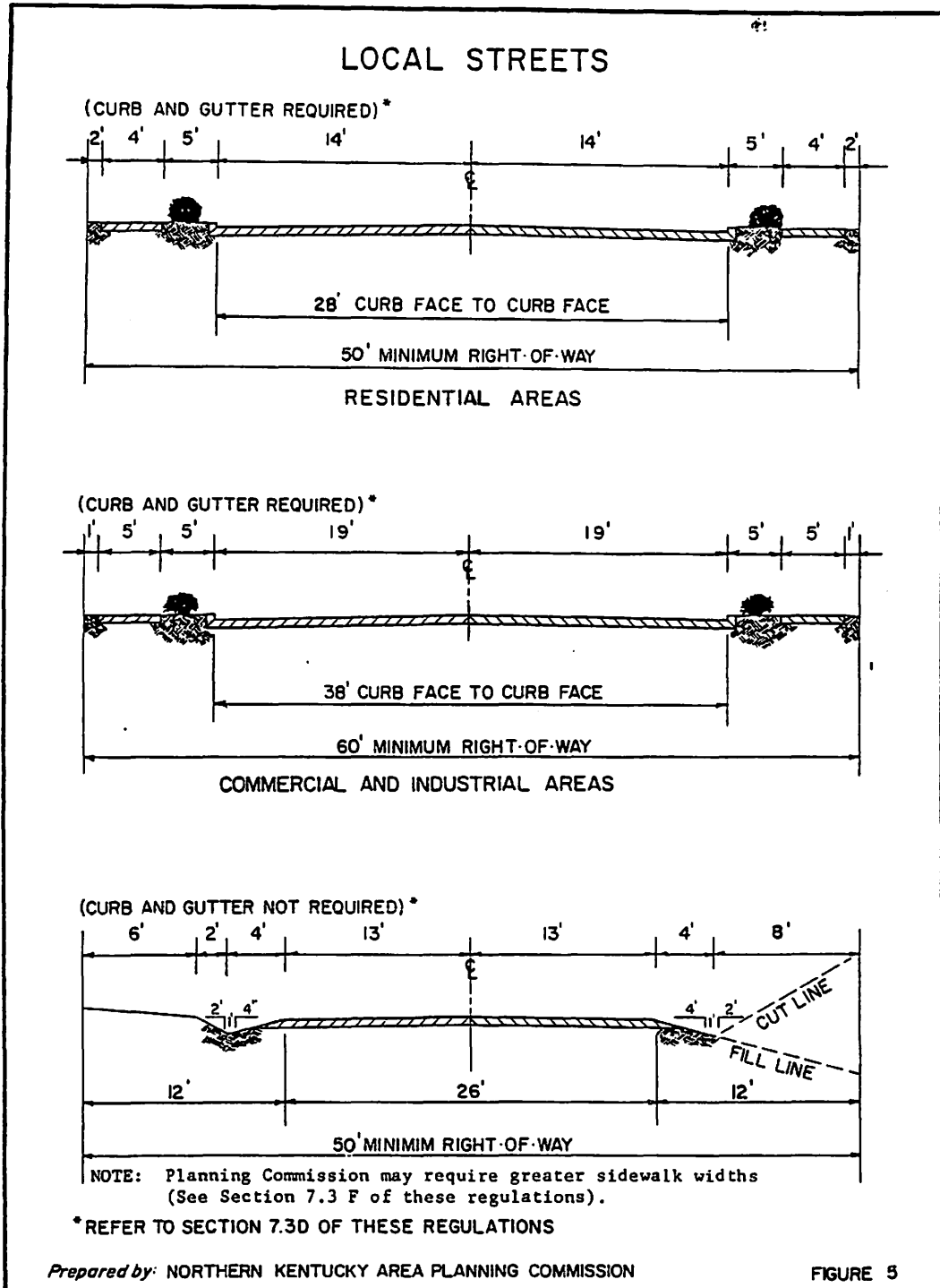
\* Where such streets serve industrial or commercial areas, a larger pavement thickness shall be required as approved by the Planning Commission.



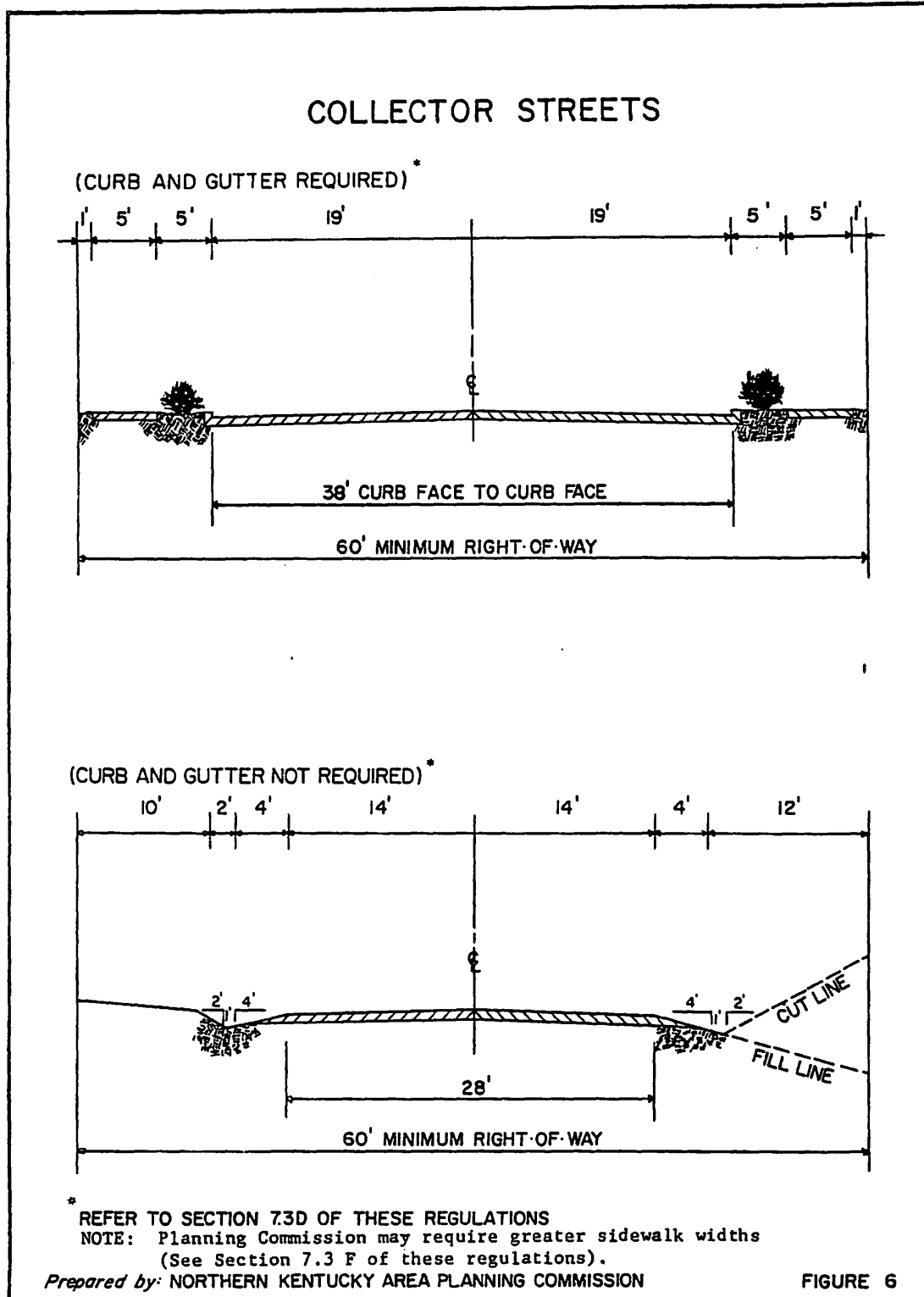


**ATTACHMENT C: TYPICAL STREET CROSS SECTIONS**

Figure 5. Local Streets  
 Figure 6. Collector Streets



(Ord. 1971-2, passed 4-6-71)



ATTACHMENT D: CERTIFICATES, ACKNOWLEDGEMENTS, AND APPROVALS

Following, herewith, are representative certificates, acknowledgements, and approvals to be used on final plats, in accordance with Article V of these regulations. These certificates, acknowledgements, and approvals may be modified with the Commission's approval. Phrases shown in parentheses in these certificates shall be used if pertinent. All signatures must be written with black, waterproof, india ink. Provisions shall be made on each signature line for large signatures and date.

Reference to Sections 5.0 (A)(17)(a), 5.0 (A)(17)(b), and 5.0(A)(17)(e)

A. DEDICATION CERTIFICATE:

KNOW ALL MEN BY THESE PRESENTS: That I (we), the undersigned owner(s), mortgagee(s) or lienholder(s) being the only party (parties) with title interest in those lands described below, have laid out, subdivided and platted the same into lots, blocks, streets and public ways as shown here or under the name and style of \_\_\_\_\_, and do, by these presents, grant, dedicate and convey to the city of Dayton, state of Kentucky, for public use, all streets, public ways and drainage easements and one (1) foot strip designated as tract(s) \_\_\_\_\_ for non-road purposes (if applicable) to the city of Dayton, reserved to and for the use of all present and future owners of lots and tracts in this subdivision, easement over and across said lots and tracts as shown hereon, for the construction, maintenance and operation of utilities.

LEGAL DESCRIPTION:

SAID PARCEL CONTAINS \_\_\_\_\_ ACRES

In witness whereof \_\_\_\_\_  
as owner(s), has hereunto caused name to be signed and its  
corporate seal (if applicable) to be affixed by the undersigned  
officers, there unto duly authorized this \_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_.

All individuals shall sign their names as shown on the Deed of Ownership, or as shown on Deeds of Trust, mortgages, liens, etc. Corporation ownership or interest shall be shown by the official signatures of the president and secretary. The full name of the corporation shall be shown above their signatures.

ACKNOWLEDGEMENT:

CITY OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) s.s.  
STATE OF KENTUCKY )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_,  
19 \_\_\_\_.

By: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Reference to Section 5.0(A)(17)(d) of these regulations

**B. SURVEYOR'S CERTIFICATE:**

I, \_\_\_\_\_ (Surveyor's name - printed) a Registered Land Surveyor in the State of Kentucky, do hereby certify that the survey of \_\_\_\_\_ (subdivision name) was made by me (or under my supervision), and that the accompanying plat accurately and properly shows said subdivision and the survey thereof.

\_\_\_\_\_  
(Signature)

Registered Land Surveyor No. \_\_\_\_\_

Reference to Section 5.0(A)(17)(c) of these regulations

**C. TITLE COMPANY'S OR ATTORNEY'S CERTIFICATE:**

This title company (or attorney) \_\_\_\_\_ licensed to practice in the State of Kentucky, do hereby certify that we (I) have examined the title to all lands described herein, as shown on said plat, and verify that the title of all such lands is in the owners name and is free and clear of all liens and encumbrances (and, if pertinent, "Except for deed of trust, mortgage, lien and etc. recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_, City of \_\_\_\_\_, Records").

\_\_\_\_\_  
Signature of responsible official of  
Title Company or Attorney

Reference to Section 5.0(A)(17)(g) of these regulations

**D. APPROVAL CERTIFICATES:**

Approved by the Planning and Zoning Board of the city of Dayton, Campbell County, Kentucky this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 19 \_\_\_\_\_.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

Reference to Section 5.0(A)(17)(g) of these regulations

E. ACCEPTANCE CERTIFICATE

The city of Dayton, state of Kentucky, hereby accepts for maintenance, all improvements as defined in the construction agreement. The (city of Dayton -- or other applicable public body) hereby accepts, in fee simple, lands to be dedicated for public use as defined on the final plat (if applicable).

CITY COUNCIL

(or other appropriate public officer of the applicable agency accepting land).

\_\_\_\_\_  
Clerk (if applicable)

\_\_\_\_\_  
Mayor (if applicable)

Reference to Section 5.0(A)(17)(h) of these regulations

F. CLERK AND RECORDER'S CERTIFICATE

Accepted for filing in the office of the County Clerk and Recorder of Campbell County at city of Dayton, county of Campbell, state of Kentucky, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19 \_\_\_\_\_.

Reception No. \_\_\_\_\_  
Time \_\_\_\_\_

\_\_\_\_\_  
County Clerk and Recorder

Reference to Section 5.0(A)(17)(f) of these regulations

G. OTHER DOCUMENTS

Such other affidavits, certificates, acknowledgements, endorsements, and notarial seals as are required by law by these regulations shall be of the form and substance approved by the Planning Commission.

(Ord. 1971-2, passed 4-6-71)



ATTACHMENT E: APPLICATION FORMS

APPLICATION FOR CONSIDERATION  
OF  
PRELIMINARY PLAT

CITY OF DAYTON, COUNTY OF CAMPBELL  
STATE OF KENTUCKY

I, (We), the undersigned, hereby make application to the Planning Commission for review and approval of the Preliminary Plat: \_\_\_\_\_

(Name of Preliminary Plat)

The Preliminary Plat shall not be accepted for review unless all the following items and requirements are on the Preliminary Plat or attached thereto, submitted at the time of filing.

PRELIMINARY PLAT REQUIREMENTS

1. Eight (8) blue or black line copies of the Preliminary Plat meeting the requirements of Article IV.
2. Two (2) copies of this application for Preliminary Plat approval.
3. Two (2) copies of a statement that zoning requirements will be met.
4. Three (3) copies of the description of soil conditions.
5. Two (2) copies of a statement by appropriate public bodies insuring water and sewer service (except in the case of sewer service where individual on-site disposal systems have been approved as per Section 7.1 (c) of these regulations, two (2) copies of a permit to use on-site disposal systems and two (2) copies of a letter showing the results of percolation tests, approved by the County Health Department shall be required).
6. Preliminary Plat Fees.

ITEMS ACCOUNTED FOR

FEE OWNERS OF AREA BEING PLATTED:

NAME: \_\_\_\_\_ ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

NAME: \_\_\_\_\_ ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

DAYTON - ATTACHMENT E

I, (We), do hereby understand that this plat and the development of this area shall comply with all the requirements of the state of Kentucky, pertaining to the zoning, subdividing and development of land within Dayton and that this plat shall not be accepted for review until all required items have been submitted in the proper manner, to the Planning Commission, or its duly authorized representative, and all required fees have been paid and received by the Planning Commission, or its duly authorized representative.

\_\_\_\_\_  
Owner or Duly Authorized Agent's Signature

CITY OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) s.s.  
STATE OF \_\_\_\_\_ )

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

BY: \_\_\_\_\_  
Notary Public Signature

My Commission Expires: \_\_\_\_\_

-----  
FOR PLANNING COMMISSION USE ONLY

DATE RECEIVED: \_\_\_\_\_ PLAT NAME: \_\_\_\_\_

MAP # \_\_\_\_\_ DATE PLANNING COMMISSION WILL REVIEW PLAT: \_\_\_\_\_

PRELIMINARY PLAT INFORMATION DISTRIBUTED TO: CITIZENS TELEPHONE COMPANY \_\_\_\_\_

\_\_\_\_\_, UNION LIGHT, HEAT AND POWER COMPANY \_\_\_\_\_, CAMPBELL COUNTY

WATER DISTRICT NUMBER ONE (1) \_\_\_\_\_, NORTHERN KENTUCKY AREA PLANNING

COMMISSION \_\_\_\_\_, SANITATION DISTRICT OF CAMPBELL AND KENTON COUNTIES,

DISTRICT NO. 1 \_\_\_\_\_, SOIL CONSERVATION SERVICE \_\_\_\_\_.

PLANNING COMMISSION ACTION: Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_

Conditions: \_\_\_\_\_

Fee: \_\_\_\_\_

Total Amount: \_\_\_\_\_

\_\_\_\_\_  
PAID STAMP



DAYTON - ATTACHMENT E

APPLICATION FOR CONSIDERATION  
OF  
PRELIMINARY PLAT

CITY OF DAYTON, COUNTY OF CAMPBELL  
STATE OF KENTUCKY

I, (We), the undersigned, hereby make application to the Planning Commission for review and approval of the Preliminary Plat: \_\_\_\_\_  
(Name of Preliminary Plat)

The Preliminary Plat shall not be accepted for review unless all the following items and requirements are on the Preliminary Plat or attached thereto, submitted at the time of filing.

PRELIMINARY PLAT REQUIREMENTS

1. Eight (8) blue or black line copies of the Preliminary Plat meeting the requirements of Article IV.
2. Two (2) copies of this application for Preliminary Plat approval.
3. Two (2) copies of a statement that zoning requirements will be met.
4. Three (3) copies of the description of soil conditions.
5. Two (2) copies of a statement by appropriate public bodies insuring water and sewer service (except in the case of sewer service where individual on-site disposal systems have been approved as per Section 7.1 (c) of these regulations, two (2) copies of a permit to use on-site disposal systems and two (2) copies of a letter showing the results of percolation tests, approved by the County Health Department shall be required).
6. Preliminary Plat Fees.

ITEMS ACCOUNTED FOR

FEE OWNERS OF AREA BEING PLATTED:

NAME: \_\_\_\_\_ ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

NAME: \_\_\_\_\_ ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

I, (We), do hereby understand that this plat and the development of this area shall comply with all the requirements of the state of Kentucky, pertaining to the zoning, subdividing and development of land within Dayton and that this plat shall not be accepted for review until all required items have been submitted in the proper manner, to the Planning Commission, or its duly authorized representative, and all required fees have been paid and received by the Planning Commission, or its duly authorized representative.

\_\_\_\_\_  
Owner or Duly Authorized Agent's Signature

CITY OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) s.s.  
STATE OF \_\_\_\_\_ )

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

BY: \_\_\_\_\_  
Notary Public Signature

My Commission Expires: \_\_\_\_\_

-----  
FOR PLANNING COMMISSION USE ONLY

DATE RECEIVED: \_\_\_\_\_ PLAT NAME: \_\_\_\_\_

MAP # \_\_\_\_\_ DATE PLANNING COMMISSION WILL REVIEW PLAT: \_\_\_\_\_

PRELIMINARY PLAT INFORMATION DISTRIBUTED TO: CITIZENS TELEPHONE COMPANY \_\_\_\_\_  
\_\_\_\_\_, UNION LIGHT, HEAT AND POWER COMPANY \_\_\_\_\_, CAMPBELL COUNTY  
WATER DISTRICT NUMBER ONE (1) \_\_\_\_\_, NORTHERN KENTUCKY AREA PLANNING  
COMMISSION \_\_\_\_\_, SANITATION DISTRICT OF CAMPBELL AND KENTON COUNTIES,  
DISTRICT NO. 1 \_\_\_\_\_, SOIL CONSERVATION SERVICE \_\_\_\_\_.

PLANNING COMMISSION ACTION: Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_

Conditions: \_\_\_\_\_

Fee: \_\_\_\_\_

Total Amount: \_\_\_\_\_

\_\_\_\_\_  
PAID STAMP

CHAPTER 156: HISTORIC PRESERVATION

Section

- 156.01 Declaration of purpose and public policy
- 156.02 Definitions
- 156.03 Board of Architectural Review established
- 156.04 Powers and duties of Board
- 156.05 Nominations to National Register of Historic Places
- 156.06 Designation of landmark and landmark sites and historic districts
- 156.07 Approval of changes to landmarks, landmark sites, and property in historic districts
- 156.08 Conformity with certificate of appropriateness
- 156.09 Maintenance and repair of landmarks, landmark sites and property in historic districts
- 156.10 Exemption
  
- 156.99 Penalty

§ 156.01 DECLARATION OF PURPOSE AND PUBLIC POLICY.

City Council finds as follows:

(A) That buildings and neighborhoods having historic, architectural or cultural interest and value have been neglected, altered or destroyed notwithstanding the feasibility and desirability of preserving and continuing the use of such buildings and neighborhoods and without adequate consideration of the irreplaceable loss to the public.

(B) That the historic character of Dayton is of vital importance in maintaining the economy of the city and that its historic buildings and neighborhoods can be preserved, improved and used by means of appropriate changes.

(C) That Dayton has well-established residential and business districts and that the history of the city is shown today through buildings representing the activities and events during its growth. And that the city has buildings and areas that represent the persons who live and work or have lived and worked in Dayton during a period of more than one hundred (100) years. And that the distinctive and significant character of this city can only be maintained by protecting and enhancing its historic, architectural and cultural heritage and by preventing unnecessary injury or destruction of its landmarks and historic districts which are civic and community assets.

(D) That the federal and Kentucky governments have passed laws to protect and preserve landmarks and historic districts, that some of these laws provide incentives for historic preservation, and that the National Historic Preservation Act permits the establishment of a

certified local government program creating a new federal-state-local partnership to encourage the efforts by cities to protect and preserve their landmarks and historic districts.

(E) That individual historic preservation projects have already been undertaken in Dayton and that this chapter will encourage additional preservation work that will be important in achieving the goals of the city.

(F) That this chapter benefits all the residents of Dayton and all the owners of property.

(G) That it is a matter of public policy that the preservation, protection and use of landmarks and historic districts is a public necessity because they have a special character or a special historic, architectural or cultural interest and value and thus serve as visible reminders of the history and heritage of this city, state and nation. Further it is a matter of public policy that this chapter is required in the interest of the health, prosperity, safety, welfare and economic well-being of the people.

(H) That the purpose of this chapter is to effect the goals as set forth in the above findings and declarations of public policy and specifically, but not exclusively, to:

(1) Accomplish the preservation, protection and use of historic landmarks, landmark sites and districts having a special character or special historic, architectural or cultural interest and value to this city, state and nation;

(2) Promote the educational, cultural, economic and general welfare of the people and safeguard the city's history and heritage as reflected in such landmarks, sites and districts;

(3) Stabilize and improve property values in such districts and in the city as a whole;

(4) Foster civic pride in the value of notable accomplishments of the past;

(5) Strengthen the economy of the city;

(6) Protect and enhance the city's attraction to residents, tourists and visitors and serve as a support and stimulus to business; and

(7) Enhance the visual and aesthetic character, diversity and interest of the city.

(Ord. 2007-4, passed 2-6-07)

§ 156.02 DEFINITIONS.

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

"BOARD." The Dayton Board of Architectural Review.

"CERTIFIED LOCAL GOVERNMENT." A government meeting the requirements of the National Historic Preservation Amendment Act and implementing regulations of the U.S. Department of the Interior and the Kentucky Heritage Council.

"DEMOLITION." Any act that destroys in whole or in part a landmark or a building or structure in a historic district or on a landmark site.

"HISTORIC DISTRICT." An area meeting one (1) or more of the criteria contained in § 156.06(E).

"LANDMARK." A building, structure or site meeting one (1) or more of the criteria contained in § 156.06(E).

"LANDMARK SITE." The land on which a landmark and related buildings and structures are located and the land that provides the grounds, the premises or the setting for a landmark.  
(Ord. 2007-4, passed 2-6-07)

§ 156.03 BOARD OF ARCHITECTURAL REVIEW ESTABLISHED.

(A) There is hereby established the Dayton Board of Architectural Review. The Board shall consist of five (5) members appointed by the Mayor and approved by the City Council. The members shall have demonstrated interest in historic preservation, and at least one (1) member shall have training or experience in a preservation-related profession: architecture, history, archaeology, architectural history, planning or related fields. When a professional member is not available, the Mayor may appoint a person interested in historic preservation to serve. When the Board reviews an issue that is normally evaluated by a professional member and that field is not represented on the Board, the Board shall seek expert advice before rendering its decision. In making appointments, the Mayor shall seek to include a member who is active in real estate. Members of the Board shall serve without compensation. Each member shall attend at least one (1) educational meeting on historic preservation per year. This meeting shall have been approved by the State Historic Preservation Officer.

(B) The terms of office of the members shall be four (4) years, except the terms of two (2) members of the original Board shall expire after one (1) year and one (1) member of the original Board shall

expire after two (2) years and one (1) member of the original Board shall expire after three (3) years. Each member shall serve until the appointment and qualification of that member's successor. When a vacancy occurs during a term of office, it shall be filled within sixty (60) days, and the person selected shall be appointed for the unexpired portion of the term.

(C) The Boards shall each year elect members to serve as Chair, Vice Chair and Secretary. The Chair shall preside at the meetings of the Board and shall be the spokesperson for the Board. In the Chair's absence, the Vice Chair shall perform these duties. The Secretary shall prepare the minutes of the Board's meetings which shall be available for public inspection.

(D) No member of the Board shall vote on any matter that may affect the property, income or business interest of that member.  
(Ord. 2007-4, passed 2-6-07)

Cross-reference:

Other Departments, Boards, Commissions and Authorities, see Ch. 34

§ 156.04 POWERS AND DUTIES OF BOARD.

(A) The Board shall have the following duties and powers:

(1) To conduct a survey of historic buildings and areas and to prepare and recommend to City Council a plan for their preservation;

(2) To recommend to the City Council the designation of historic districts and individual landmarks and landmark sites;

(3) To recommend to City Council written guidelines for making exterior changes to designated property and for undertaking new construction on designated property;

(4) To regulate alterations visible to the public that are proposed for designated property, regulate demolitions, relocations, and new construction involving designated property;

(5) To work with and advise the federal, state and county governments and other parts of city government on its area of expertise;

(6) To advise and assist property owners and other persons and groups including neighborhood organizations who are interested in historic preservation;

(7) To conduct educational programs including the preparation of publications and the placing of historical markers; and

(8) To take any and all other actions which may be assigned to it by the Mayor and/or City Council.

(B) The Board shall recommend to City Council plans for the preservation and rehabilitation of individual historic buildings. The Board shall on a regular basis, give recognition to owners and tenants who maintain or rehabilitate their historic buildings with care and thus contribute to the preservation of the history of Dayton.

(C) In making its survey of historic buildings and areas, the Board shall conduct this work in accordance with the guidelines of the Kentucky Heritage Council. The Board shall provide that its survey and preservation plan shall be maintained and continued. The Board shall use the preservation plan to assist the city and Campbell County in their overall planning efforts.

(D) The Board shall prepare comments on the relationship between Dayton's historic districts and landmarks and plans for redevelopment projects. These comments shall include suggestions on how to link the new and old buildings.

(E) The Board shall adopt and make public rules for the transaction of its business and shall hold at least four public meetings annually and special public meetings when necessary. All meetings shall comply with the Kentucky Open Meeting Statute, KRS 61.805. A simple majority of the membership shall constitute a quorum for decisions involving historic buildings and areas.

(F) The Board shall prepare and keep on file, available for public inspection, a written annual report of the activities, cases, decisions, qualifications of members and other work.

(G) The Board, in addition to any appropriations made by the City of Dayton, shall have the right to recommend to City Council applications for grants and special funding which it may legally receive from any and every source both in and out of the Commonwealth of Kentucky for the purpose of carrying out its duties.

(H) In the development of the certified local government program, the city may ask the Board to perform other responsibilities that may be delegated to the Board under the National Historic Preservation Act.

(I) The Board shall receive regular assistance in the performance of its responsibilities from a city staff member. In addition, the city may, by contract, obtain assistance on preservation matters from a professional with expertise in historic preservation or a closely related field. Other city staff members may be asked to assist the Board by providing technical advice or helping in the administration of this chapter.

(Ord. 2007-4, passed 2-6-07)

§ 156.05 NOMINATIONS TO NATIONAL REGISTER OF HISTORIC PLACES.

(A) To participate in the certified local government program, the city shall initiate all local nominations to the National Register of Historic Places and shall request the Mayor and the Board to submit recommendations on each proposed nomination to the National Register. The Mayor and the Board shall obtain comments from the public that shall be included in their National Register recommendations. Within sixty (60) days of the receipt of a nomination from a private individual or the initiation of a nomination by the city, the city shall inform the Kentucky Heritage Council and the owner of the property of the two (2) recommendations regarding the eligibility of the property. If the Mayor and the Board do not agree, both opinions shall be forwarded in the city's report. If both the Mayor and the Board recommend that a property not be nominated, the Kentucky Heritage Council shall inform the property owner, the Kentucky Historic Preservation Review Board and the State Historic Preservation Officer, and the property will not be nominated unless an appeal is filed with the State Historic Preservation Officer.

(B) If the Mayor and the Board agree that a property should be nominated or if either of them feels that a property should be nominated, the nomination will receive preliminary review by the Kentucky Historic Preservation Review Board. The Review Board shall make a recommendation to the State Historic Preservation Officer who decides whether to forward the nomination to the U.S. Secretary of the Interior who shall make the decision on listing the property on the National Register. The Mayor, the Board or the property owner may appeal the final decision by the State Historic Preservation Officer. (Ord. 2007-4, passed 2-6-07)

§ 156.06 DESIGNATION OF LANDMARK AND LANDMARK SITES AND HISTORIC DISTRICTS.

(A) The City Council may request the Board to study a building or an area in order to make a recommendation on whether it qualifies for designation as a landmark, a landmark site or historic district. The owner of a property may request the Board to study his or her building in order to make a recommendation on whether it qualifies for designation as a landmark or landmark site. Each designation of a landmark shall include the designation of a landmark site.

(B) The Board shall assemble information about a property or district being considered for designation and shall schedule a public hearing on the proposed designation. Prior to the hearing the Chair or another member of the Board may have an individual meeting with an owner or a tenant of a building under construction for designation as a landmark or as a part of a historic district. The purpose of these meetings shall be to explain the provisions of this chapter and to answer questions about how a designation would affect the owner or



tenant. Prior to the hearing, the Board may hold an educational meeting in an area or a neighborhood under consideration in order to explain the provisions of this chapter and to answer questions.

(C) Advertised notice of the public hearing pursuant to KRS Chapter 424 shall be given, including conspicuous posting on the property or in the proposed district for fourteen (14) consecutive days immediately prior to the hearing. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by certified letters to the owners of property under consideration and the owners of all adjoining property. Written notice shall be considered sufficient when it is mailed to the owner at the address listed in the records maintained by the Property Valuation Administrator.

(D) Before its first public hearing on a designation, the Board shall recommend to City Council and gain approval for general guidelines that will apply to Dayton's landmarks and historic districts and will assist owners in the preservation and rehabilitation of their property. The general guidelines may include the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and may include other guidelines that will apply to all designated property in the city. In its guidelines and in its decisions the Board shall not limit new construction to any one architectural style but shall seek to preserve the character and integrity of the landmark or the historic district. The Board may expand or amend the guidelines provided it holds a public hearing on the changes and submits the proposed changes to the City Council for approval.

(E) A landmark or historic district shall qualify for designation when it meets one (1) or more of the following criteria which shall be discussed in a Board report making its recommendations to the City Council:

(1) Its value as a reminder of the cultural or archaeological heritage of the city, state or nation;

(2) Its location as a site of a significant city, local, state or national event;

(3) Its identification with a person or persons who significantly contributed to the development of the city, state or nation;

(4) Its identification as the work of a master builder, designer, or architect whose individual work has influenced the development of the city, state or nation;

(5) Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance:

(6) Its distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials;

(7) Its character as a geographically definable area possessing a significant concentration of buildings or structures united by past events or by its plan or physical development; or

(8) Its character as an established and geographically definable residential neighborhood or business district, united by culture, architectural style or physical plan and development.

(F) After evaluating the testimony at its public hearing, survey information and other material it has assembled, the Board shall make its recommendation to the City Council with a written report on the property or area under consideration. In its report the Board may set goals for a proposed historic district in order to encourage appropriate work in the district.

(G) The city's Planning and Zoning Commission shall report on the relationship between the proposed designation and existing and future plans for the development of the city. If the Planning and Zoning Commission approves of the proposed designation, it shall amend the Comprehensive Plan to include the proposed designation and shall recommend a change in the zoning map to show the proposed historic designation. The Planning and Zoning Commission shall forward its comments, the Comprehensive Plan amendment and the zoning map change to the City Council. If the Planning and Zoning Commission does not approve of the proposed designation, it shall forward its comments to the City Council.

(H) The City Council shall approve, modify or disapprove the proposed designation after receiving the recommendation of the Board and the material from the Planning and Zoning Board. If the City Council decides to make a designation and no Comprehensive Plan amendment has been adopted and no zoning map change has been recommended, the City Council shall request the Planning and Zoning Commission to reconsider its earlier decision, and shall provide that the designation shall take effect after these preliminary steps have been approved.

(I) The Board shall notify each owner of the decision relating to his or her property and shall arrange that the designation of a property as a landmark or as a part of a historic district be recorded in the land records of the county. The Board shall also give notice of the decision to the government offices in the city and county which shall retain them for future reference.

(J) The amendment or rescission of any designation shall be accomplished through the same steps as were followed in the original designation.

(Ord. 2007-4, passed 2-6-07)

§ 156.07 APPROVAL OF CHANGES TO LANDMARKS, LANDMARK SITES, AND PROPERTY IN HISTORIC DISTRICTS.

(A) (1) A certificate of appropriateness from the Board shall be required before a person may undertake the following actions affecting a landmark, a landmark site, or a property in a historic district:

(a) Alteration of the exterior part of a structure that is visible to the public;

(b) New construction;

(c) Demolition; or

(d) Relocation.

(2) When seeking a building permit involving designated property, the person must submit a certificate of appropriateness approving the work listed in this division (A).

(B) When a person wishes to undertake an exterior alteration visible to the public affecting a landmark, a landmark site or a property in a historic district or when a person wishes to undertake new construction, a demolition or a relocation affecting a landmark, landmark site or a property in a historic district, that person shall apply to the Board for a certificate of appropriateness. This application is required even when the proposed work does not require a building permit. The applicant shall provide, where applicable, drawings of the proposed work, photographs of the existing building, structure or site and adjacent properties, and information about the building materials to be used. Further, the applicant shall pay such application fee as may be assessed by the city for costs of advertising and other costs of administration.

(C) In the event work is being performed without the required certificate of appropriateness, the city shall issue a stop work order. All work shall cease on the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect. The Board shall meet with the owner or tenant to resolve the problem. The city may apply in Circuit Court for an injunction to enforce its stop work order.

(D) The Board shall hold a public hearing on each certificate of appropriateness within thirty (30) days after a completed application

is received by the Board. The Board shall make a decision on the application within forty-five (45) days after the receipt of a completed application provided that the Board may extend the time for decision an additional sixty (60) days when the application is for a demolition or new construction. The Board shall approve or disapprove each application, and it shall give its reasons for its decision using the criteria contained in this section and in its guidelines. The Board may suggest modifications to an application and may then approve a certificate of appropriateness providing for revisions in the plans submitted. If the Board fails to decide on an application within the specified time period, the application shall be deemed approved. Applicants and all abutting property owners shall be given notice of the public hearings and meetings relating to their application and shall be informed of the Board's decision all by certified mail addressed to the owner at the address listed in the records maintained by the Property Valuation Administrator. Advertised notice shall be given as required by KRS Chapter 424. When an application has been approved, the applicant shall be given a certificate of appropriateness. Advertised notice of the public hearing shall be given, including conspicuous posting on the property.

(E) In making a decision on an application, the Board shall use its guidelines. The Board shall consider: (1) the effect of the proposed work on the landmark, the landmark site, or the property in the historic district upon which such work is to be done; and (2) the relationship between such work and other buildings and structures on the landmark site or other property in the historic district. In evaluating the effect and the relationship, the Board shall consider historical and architectural significance, architectural style, design, texture, materials and color. The certificate from the Board shall not relieve the property owner from complying with the requirements of other state and local laws and regulations.

(F) In making a decision on an application, the Board shall be aware of the importance of finding a way to meet the current needs of the applicant. The Board shall also recognize the importance of approving plans that will be reasonable for the applicant to carry out. Before an applicant prepares his or her plans, he or she may bring a tentative proposal to the Board for its comments. The Board shall prepare a list of routine alterations that shall receive immediate approval without a public hearing when an applicant complies with the specifications of the Board. The list shall include paint colors appropriate for different types of buildings.

(G) Owners and tenants shall apply to the Board for a certificate of appropriateness for a sign before their sign is made. In addition to its guidelines, the Board shall prepare and distribute examples, of signs that would be appropriate in a historic district. The Board's standards for signs shall be the standards used in a historic district

but, also, shall not conflict with the provisions of other local laws and regulations.

(H) When an applicant wishes to demolish a landmark, a building or structure on a landmark site or a building or structure in a historic district, the Board shall negotiate with the applicant to see if an alternative to demolition can be found. The Board may ask interested individuals and organizations for assistance in seeking an alternative to demolition and in obtaining estimates on rehabilitation costs for the threatened building. After its public hearing, the Board may decide that a building or structure in a historic district or on a landmark site may be demolished because it does not contribute to the historic district or to the landmark. On all other demolition applications, the Board shall study the question of economic hardship for the applicant and shall determine whether the landmark or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income-producing building, the Board shall also determine whether the applicant can obtain a reasonable return from his or her building. The Board may ask applicants for additional information to be used in making these determinations. If economic hardship or the lack of a reasonable return is not proved, the Board shall deny the demolition application unless the Board finds grounds to grant the demolition application under the points contained in § 156.07(E).

(I) (1) When an applicant wishes to have a landmark, a building or structure on a landmark site, or a building or structure in a historic district moved or when an applicant wishes to move a building or structure to a landmark site or to a property in a historic district, the Board shall consider:

(a) The contribution the building or structure makes to its present setting;

(b) Whether there are definite plans for the site to be vacated;

(c) Whether the building or structure can be moved without significant damage to its physical integrity; and

(d) The compatibility of the building or structure to its proposed site and adjacent properties.

(2) These considerations shall be in addition to the points contained in § 156.07(E).

(J) Within thirty (30) days, the applicant shall have an appeal to the Circuit Court from a decision of the Board on an application for a certificate of appropriateness.

(Ord. 2007-4, passed 2-6-07) Penalty, see § 156.99

§ 156.08 CONFORMITY WITH CERTIFICATE OF APPROPRIATENESS.

All work performed pursuant to a certificate of appropriateness shall conform to the provisions of such certificate. It shall be the responsibility of the building inspector and the Board to inspect from time to time any work being performed to assure such compliance. In the event work is being performed which is not in accordance with such certificate, the city shall issue a stop work order. All work shall cease on the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect. The Board shall meet with the owner or tenant to resolve the problem. The city may apply in Circuit Court for an injunction to enforce its stop work order.

(Ord. 2007-4, passed 2-6-07) Penalty, see § 156.99

§ 156.09 MAINTENANCE AND REPAIR OF LANDMARKS, LANDMARK SITES AND PROPERTY IN HISTORIC DISTRICTS.

(A) (1) Every person in charge of a landmark, a landmark site or a property in a historic district shall keep in good repair:

(a) All of the exterior portions of such buildings or structures; and

(b) All interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise to fall into a state of disrepair.

(2) The purpose of this section is to prevent a person from forcing the demolition of his or her building by neglecting it and by permitting damage to the building because of weather or vandalism. No provision in this chapter shall be interpreted to require an owner or tenant to undertake an alteration or to restore his or her building to its original appearance.

(B) Ordinary repairs and maintenance may be undertaken without a certificate of appropriateness provided this work on a landmark, a landmark site or property in a historic district does not change its exterior appearance that is visible to the public.

(C) An owner shall immediately notify the city of emergency conditions dangerous to life, health or property affecting a landmark, a landmark site, or a property in a historic district, and the owner shall immediately start and complete the work required to make his or her property safe. In any case where the city determines that there are emergency conditions dangerous to life, health or property affecting a landmark, a landmark site or a property in a historic district, the city shall order the remedying of these conditions without the approval of the Board. The city shall promptly notify the Chairman of the Board of the action being taken.

(D) The Board shall request a meeting with a property owner when his or her landmark or his or her building in a historic district is in poor repair, and the Board shall discuss with the owner ways to improve the condition of his or her property.

(E) The provisions of this section are in addition to all other provisions of all city, local or state codes applicable to building and property maintenance.

(Ord. 2007-4, passed 2-6-07) Penalty, see § 156.99

§ 156.10 EXEMPTION.

The city shall be exempt from the provisions of this chapter.  
(Ord. 2007-4, passed 2-6-07)

§ 156.99 PENALTY.

Violation of any provision of this chapter is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred (\$200). Any person electing not to contest citation for said offense shall be fined two hundred (\$200). Each day of violation shall constitute a separate offense.

(Ord. 2007-4, passed 2-6-07)

