

ARTICLE IX - GENERAL REGULATIONS

SECTION 9.0 - PURPOSE: Except as herein provided, general regulations shall apply to all *zones*.

SECTION 9.1 - 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 said *lot* is located, except where such reduction has been brought about by the expansion or acquiring of rights - of - way for a street. If, however, by some means (e.g., misinterpretation of law, erroneous *lot* descriptions, etc.) the *lot area* is reduced below the minimum required *lot area* as specified herein for the *zone*, all of the *uses* and *structures* contained on the remaining portion of the area shall be subject to compliance with all provisions of this ordinance. In the event that the *uses* and *structures* cannot comply in such circumstances, the property owner shall seek relief from the *Board of Adjustment*, as provided for in Article XVIII of this ordinance.

SECTION 9.2 - INTERFERENCE WITH TRAFFIC CONTROL DEVICES: 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 control devices of any kind.

SECTION 9.3 - VISION CLEARANCE AT CORNERS, CURB CUTS, AND RAILROAD CROSSINGS: No *structure*, vehicle, tree, planting, vegetation, *sign*, or *fence*, or any type of obstacle, or any portion thereof, shall be placed or retained in such a manner which would create a traffic hazard or would obstruct the vision clearance at corners, *curb cuts*, or railroad crossings in any *zone*.

SECTION 9.4 - FRONTAGE ON CORNER LOTS AND DOUBLE FRONTAGE LOTS: On *lots* having *frontage* on more than one street, the *minimum front yard setback* shall be provided on at least one street *frontage*, with the other *frontage* having a minimum of one - half the required *minimum front yard setback*, except that when such *lots* abut an *arterial street*, as herein defined, the *minimum front yard setback* shall be provided for each street *frontage*.

SECTION 9.5 – ANIMALS: *Exotic animals*, *farm / livestock animals*, and/or *wildlife* are not permitted to be bred, raised, kept and/or housed on any property in any *zone* within the *City*.

SECTION 9.6 - RAILROAD RIGHT - OF - WAY LOCATION: Railroad rights - of - way, exclusive of such *uses* as marshaling yards, spur lines, passenger and freight terminals, maintenance shops, fueling facilities, and round houses, may be located in any *zone* providing said railroad rights - of - way meet the requirements of those sections of the Kentucky Revised Statutes and other pertinent state regulations.

SECTION 9.7 - 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, without first ensuring that all requirements of the *City's* Tree Preservation and Replacement Ordinance (Ordinance No.91-3-1) and the Subdivision Regulations, if applicable, have been fulfilled and then obtaining a permit from the *Building Inspector*.
- B. The *Building Inspector* may issue the required permit 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 ordinance. The provisions of this section shall not be construed to prohibit normal excavation or grading which is incidental to the construction or alteration of a *building* on the premises for which a *building permit* has been granted as required otherwise in this ordinance.
- 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 should be kept to the shortest practical period of time.
 - 3. Temporary vegetation and/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 runoff 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 should be retained and protected.

SECTION 9.8 - DUMPSTERS: All *uses* that maintain garbage dumpsters on site shall provide a screened enclosure by means of a Class 1, 3, 5, or 6 *fence/wall*, or a combination thereof equal in height to the dumpster. All such garbage collection areas shall be located in the *rear yard* and *setback* a minimum of two (2) feet from any property line, unless site limitations such as topography, yard area, or access prevent such placement, as determined by the *Zoning Administrator*.

SECTION 9.9 - JUNKYARD LOCATION: Where permitted herein, no person or entity shall operate any *junk yard* which is situated closer than two thousand (2,000) feet from the centerline of any county, state, federal, or limited access highway or turnpike, including bridges and bridge approaches, unless a permit for such operation has been obtained from the Kentucky Department of Transportation, Bureau of Highways, in accordance with KRS 177.905 to 177.950.

SECTION 9.10 - APPLICATION OF ZONING REGULATIONS:

- A. Except as herein provided, no public or private *structures* or land shall be used for any purpose other than that permitted in the *zone* in which such *structures* or land are located or are to be located.
- B. Except as herein provided, every *structure* hereafter erected shall be located on a *lot*. In no case shall there be more than one (1) *principal structure* on one (1) *lot*, nor shall any *structure* be erected on a *lot* which does not abut a public right-of-way.
- C. *Accessory structures* and *uses* shall conform to the *setback* requirements in the *zone* in which they are located. *Accessory structures* and *uses* shall not be permitted within *front yards*.

Exceptions:

1. *Front Yards: driveways* - no closer than one (1) foot to the property line to which they run approximately parallel and shall be sloped away from neighboring properties. In the event that a common *driveway* will be used to serve two (2) or more *lots*, then *driveways* may be permitted to abut the property line. *Awnings* and *canopies* - extending not more than six (6) feet into the required *minimum front yard setback*. *Fences* - in accordance with Article XII. *Landings* - as required by the CABO One and Two Family Dwelling Code. *Ramps* - provided they are no closer than two (2) feet to the *side lot line*.
 2. *Side Yards: driveways* and *patios* - no closer than one (1) foot to the property line to which they run approximately parallel and shall be sloped away from neighboring properties. In the event that a common *driveway* will be used to serve two (2) or more *lots*, then *driveways* may be permitted to abut the property line. *Awnings* and *canopies* - projecting not more than thirty (30) inches into the *minimum side yard setback*, but no closer than two (2) feet to the *side lot line*. *Decks* - provided they are less than three (3) feet above grade and no closer than two (2) feet to the *side lot line*. *Fences* - in accordance with Article XII. *Landings* - as required by the CABO One and Two Family Dwelling Code. *Ramps* - provided they are no closer than two (2) feet to the *side lot line*.
 3. *Rear Yards: driveways, parking pads* and *patios* - no closer than one (1) foot to the property line to which they run approximately parallel and shall be sloped away from neighboring properties. In the event that a common *driveway* will be used to serve two (2) or more *lots*, then *driveways* may be permitted to abut the property line. *Awnings* and *canopies* - projecting not more than ten (10) feet into the *minimum rear yard setback*. *Carpports*, detached *garages*, *sheds* and similar *accessory structures* - may be permitted to locate "in-line" with the *side principal structure line* but in no case closer than two (2) feet to the *side lot line* and *rear lot line*. *Decks* - provided they are less than three (3) feet above grade and no closer than two (2) feet to the *side lot line* and *rear lot line*. *Fences* - in accordance with Article XII. *Landings* - as required by the CABO One and Two Family Dwelling Code. *Ramps* - provided they are no closer than two (2) feet to the *side lot line* and *rear lot line*. *Swimming pools* - in accordance with Section 9.18.
- D. Permitted obstructions in minimum required yards:
1. All yards: steps, four (4) feet or less above grade, and projecting not more than four (4) feet into the minimum required yards which are necessary for access to a *lot* from a street or *alley*. Chimneys, projecting not more than thirty (30) inches into the minimum required yards.
 2. *Front yards: Bay windows*, overhanging eaves and gutters, projecting three (3) feet or less into the *minimum front yard setback*. Air conditioning equipment (excluding compressor for central air conditioning unit), except in Historic Preservation Overlay *Zones*.
 3. *Side yards: Bay windows*, overhanging eaves and gutters, projecting three (3) feet or less into the *minimum side yard setback*. Air conditioning equipment (excluding compressor for central air conditioning unit). Fire escapes, projecting not more than thirty (30) inches into the minimum required yards.
 4. *Rear yards: Bay windows*, overhanging eaves, gutters, and air conditioning equipment, projecting not more than six (6) feet into the *minimum rear yard setback*. Fire escapes, projecting not more than thirty (30) inches into the minimum required yards.

SECTION 9.11 - SPECIAL REQUIREMENTS GOVERNING HOME OCCUPATIONS: *Home occupations* shall include the *use* of a *residential structure* for services rendered, other than by direct contact with customers, at that location (for example, where the bulk of the business is by telephone - actual work is performed in home and customer is contacted other than at that location).

EXCEPTION: *Child Day Care, Home.*

The following requirements shall apply to *home occupations*, where permitted herein:

- A. No persons other than members of the *family* residing on the premises shall be engaged in such 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 twenty-five (25) percent 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 *structure* or premises, or other visible evidence of the conduct of such *home occupation*, that will indicate from the exterior that the *structure* is being utilized, in part, for any purpose other than that of a *dwelling unit*, except that a name plate, as regulated by Section 15.2 (B) of this ordinance, shall be permitted.
- D. A *home occupation* shall not be conducted in any *accessory structure*, 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 such *home occupation*.
- F. No traffic shall be generated by such *home occupation* in greater volumes than would normally be expected in the vicinity where such *home occupation* is located.
- G. No equipment or process that creates noise, vibration, glare, fumes, odors, or electrical interference, detectable to the normal senses off the *lot*, shall be used in such *home occupation*. In the case of electrical interference, no equipment or process that creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises, shall be used.

SECTION 9.12 - NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE, AND NONCONFORMING SIGNS:

A. NONCONFORMING LOTS OF RECORD:

1. Any *lot of record*, which does not meet the minimum requirements of this ordinance, shall be considered a *nonconforming lot of record*.
2. If two (2) or more *lots* or combinations of *lots* and portions of *lots* with continuous *frontage* are in single ownership and are of record at the time of passage or amendment of this ordinance, and if all or part of the *lots* do not meet the minimum requirements for *lot* width and area, as established by this ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold which does not meet the *minimum lot width* and minimum area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any *lot* with width or area below the requirements stated in this ordinance.
3. Where a single *nonconforming lot of record* exists 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 - way, precluding acquisition of additional area to achieve conformity; and development proposed on the *lot* is in conformance with all other requirements of this ordinance. Where a *variance* from any minimum yard, *setback*, etc., is necessary to develop said *lot*, an application for such *variance* shall be submitted to the *Board of Adjustment* in accordance with Article XVIII of this ordinance.

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 ordinance may be continued although such *use* does not conform to the provisions of this ordinance. However, no *nonconforming use* may be enlarged or extended beyond its area of *use* at the time it becomes a *nonconforming use*, unless and until the *use* is brought into conformance with all provisions of this ordinance.
2. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: As regulated by Article XVIII of this ordinance.
3. TERMINATION: In all cases, the *Board of Adjustment* shall hold a public hearing in accordance with the applicable requirements of Article XVIII of this ordinance. 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 basis, in writing, for such determination.
 - a. Nonoperative, nonused, or abandoned for a period of twelve (12) consecutive months, providing that the *Board of Adjustment* may allow the continuation of such *nonconforming use* if it is determined that reasons for such nonuse were beyond the owners'/operators' 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 fifty (50) percent of the market value of such *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 such *structure* in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such *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 said *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* that become nonconforming due to *zone* changes which take place hereafter.
- C. NONCONFORMING STRUCTURES:
 - 1. CONTINUANCE: Except as herein provided, any *nonconforming structure*, existing at the time of the adoption of this ordinance, 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 ordinance.
 - 2. TERMINATION: In all cases, the *Board of Adjustment* shall hold a public hearing in accordance with the applicable requirements of Article XVIII of this ordinance. Following that hearing, the board may terminate the right to reconstruct the *nonconforming structure* based on any of the following conditions, and if the decision is to do so, the board shall state its basis, in writing, for such determination.
 - a. Whenever the *nonconforming structure* is damaged in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the market value of such *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 such *nonconforming structure* in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such *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 this *structure* should not be reconstructed.
 - c. Whenever said *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* that become nonconforming due to *zone* changes which take place hereafter.
- D. REPAIRS AND MAINTENANCE: On any *structure* devoted in whole, or in part, to any *nonconforming use*, work may be done on ordinary repairs, or on repair or replacement of non bearing 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 ordinance which rendered it nonconforming, shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring, to a safe condition, of any *building*, *structure*, or part thereof, declared to be unsafe by any official charged with protecting the public safety, except for the conditions as stated in Section 9.12 (B)(3) or 9.12 (C)(2).
- E. NONCONFORMING SIGNS:
 - 1. CONTINUANCE: Except as provided, any nonconforming *sign*, existing at the time of adoption of this ordinance, may be continued provided, however, that no such *sign* shall be changed in any manner unless it is changed in compliance with all provisions of this ordinance.
 - 2. TERMINATION: In all cases, the *Board of Adjustment* shall hold a public hearing in accordance with the applicable requirements of Article XVIII of this Ordinance. Following that hearing, the board may terminate (in writing) the right to operate a nonconforming *sign* based on any of the following conditions:
 - a. Not meeting the requirement for *sign* regulations, as regulated in Article XV.
 - b. Nonuse or abandonment of nonconforming *sign* for twelve (12) consecutive months.
 - 3. ZONE CHANGE: The foregoing provisions shall also apply to *signs* which become nonconforming due to *zone* changes or text amendments which take place thereafter.

SECTION 9.13 - EXCEPTIONS AND MODIFICATIONS:

- A. **EXCEPTIONS TO HEIGHT LIMITS:** The height limitations of this ordinance shall not apply to such things as church spires, various types of towers, smoke stacks, other related *structures*, and necessary mechanical appurtenances, 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 Communication Commission.
- B. **OTHER EXCEPTIONS:** Service stations shall be so constructed so that the centerlines of the pumps shall be at least twenty - five (25) feet from any street right-of-way line.
- C. **FRONT YARD VARIANCE:**
1. Where the average depth of existing *front yards* within three hundred (300) feet of the *lot* in question and within the same block front, is greater than the *minimum front yard setback* required by this ordinance, the minimum required *front yard* depth on such *lot* shall be modified to be the average depth of said existing *front yards*.
 2. In any *residential zone*, no *front yard* shall be required to exceed the average depth of existing *front yards* on the same side of the street within the same block, when fifty - one (51) percent or more of the *lots* within that block are improved with *residential buildings*, provided that in no case shall a *front yard* depth be less than twelve (12) feet.
- D. **EXCEPTION TO MINIMUM FRONTAGE, AREA, AND YARD REGULATIONS:** In any *subdivision* of an existing or proposed development, in any multi -family or *commercial zones* described herein, zoning, *building*, and occupancy permits may be issued in the following circumstances, for *lots* which do not abut a minimum *frontage* along a dedicated right - of - way, or *lots* with a *lot area*, yard areas, or yard sizes which are less than the minimums therefore required by the area and height regulations established herein for the *zone* in which such development is located:
1. A *development plan* conforming to the provisions of Section 9.19, including existing and proposed *lot* and yard areas and sizes in the development, is approved by the *Planning Commission*.
 2. The area of the total development of which such *lot* is a part, is not less than the minimum total area required for such a development in the *zone* in which it is located.
 3. The density of the total development of which such *lot* is a part, is not greater than the maximum density allowed for such a development in the *zone* in which it is located.
 4. Such *lot* abuts upon areas within such development, which are either used or proposed for use in common by, or for the benefit of, the owners or tenants of such *lot* and other *lots* or areas abutting upon such common area, hereinafter identified and referred to as "benefited abutting property", according to the provisions of legally enforceable agreements or land *use* restrictions, approved by the *Planning Commission* and recorded in the office of the County Clerk of Campbell County, Kentucky, which include provisions that:
 - a. Specifically identify such common areas by a metes and bounds description thereof.
 - b. Specifically identify the owners of such common areas by name and address, and which identify and establish the obligation and duty of such owners, jointly and severally, to cause such common areas and all improvements thereon, including, without limitation, all *motor vehicle* access drives and parking areas, pedestrian walkways, other *paved surfaces*, *signs*, *recreational facilities* and open spaces, and other aesthetic and environmental amenities, to be maintained and repaired at least to the extent required by any and all governmental agencies having jurisdiction thereof, or any *use* or activity conducted thereon.
 - c. Specifically identify the owners of the benefited abutting property by name and address, and the joint and several obligation thereof to pay a proportionate part of all costs of the aforescribed maintenance and repair of such common areas and the improvements thereon, secured by a lien therefore in favor of the owners of the common areas upon that portion of the benefited abutting property in which they have an ownership interest.

- d. Specifically identify and establish a legally enforceable right of the *City* and its successors to enter upon such common areas, through officers, agents, servants, employees and independent contractors thereof, and cause to occur thereon the aforescribed maintenance and repair of such common areas and the improvements thereon, at the joint and several cost and expense of the owners of any interest in the benefited abutting property, with the payment thereof secured by a lien in favor of the *City* upon such common areas benefited abutting property.
- e. Identify and establish a legally enforceable right of the owners of each *lot* or parcel of real estate in such development which does not abut upon a dedicated right – of - way to a paved and unobstructed right - of - way and *easement* from each of such *lots* across, over and through such common areas, for *motor vehicles* and pedestrian access thereto from a dedicated right - of - way.

SECTION 9.14 – RESERVED

SECTION 9.15 - BUILDING REGULATIONS AND WATER AND SANITARY SEWER SERVICE:

- A. BUILDING REGULATIONS: All *structures* shall be designed, erected, or altered in accordance with the applicable housing and building codes.
- B. WATER AND SANITARY SEWER SERVICE: No *building* may be constructed in any *zone* unless such *building* is connected to a public water and central sanitary sewer system of adequate capacity and design, and approved by proper the authorities.

Where existing *buildings* are presently not served 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* and/or the Northern Kentucky District Board of Health, said *building* shall be required to connect with the public sewer system and the private sewage system shall be prohibited.

SECTION 9.16 - MOVE AND SET:

- 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, have been obtained, and said *building, structure*, or improvement complies with the provisions of this section of the ordinance.
- B. COMPLIANCE: All alterations and improvements shall comply with the applicable housing and building codes, and all other applicable codes and regulations.
- C. PROCEDURE- PERMITS:
1. The applicant shall submit to the *Building Inspector*, the following:
 - a. An application for a *building permit* requesting inspection of the *building, structure*, or improvement to be moved or set.
 - b. A plot plan, footing and foundation plan, and construction plans for any new construction.
 - c. Statements from the applicable legislative body(s) insuring that all past and current taxes have been paid.
 2. Upon receipt of the foregoing items, the *Building Inspector* shall inspect said *building, structure*, or improvements, and the proposed location where same will be set within the legislative body and determine if the proposed development will comply with all applicable codes and regulations.
 3. The move and set shall be referred to the *Zoning Administrator* for approval or denial of compliance with this ordinance.
 4. Upon approval by the *Zoning Administrator* and *Building Inspector*, a *building permit* to move and set shall be issued. The legislative body's engineer shall then be notified of same and shall issue a transport permit. The legislative body's engineer or his agent will designate the route to be traveled. The transport permit is good only for the date specified on the permit. The transport permit will not be issued if ninety (90) consecutive calendar days or more have lapsed from the date of inspection by the *Building Inspector*. The transport permit provided for in this section shall not be in lieu of any *building permits* that may be required by the legislative body.
 5. No transport or *building permit* to move and set shall be issued until the applicant has first obtained the necessary permits from all applicable agencies.
- D. FEES:
1. There will be a building investigation fee, as established by the legislative body, 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 herein. This fee is not refundable. If any alterations or improvements to be made are found to be in compliance with the legislative body'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 legislative body, until and unless such person, corporation, or company shall post with the *Building Inspector* a good and sufficient indemnity bond in the amount of five thousand dollars (\$5,000.00) in favor of the legislative body, which shall cover the cost of any damage or claim to damage to public improvements (e.g., street pavement, curb and gutter, catch basins, sewers) and other damage to private property resulting from the move and set. A surety corporation authorized to do business in the Commonwealth of Kentucky shall make such bond.

SECTION 9.17 - BUFFER AREA: Buffer areas shall be provided for the purpose of minimizing the friction between incompatible land *uses* and improving the aesthetic and functional quality of any development.

A. **BUFFER AREA REQUIREMENTS:** All buffer areas shall be approved by the *Zoning Administrator* (or *Planning Commission*, where required by this ordinance) according to a submitted *development plan*, as regulated by the applicable requirements of Section 9.19 of this ordinance. Buffer areas shall be designed, provided, and maintained according to the following:

1. Where vegetative and/or topographic conditions that provide a natural *buffer area* and buffer exist prior to development of properties in question, such conditions shall be retained. In such cases, additional *buffer areas* may not be required, provided that a provision is made for maintenance of such areas.
2. Whenever a *buffer area* is required, it shall be provided as follows:
 - a. Except when prohibited herein, all *buffer areas* shall be provided by the construction of a Class 1 or Class 5 *fence*, as regulated by Article XII of this ordinance, and/or evergreen trees.
 - b. All trees shall be evergreens and planted at a minimum of ten (10) feet in height when planted, however, smaller trees (a minimum of five feet in height) may be utilized in combination with berms (e.g., earthen mounds) to provide the minimum 10 foot height requirement; berms must be covered with suitable vegetation, such as grass, ivy, and/or shrubs, to preclude erosion of the berm.
 - c. Trees which are intended to provide a buffer to separate multifamily development from single-family development, shall not be planted further than 15 feet apart; parking facilities which are located adjacent to the single-family areas shall be additionally screened to a minimum height of three (3) feet (via an earth berm, depressed parking, solid *fence*, etc., as regulated by Article XII of this ordinance) to reduce *automobile* headlight glare onto adjacent property.
 - d. Trees which are intended to separate *commercial* and *industrial* development from *residential* development (single - family and multi - family) shall not be planted further than 10 feet apart; parking facilities which are located adjacent to *residential* areas shall be additionally screened to a minimum height of three (3) feet (via an earth berm, depressed parking, solid *fence*, etc., as regulated by Article XII of this ordinance) to reduce *automobile* headlight glare onto adjacent property.
3. 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 type of buffer needed. Furthermore, all trees and/or plant materials shall meet or exceed the American Standard for Nursery Stock (ANSI Z 60.1-1990) or most current revision as maintained by the American Association of Nurserymen, Inc.
4. *Buffer areas* shall be provided in such a manner as to obscure the view into the development from adjacent properties. In those cases where property is adjacent to property within another governmental jurisdiction, a *buffer area* shall be provided in the same manner as would be required if the adjacent area was within the jurisdiction of this legislative body.
5. 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 buffer 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:** The owner and/or developer shall provide *buffer areas* as a condition of development. The property owner shall maintain all required *buffer areas* (including the planting of trees and other vegetation).

- C. INCLUSION ON DEVELOPMENT PLAN AND/OR SUBDIVISION IMPROVEMENT DRAWINGS: Areas to be set aside as *buffer areas* shall be identified on the required *development plans*, as regulated in Section 9.19 of this ordinance, 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 legislative body, may be required to be posted. It shall be unlawful to occupy any premises unless the required *buffer area* has been installed in accordance with the requirements as provided herein.
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SECTION 9.18 - OUTDOOR SWIMMING POOLS:

- A. PRIVATE SWIMMING POOLS: All *private swimming pools* shall be regulated according to the following requirements:
1. Shall be permitted to locate in the *rear yard* no closer than three (3) feet to any property line. The *Zoning Administrator* may allow pools to be located in the *side yard* if it is determined that due to topography, unusual *lot* shape, or insufficient *rear yard* area, location of the pool in the *rear yard* is not possible.
 2. *Swimming pools* which are constructed in-ground or above-ground shall be required to have a *fence* or wall of class 1,3, or 5 as regulated by Article XII of this ordinance, enclosing the pool or the property on which the pool is located. Such *fence* or wall shall be at least four (4) feet in height, but not more than six (6) feet in height and shall be equipped with a self-closing and self-latching door or gate with latch at least four (4) feet above the ground. Such *fences* or walls shall be constructed in such a manner that a child may not reach the pool from the street or any property without climbing the *fence* or wall or opening the gate or door. The required *fence* or wall may be the wall of the above-ground pool, providing that said wall is at least four (4) feet in height above the surrounding ground level. Any access to an above - ground pools by means of a ladder or stairway shall be provided with a self-closing or self-latching door or gate, or some other device that would prevent a child from gaining access to the pool by means of a ladder.
 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 shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the legislative body. 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.
 5. All *swimming pools* existing at the time of adoption of this ordinance, 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 section within thirty (30) 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 minimum required yards or within the limits of any public right-of-way or *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 at least four (4) feet high (only classes 1, 3, or 5 *fences* are permitted - as regulated by Article XII of this ordinance). Such *fences* or walls shall be at least five (5) feet in height, but not exceeding the height as permitted herein, and of such construction that a child may not reach the pool from the street or from any property without climbing the wall or *fence* or opening the 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 shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the legislative body. 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.

5. No mechanical device for the reproduction or amplification of sounds used in connection with *swimming pools* shall create a nuisance to adjacent properties.
6. All *swimming pools* existing at the time of adoption of this ordinance, 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 section within thirty (30) days after its adoption.

SECTION 9.19 - DEVELOPMENT PLAN REQUIREMENTS: No *structure* shall be erected or structurally altered nor shall any grading take place on any *lot* or parcel in *zones* where a *development plan* is required, except in accordance with the regulations of this section and an approved *development plan* as hereinafter required. Before a permit is issued for construction, one copy of the *development plan*, at a scale no smaller than one (1) inch to one hundred (100) feet, shall be filed with the *Building Inspector* and the *Zoning Administrator*. The *development plan* shall identify and locate, where applicable, the information as listed in Section 9.20 (B) - Stage II *Development Plan* Requirements.

All such *development plans* shall be reviewed by the *Planning Commission*, or its duly authorized representative, and the factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of this ordinance, and the *Comprehensive Plan*. When application is made for a development plan review, the applicant shall post notice of the hearing conspicuously on the property for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

1. The sign shall state “DEVELOPMENT PLAN HEARING” in capital letters three (3) inches in height. The time, place and date of the hearing shall be in letters at least one (1) inch in height; and
2. The size and number of signs shall be approved by the zoning official or designee. The sign shall be constructed of durable material and shall state the telephone number of the zoning official or designee.

All *development plans* approved shall be binding upon the applicants, their successors and assigns and shall limit the development to all conditions and limitations established in such plans.

Amendments to plans may be made in accordance with the procedure required by this ordinance subject to the same limitations and requirements as those under which such plans were originally approved.

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.

Approved plan shall be completed within an appropriate time frame as approved in the schedule of development and determined by the Zoning Administrator. Any violation of the development plan shall be enforced under Section 16.10 of the Zoning Ordinance.

SECTION 9.20 - DEVELOPMENT PLAN REQUIREMENTS - STAGES I, II AND RECORD PLAT:

- A. STAGE I DEVELOPMENT PLAN REQUIREMENTS: The Stage I *Development Plan* shall identify and provide, where applicable, the following information:
1. Plan(s) of the subject property, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet, that identifies and provides the following information:
 - 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 (5) feet.
 - e. Delineation of all existing and proposed *residential* areas in the project with a statement indicating net density of the total project:
 - Detached housing - location and approximate number of *lots*, including a typical section(s) identifying approximate *lot* sizes and dimensions and height of *buildings*.
 - Attached housing - location and description of the various housing types (i.e., townhouses, fourplex, garden *apartment*, etc.) including approximate heights of typical *structures* and the approximate number of units by housing type.
 - f. Delineation of all existing and proposed non - *residential uses* in the project:
 - *Commercial* and *industrial uses* - location and type of all *uses*, including approximate number of acres, *gross floor area*, and heights of *buildings*.
 - 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.
 - Other public and semi - public *uses* - location and type of all *uses*, including approximate number of acres, *gross floor area*, and height of *buildings*.
 - g. Location of all existing and proposed pedestrian walkways, identifying approximate dimensions.
 - h. Location of all existing and proposed *off-street parking* and loading and/or unloading areas, identifying the approximate number of spaces.
 - i. Location of all existing and proposed streets, identifying approximate dimensions of pavement, right - of - way widths, and grades.
 - j. Location of all existing and proposed water, sanitary sewer, and storm drainage lines, indicating approximate pipe sizes.
 - k. Certification from appropriate water and sewer agencies indicating that services are available.
 - l. Identification of soil types and geologic formations on the subject property indicating anticipated problems and proposed methods of handling said problems.

- m. A schedule of development, including the staging and phasing of:
 - *Residential* area, in order of priority, by type of *dwelling unit*.
 - Streets, utilities, and other public facility improvements, in order of priority.
 - Dedication of land to public *use* or set aside for common ownership.
 - Non - *residential buildings* and *uses*, in order of priority.

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

B. STAGE II DEVELOPMENT PLAN REQUIREMENTS: The Stage II *Development Plan* shall identify and provide, where applicable, the following requirements:

1. Plan(s) of the subject property drawn to a scale of not smaller than one (1) inch equals one hundred (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 (5) feet. Where conditions exist that may require more detailed information on the proposed topography, contours with intervals of less than five (5) feet may be required by the *Planning Commission*, or its duly authorized representative.
 - b. All housing units on the subject property:
 - Detached housing - Location, arrangement, and number of all *lots*, including *lot* dimensions and maximum height of *buildings*.
 - 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 non - *residential 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, operation, and maintenance of such 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, size, and height.
 - g. All utility lines and *easements*:
 - Water distribution system, including line sizes, width of *easements*, type of pipe, location of hydrants and valves, and other appurtenances.
 - Sanitary sewer system, including pipe sizes, width of *easements*, gradients, type of pipes, invert elevations, location and type of manholes, the location, type, and size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances.
 - Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of *easements*, location and size of inlets and catch basins, location and size of retention and/or sedimentation basins, and data indicating the quantity of storm water entering

the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of 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.

- Other utilities (e.g., electric, telephone, etc.) including the type of service and the width of *easements*.
- h. Location of all *off-street parking*, loading and/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 and/or unloading spaces.
- i. Circulation System:
 - Pedestrian walkways, including alignment, grades, type of surfacing, and width.
 - 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. Location and arrangement of all lighting structures including intensity and direction of illumination.
- l. A schedule of development, including the staging and phasing of:
 - *Residential* area, in order of priority, by type of *dwelling unit*.
 - Streets, utilities, and other public facility improvements, in order of priority.
 - Dedication of land to public *use* or set aside for common ownership.
 - Non - *residential buildings* and *uses*, in order of priority.

The aforementioned information 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.

- C. **RECORD PLAT REQUIREMENTS:** The applicant shall submit a Record Plat, in conformance with the approved Stage II *Development Plan*. If the Record Plat is submitted in sections, an index shall be developed showing the entire plan area. The particular number of the section, and the relationship of each adjoining section, shall be clearly shown by a small key map on each section submitted. The Record Plat shall conform to the applicable requirements of the subdivision regulations, unless specifically waived by the *Planning Commission*.

SECTION 9.21 - REGULATIONS CONCERNING AIR RIGHTS: Any proposed use of *air rights*, as defined herein, shall be in the form of a *development plan*, as regulated in Section 9.19 of this ordinance, submitted to the *Planning Commission*, or its duly authorized representative for review.

SECTION - 9.22 REGULATIONS CONCERNING DESIGN AND CONSTRUCTION OF IMPROVEMENTS: Any proposed development requiring the construction of streets (including curb and gutters), sidewalks, sewers (sanitary & storm), water lines, or other public 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 by the *Planning Commission*.

SECTION 9.23 - REGULATIONS PERTAINING TO PARKING OR STORING OF AUTOMOBILES, TRAILERS, MOBILE HOMES, CAMPERS, INOPERABLE VEHICLES, AND OTHER SUCH TYPE EQUIPMENT:

- A. No *motor vehicle* which is abandoned, nonfunctional, in a state of disrepair, or lacking a valid license, shall be stored in excess of seventy - two (72) hours in any *residential zone*, unless it is in a completely enclosed *building*.
- B. It shall be unlawful for any person(s) to live in any *boat, automobile, camper, recreational vehicle, truck, or tractor* within the jurisdiction of the legislative body, except houseboats may be permitted along the Ohio River.
- C. The outside storage in excess of seventy-two (72) hours, of any trailer, *mobile home, recreational vehicle, camper, boat*, or similar type equipment shall be restricted to the *rear yard* or *side yard* behind the front *building* line of all *lots* within the jurisdiction of the legislative body. In no case shall more than one of the aforementioned vehicles or similar type of equipment be permitted outside of an enclosed *building* on any *lot* or parcel of land.
- D. It shall be unlawful to park or to keep a *truck* or *tractor*, in excess of 6,000 pounds gross vehicle weight, at any place on any property located in a *residential district zone*, except in a completely enclosed *building*.
- E. All *motor vehicles, trailers, recreational vehicles, campers, boats* and similar type equipment shall be parked or stored on a *paved surface*.
- F. Any property which does not comply with the provisions of this section, at the time of adoption of this ordinance, shall be given a period of sixty (60) days from the date of adoption of this ordinance to comply with all of the provisions of this section.

SECTION 9.24 - 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 percent or greater), that said development is in a manner which 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 in the *Comprehensive Plan* as "Physically Restrictive Development Areas", and any other areas which have slopes of 20 percent or greater, shall require approval from the *Planning Commission*, or its duly authorized representative, before development may occur.

 - 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 Subsection A. (1), above, may occur until plans and specifications for such work have been submitted in the form of a *development plan* as regulated by Section 9.19 of this ordinance. In addition to *development plan* requirements, the following shall also be submitted:
 - a. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion, sedimentation basins, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area.

 - b. Information defining results of subsurface investigation of the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis. Such 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 *development plan*, and other information required by this section, shall be reviewed by the city engineer and the city staff, who will recommend to the *Planning Commission*, or its duly authorized representative, what effect the proposed development will have on hillside slippage and/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 said proposed plans will not minimize hillside slippage and/or soil erosion, the *Planning Commission*, or its duly authorized representative, shall deny a permit for the development of said land.

- C. CRITERIA: Evaluation of the proposed *development plan* shall be based upon the following criteria:
 - 1. PUBLIC POLICY:
 - a. Public works in hillside areas should be designed to preserve the natural character of the land to the greatest extent possible. Deep or extensive excavations and fills scar the landscape and should be avoided.

 - b. Excessive cutting and filling should be avoided in the construction of hillside roadways.

 - c. Roadways constructed on hillsides should, wherever possible, follow the contours of the land or climb the slopes with a gentle grade.

 - 2. REGULATING THE SUBDIVISION OF HILLSIDE LAND:

- a. Plans for hillside *subdivisions* should be laid out so that *lots* on the flatter upland portions of the site are held back from the crest of the hill.
 - b. In planning hillside *subdivisions*, maximum existing vegetation should be retained.
 - c. In planning hillside *subdivisions*, *lots* located on sloping portions of the site and at the crests of hills should be arranged so that intrusion of *buildings* constructed on lower elevations into the views of those above will be minimized.
 - d. Hillside vegetation should not be heedlessly displaced, degraded, or destroyed.
 - e. *Subdivisions* in hillside areas should be designed to preserve the natural character of the land, to the greatest extent possible.
3. REGULATING THE CHARACTER OF DEVELOPMENT:
- a. The visual impact of grading should be minimized by avoiding flat grading planes and sharp angles of intersection.
 - b. When it is necessary to use retaining walls, their height should be minimized.
 - c. When *buildings* are constructed on hillside sites, yards and *patios* should respect the natural contours, drainage patterns, and vegetation of the site.
 - d. Slopes exposed in new development should be landscaped in order to mitigate visual impacts created by hillside grading.
 - e. The natural slope line of the hill, as seen in profile, should be retained.
 - f. Existing native vegetation should be preserved, and when disturbed, should be supplemented with new native vegetation.
 - g. Trees should be planted in random clusters, not in rows, to compliment the natural pattern of tree distribution.
 - h. All cuts, fills, and any other earth modifications should be replanted with appropriate native vegetation.
 - i. The risk of off - site geologic property damage should be minimized by locating development away from areas that are vulnerable to sliding.
 - j. Grading for *buildings*, *driveways*, outdoor *use* areas, utilities, etc., should be minimized to preserve the natural topography of the site.
 - k. When grading operations are necessary, the smallest practical areas of land should be exposed at any one time during development and the length of exposure should be kept to the shortest practicable amount of time.
4. REGULATING EARTHWORKS:
- a. The tops and toes of excavations and their slopes should be set back from property boundaries and *structures* as far as necessary for the safety of adjacent properties and adequacy of foundation support and to prevent damage as a result of water runoff.
 - b. No fill should be placed over trees, stumps, or other organic or unstable material.
 - c. All retaining walls should be promptly backfilled.
 - d. Where storm and drainage improvements are necessary, they should be designed to create a natural, rather than a man - made, appearance.

- e. In order to prevent runoff, erosion control plans should utilize existing trees and vegetation to the maximum extent possible.

SECTION 9.25 – RESERVED

SECTION 9.26 - GENERAL MOBILE HOME REGULATIONS: The following regulations shall apply to all *mobile homes* located individually or in a *mobile home park*, where permitted herein. Requirements of the *zone* in which said *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 and/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 *Building Inspector* and *Zoning Administrator*.
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SECTION 9.27 - TEMPORARY COMMERCIAL USES:

PURPOSE: The purpose of this section is to benefit the public by providing access to general *commercial* goods and services by allowing temporary commercial displays and sales of goods and services on *paved surfaced* areas with adequate parking. Such temporary *uses* are subject to certain limitations and, if these limitations cannot be satisfied, the *use* is prohibited.

- A. Temporary Commercial Uses are permitted on *paved surfaced* areas located within the Shopping Center (SC) zoning district, subject to the terms of Section 9.27 and other provisions of the zoning regulations as applicable. Temporary Commercial Uses are exhibits or showings of products, goods, or equipment, or services allowed as principally *permitted uses* in the Shopping Center (SC), Neighborhood Commercial-One (NC-1), Neighborhood Commercial-Two (NC-2), and Neighborhood Commercial-Three (NC-3) zoning districts.
- B. The construction of Temporary Commercial Uses should be stationary in nature such as tents and *buildings* and not mobile in nature such as *trucks*. Safety should be a prime consideration when evaluating the location of the Uses. The Uses must be positioned so that the existing vehicular and pedestrian traffic flow is not impeded. All applicable building and health codes must also be met.
- C. Temporary Commercial Uses cannot exist or be present in any form, whether open for viewing or not, more than sixty (60) days.
- D. Prior to placing any Temporary Commercial Use on any property, the person or persons owning or having control or supervisory authority of such display shall apply and be required to obtain a permit from the *Zoning Administrator* for the Temporary Commercial Use.
- E. The application must contain the following information and be submitted with a site plan of the property on which the Temporary Use is to be placed:
 - 1. Name, address, telephone number and signature of the owner of the property proposed for the Temporary Use.

2. Name, address, telephone number, and signature of the operator of the proposed Temporary Use.
3. A copy of a current occupational license for the operator of the proposed Temporary Use.
4. A site plan indicating: all existing *structures* on the site as well as on adjoining sites of the proposed Temporary Commercial Use; the dimensions and location of the area to be used by the Temporary Commercial Use on the site; and the front, rear and side *setbacks* of the area to be used for the display.
5. The number of parking spaces to be used by the Temporary Commercial Use; the number of spaces anticipated to be used for *off-street parking* in conjunction with the display.
6. Accurately state and describe the type of goods or service to be on display.
7. State the beginning and ending date the Temporary Commercial Use is to be on the site.
8. Depict all *structures*, regardless of nature, to be part of the Temporary Commercial Use, including tents, canopies, *fences* or barriers of any kind.
9. Indicate traffic access to the Temporary Commercial Use.
10. Indicate anticipated flow of pedestrian and vehicular traffic, if applicable, on the site relative to existing *commercial* developments and the Temporary Commercial Use.

The *Zoning Administrator* shall review the application and determine within three (3) working days from submittal date whether or not the plan conforms to Section 9.27 and all other applicable provisions of the zoning regulations.

- F. The *Zoning Administrator* is permitted to issue a permit for the Temporary Commercial use upon receiving a completed application containing all required information, the full application fee, and approval from the Bellevue Fire Department. After reviewing the completed application, the *Zoning Administrator* may issue a permit if review of the application and plans submitted indicates that:
1. The Temporary Commercial Use as depicted is compatible with existing *commercial* development on the site.
 2. Anticipated pedestrian and vehicular traffic flow is shown to be compatible with existing traffic patterns at the site.
 3. Maximum estimated parking spaces necessary for the Temporary Commercial Use are not anticipated to significantly detract from parking area provided for existing *commercial* development at the site.
 4. No *structure* shown will block, impair or otherwise unduly inconvenience patrons of existing *commercial* development on the site. To ensure the safety of the individuals utilizing the site, retain a positive aesthetic view and adequate parking, the location of all proposed Temporary Uses will be evaluated in regard to pedestrian and vehicular traffic patterns, emergency access, *access points*, parking *lots*, *setbacks*, and existing *structures*.
 5. Proposed site is paved and is located in the Shopping Center zoning district (SC).
 6. The construction of the display area is immobile in nature such as in a *building* or tent and not readily mobile such as in a *motor vehicle*.
 7. The *Zoning Administrator* must approve any deviation in the location of a Temporary Commercial Use from the requirements of the zoning regulations.
- G. If the *Zoning Administrator* refuses to issue a permit for a Temporary Commercial Use, he shall set forth

the reasons for such refusal in writing and submit the findings to the applicant contemporaneously with his refusal to issue the permit. Submission of the findings of fact upon which the refusal is based, shall be made not later than three (3) working days from the date the completed application and fee were submitted.

- H. An applicant refused a permit for the Temporary Commercial Use permit by the *Zoning Administrator* may appeal to the *Board of Adjustment*. The appeal must be made within five (5) working days from the date of the refusal and submitted to the administrative office. The *Board of Adjustment* shall review the appeal within thirty (30) days and shall either (1) overrule the *Zoning Administrator* and order the issuance of the Temporary Commercial Use permit; (2) order the issuance of the permit with any reasonable conditions; or (3) agree with the *Zoning Administrator* and refuse the issuance of the permit.
- I. At the time of application for a Temporary Commercial Use permit, the applicant shall pay in full to the City of Bellevue, a fee as indicated in the adopted fee schedule.
- J. The purpose of Section 9.27 is to provide access by the public to Temporary Commercial Uses of limited duration rather than to establish a regular or long-term *use* of land. The maximum permitted number of days that any one site shall utilize Temporary Commercial Uses shall be sixty (60) days per calendar year.
- K. This Section shall not apply to sidewalk sales by a *commercial* establishment which does business on the same premises, where the articles or goods on outdoor display are the same as are usually displayed for sale at its establishment on sidewalks located on the premises and not located within any right-of-way.

SECTION 9.28 - PHASED ZONING REGULATIONS:

- A. Phased zoning is an overlay type regulation to be used in cases where the timing and/or phasing of the zoning of an area is especially critical to the implementation of the adopted *Comprehensive Plan*. The intent of the phased zoning regulations is to encourage redevelopment of a specified area for the *use* and/or density designated within the *Comprehensive Plan* when the necessary conditions for such development are realized (e.g., demolition of existing *building*). Implicit in such a phased zoning approach is the premise that until such conditions are realized, the type of development designated within the *Comprehensive Plan* is premature; such development would be prevented by temporarily zoning the area to generally conform with the predominant existing land *use*, with a clear stipulation of an intended future re-zoning, which would be in compliance with the adopted *Comprehensive Plan*.
- B. The phased zoning regulations may be overlaid over any zoning classification by means of a *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 the type of *use* and/or density, the area could be re-zoned 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-1 C, which is identified for future *use* on the adopted *Comprehensive Plan* for "industrial" could be temporarily zoned R-1C(P), indicating that present development on the site would be in conformance with the regulations of the overlaid R-1C *Zone*, but that, upon the attainment of certain conditions (e.g., provision of an adequate access road, demolition of existing *buildings*), the area could be re-zoned through a conventional *zone* change procedure to an *industrial zone*. At the time of the *zone* change, the temporary R-1C(P) *Zone* is removed and the area is developed according to the regulations of the new *zone*, which is in conformance with the adopted *Comprehensive Plan*.
- D. The minimum size of any area to be rezoned, as regulated by this section of the ordinance, is one (1) acre, provided that all other provisions of this ordinance 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*.

SECTION 9.29 - 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 Article XVIII of this ordinance. The location of such facilities shall be in accordance with Kentucky Revised Statutes, and all other pertinent regulations, and the following requirements:

- A. Such facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the above element is a part.
 - B. A *building* or *structure*, except an enclosing *fence*, shall be set back at least fifty (50) feet from any property line.
 - C. Such facilities shall be enclosed by a protective *fence* as regulated by Article XII of this ordinance.
 - D. Open spaces on the premises shall be landscaped and maintained according to Section 9.17 of this ordinance.
 - E. The storage of vehicles and equipment on the premises, unless enclosed or screened, shall be prohibited.
 - F. The surrounding area shall not be adversely affected by, and shall be protected from, noise, odor, glare, dust, gas, smoke, and vibration by such suitable means and conditions as the *Board of Adjustment* may specify.
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SECTION 9.30 - CONTROL OF OBSTACLES IN PUBLIC RIGHTS - OF -WAY:

- A. **PURPOSE:** To control the items or obstacles that are permitted in the public rights - of - way (sidewalks, *alleys*, streets) for the safety of pedestrian and vehicular traffic movement and the beautification of the community in general. Any items not addressed in this section must be approved by the city council.
- B. **PERMITTED ITEMS:** The following items are permitted to be installed or constructed within public rights - of - way:
 - 1. Mail collection boxes
 - 2. Police and fire call boxes
 - 3. Public telephone booths
 - 4. Telephone poles
 - 5. Electric line poles
 - 6. Fire hydrants
 - 7. *Bus* stop benches, without *signs*
 - 8. *Bus* stop shelters
 - 9. Traffic and street identification *signs*
 - 10. Traffic control devices
 - 11. Trees and landscaping
 - 12. Street lights and street light poles
 - 13. Newspaper racks
 - 14. *Signs*, 12 feet above ground level
 - 15. Trash cans and plastic bags, on days of pick-up only
 - 16. Historical markers
 - 17. Parking meters
 - 18. Communications or T.V. transformers
- C. **RESTRICTED USES:** The display of merchandise is permitted on sidewalks, only subject to the following restrictions:
 - 1. Only new merchandise for sale, including plants and gardening materials, may be displayed.
 - 2. Displays are limited to the area directly in front of a *commercial* establishment offering the items for sale.
 - 3. Displays may not be located within five (5) feet of the edge of the sidewalk nearest the curb, and shall allow for five (5) feet of clear width on the sidewalk in any case.

4. Displays shall not block ingress or egress to entrances or exits of adjoining *buildings* or properties.
5. Merchandise may not be displayed more than one-half hour prior to opening of the business and must be removed within one-half hour after closing the business each day.
6. No such displays shall engage the use of electricity, nor shall such displays be *animated* or use lights or noise making devices.
7. The restrictions listed above (divisions 1 through 6) shall not apply to single stands or stalls licensed to operate in public market spaces.

D. ITEMS NOT PERMITTED: The following items are not permitted within public rights-of-way:

1. Free standing *signs*.
EXCEPTION: Sandwich Board *signs* may be permitted in the NC (HP) and NC-2 (HP) zoning districts according to the following requirements:
 - The *sign* shall be of double-sided, chalkboard design.
 - The *sign* shall be exactly two (2) feet in width and exactly four (4) feet in height.
 - Only one *sign* per business shall be permitted.
2. Cigar or cigarette vending machines and all similar items not mentioned above.

SECTION 9.31 - CELLULAR TELECOMMUNICATIONS FACILITIES:

- A. PURPOSE: It is the general purpose of these regulations to provide for integration of wireless telecommunications facilities for cellular telecommunications services or personal communications services within the community while providing for such facilities in coordination with the recommendations of the comprehensive plan. Furthermore, it is the purpose and intent of the City of Bellevue to provide for the integration of cellular telecommunications facilities in a manner that will retain the integrity and character of neighborhoods, property values and aesthetic value of the community at large. The City of Bellevue, while recognizing the need to provide essential utilities to citizens of Bellevue, furthermore states that the purpose of this regulation is as follows:
1. To establish an administrative process for the approval/disapproval of cellular telecommunications facilities.
 2. Protect the public health, safety and welfare by requiring the cellular telecommunications facilities are adequately secured and encouraging the timely maintenance of the *structures*.
 3. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
 4. Ensure that cellular telecommunications facilities are situated in appropriate locations while minimizing the negative visual impact of wireless facilities on neighborhoods, community landmarks, historic sites and *buildings* and natural scenic areas.
 5. Minimize the number of cellular telecommunications facilities by requiring the *use* of existing *structures* and co-location where feasible.
 6. Provide for adequate information about plans for cellular telecommunications facilities in order to permit the community to effectively plan for the location of such facilities.
- B. DEFINITIONS: For the purposes of these regulations, the following definitions shall apply:
1. **ALTERNATIVE ANTENNA TOWER:** Man made trees, clock towers, bell steeples, light poles, church spires, belfry, chimney flue, elevator bulkhead, air-conditioning unit or other building equipment normally maintained above the *roof* line of a *building*.
 2. **CELLULAR ANTENNA TOWER:** Any *structure* that is designated and constructed, or an existing facility that has been adapted, for the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services. This includes guyed towers, lattice towers, monopoles, alternative cellular antenna tower *structures* and towers taller than 15 feet constructed on the top of another *building*, along with any separate *building* on the *lot* used to house any supporting electronic equipment.
 3. **CELLULAR TELECOMMUNICATIONS ANTENNA:** Any *structure* or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips, at frequencies on the electromagnetic spectrum as the FCC from time to time may designate, used for cellular telecommunications services and/or personal communications services, but not including such *structures* or devices when used for the broadcast of television, AM/FM radio stations or for citizens' band or amateur radio use. Examples of cellular telecommunications or personal communications services include, but are not limited to, cellular telephone, paging, public safety, and data transmission.
 4. **CELLULAR TELECOMMUNICATIONS EQUIPMENT SHELTER:** The *structure*, shelter, cabinet or vault in which the electronic receiving and relay equipment necessary for the processing of wireless telecommunications is housed together with necessary related equipment.
 5. **CELLULAR TELECOMMUNICATIONS FACILITY (CTF):** The *lot*, tract, or parcel of land that contains the telecommunications tower, wireless telecommunications equipment shelter, telecommunication antenna and related equipment involved in the transmission and/or reception of telecommunications.

6. **CELLULAR TELECOMMUNICATIONS FACILITY MAP:** A map prepared by the City of Bellevue indicating the location of existing CTF's, or other sites that have been identified by the *Planning Commission* as preferred areas for CTF in accordance with the Comprehensive Plan.
 7. **CELLULAR TELECOMMUNICATION SERVICE:** A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.
 8. **CO-LOCATION:** Locating two (2) or more cellular transmission antennas or related equipment on the same cellular antenna tower.
 9. **HEIGHT, CELLULAR TELECOMMUNICATIONS TOWER:** The distance from the anchored base of the tower, whether on top of another *building* or at grade, to the highest point of the *structure*, even if the highest point is the top of the wireless telecommunications antenna.
 10. **LATTICE TOWER:** A support *structure* constructed of vertical metal struts and cross braces forming a triangular or square *structure* which often tapers from the foundation to the top.
 11. **MONOPOLE:** A support *structure* constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
 12. **PERSONAL COMMUNICATION SERVICE:** Has the meaning as defined in 47 U.S.C. sec 332(c).
 13. **RELATED EQUIPMENT, WIRELESS TELECOMMUNICATIONS:** All equipment ancillary to the transmission of telecommunications. Such equipment may include, but is not be limited to, cable, conduit, connectors, air conditioning and emergency generators.
 14. **UNIFORM APPLICATION:** Means an application for a certificate of convenience and necessity issued under KRS 278.020 submitted by the utility to the Public Service Commission to construct an antenna for cellular telecommunications services or personal communications services in a jurisdiction that has adopted planning and zoning regulations with KRS Chapter 100 and has registered with the Public Service Commission to regulate such wireless facilities.
 15. **UTILITY:** Has the meaning as defined in KRS 278.010 (3).
- C. GENERAL PROVISIONS: Cellular telecommunications facilities for cellular telecommunications services or personal communications services may be allowed in any *zone* after a *Planning Commission* review in accordance with the following procedures to ascertain agreement with the adopted comprehensive plan and the regulations contained within the Official Zoning Ordinance of the City of Bellevue, and after being granted a Certificate of Necessity and Convenience by the Public Service Commission.
- D. APPLICABILITY: Every utility or company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct a wireless telecommunications facility for cellular communications or personal communications services shall submit a copy of the utility's complete uniform application, as specified below, to the Bellevue *Planning Commission* within five (5) days of applying to the Public Service Commission for a Certificate of Necessity and Convenience.
- E. APPLICATION REQUIREMENTS: Applications for the construction of wireless telecommunications facilities for cellular telecommunications services or personal communications services shall be submitted in two parts. The application entitled, "For the Public Record" and one (1) original (including attachments) of the application entitled "Uniform Application: Confidential and Proprietary" shall be submitted to the Bellevue *Planning Commission*. The uniform application shall be submitted in accordance with the Public Service Commission Administrative Regulations (807 KAR 5:063) and include the following:
1. All information that the applicant is required to submit to the Public Service Commission, per the requirements of the uniform application.
 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 a FCC license holder to locate at least one antenna on the applicant's tower.

3. The uniform application shall include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes all of the planning unit's jurisdiction and a one-half mile area outside of the boundaries of the planning unit's jurisdiction.
4. Unless co-locating, certification, supported by evidence, that co-location of the proposed 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 within a two (2) mile radius of the proposed tower's location, Bellevue CFT map sites, 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:
 - a. No existing towers or cellular telecommunications facilities (CTF) are located within a two (2) mile radius of the proposed CTF location.
 - b. Existing towers or CTF are not of sufficient height to meet the applicant's engineering requirements.
 - c. Existing towers or CTF do not have sufficient structural strength to support the applicant's proposed antenna(s) or related equipment.
 - d. The applicant's planned equipment would cause frequency interference with other existing or planned equipment of the tower or CTF or vice-versa and this interference cannot be reasonably prevented.
 - e. Unwillingness of the owner of the existing tower or CTF to entertain a co-location proposal.
 - f. Existing towers and facilities do not provide an acceptable location for coverage for the applicant's Communications Network.
5. Unless co-locating, certification must be provided, supported by evidence, that the proposed CTF site is the only appropriate site for the location of the facility. The applicant's certification shall include a listing of all potential sites within a two (2) mile radius of the proposed CTF location, Bellevue CFT map sites, descriptions of each site, and a discussion of the ability or inability of the site to host such a facility, according to the following:
 - a. Unwillingness of the site owner(s) to entertain such a facility.
 - b. Topographic limitations of the site.
 - c. Adjacent impediments that would obstruct adequate transmission.
 - d. Physical site constraints that would preclude the construction of such a facility.
6. A statement demonstrating the proposal is in agreement with the adopted comprehensive plan, and is in conformity with these regulations, subject to the limitations imposed by 47 U.S.C. 332 (c), KRS 278.030, 278.040, and 278.280.
7. A *development plan*, drawn to a scale not smaller than one (1) inch equals fifty (50) showing:
 - a. The total area of the site in question.
 - b. All public and private rights-of-way and *easement* lines locations on or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated or abandoned.
 - c. Existing topography and approximate delineation of any topographical changes shown by contour with intervals not to exceed five feet (5').

- d. Location, height, arrangement, and identification of all *residential* and non - *residential buildings, structures* and *uses* on the subject property and, where applicable, location and arrangement of all *lots* with *lot* dimensions.
 - e. Location and arrangement of common open space areas, and ownership and operation and maintenance of such land shall be identified.
 - f. Landscaping features, including identification of planting areas and the location, type and height of walls and *fences*.
 - g. Location of *signs*, indicating their orientation, size and height.
 - h. A pictorial representation, such as an architectural drawing, photograph, etc. of the proposed telecommunications facility from a point 150 to 500 feet from the direction of two (2) of the closest property lines showing the relationship of the tower and/or facilities to the surrounding vegetation, roads, *structures* and other visual masses. The *Planning Commission* may substitute or add to the number of required directional pictorial representations if in their opinion such documentation is warranted to make a determination of compliance with this ordinance and the comprehensive plan.
 - i. All utility lines and *easements*:
 - Water distribution systems, including line sizes, width of *easements*, type of pipe, location of hydrants and valves and other appurtenances.
 - 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.
 - Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of *easements*, location and size of inlets and catch basins, location and size of retention and/or sedimentation basins.
 - Other utilities (e.g. electric, telephone, gas, cable, etc.) including the type of service and the width of *easements*.
 - j. Location of all *off-street parking*, loading and/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 and/or unloading spaces.
 - k. Location and type of lighting used for area illumination.
 - l. Circulation System:
 - Pedestrian walkways, including alignment, grades, types of surfacing, and width.
 - Streets, including alignment, grades, type of surfacing, width of pavement and rights-of-way, geometric details, and typical cross sections.
 - Provisions for control of erosion and storm drainage, 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.
8. Any contract with an owner of property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of discontinuance or abandonment, the method that the utility

will follow in dismantling and removing a cellular antenna tower including a timetable for removal. The timetable for removal must not exceed six (6) months. In addition, the decision to discontinue use of a CTF must be submitted to the Bellevue *Planning Commission* within thirty (30) days of the decision to cease operations.

F. PROCESSING OF APPLICATION: Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:

1. New sites:

- a. At least one (1) public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once in a newspaper of general circulation in the county, provided that (1) publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.
- b. Notice of the hearing shall be posted conspicuously on the property in question, for fourteen (14) consecutive days immediately prior to the hearing. Said posting shall consist of at least two *signs*; (1) posted in a visible location on the proposed site and (2) on the nearest road. The *sign* shall be constructed of durable material, be provided by the applicant and clearly depict the following information:
 - “(Name of applicant) proposes to construct a wireless telecommunications facility on this site (four (4) inch high lettering). A Public Hearing will be held on (date, place and time of public hearing) (one (1) inch high lettering). For further information, contact the Bellevue *Planning Commission*, 616 Poplar Street, Bellevue, KY 41073 (606) 431-8866.”
- c. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, with certification by the commission secretary, or other officer of the *Planning Commission*, that the notice was mailed to an owner of every parcel of property within five hundred (500) feet of the base of the proposed tower or monopole, and any abutting property owners. It shall be the duty of the person(s) proposing the facility to furnish to the *Planning Commission* the names and addresses of said property owners. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. 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 a condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator’s records as having the same address.
- d. Upon holding such hearing, the *Planning Commission* shall, within sixty (60) days commencing from the date that the application is received by the *Planning Commission*, or within a date specified in a written agreement between the *Planning Commission* and the applicant, make its final decision to approve or disapprove the uniform application. The *Planning Commission* shall submit to the Public Service Commission, along with its action, the basis for its decision. If the *Planning Commission* fails to issue a final decision within sixty (60) days, and if there is no written agreement between the *Planning Commission* and the utility to a specific date for the *Planning Commission* to issue a decision, it is presumed that the *Planning Commission* has approved the utility's uniform application. If the *Planning Commission* disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions that, in its opinion better accomplish the objectives of the comprehensive plan or zoning regulations.

2. Previously Approved Sites:

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

- a. For facilities located on previously approved sites, the *Planning Commission's* duly authorized representative shall review the application for its conformity with these regulations and the regulations contained within the applicable local zoning ordinance. The latitude and longitude of the *structure* shall be submitted along with a detailed description of the plan to co-locate or augment a *structure*.
- b. If the *Planning Commission's* duly authorized representative determines that the application is in conformity with these regulations and the regulations contained within the Official Zoning Ordinance, an administrative approval may be granted.
- c. If the *Planning Commission's* duly authorized representative determines that the application is not in conformity with these regulations and the regulations contained within the Official Zoning Ordinance, a public hearing, pursuant to Section F.1. of these regulations, shall be scheduled.

G. **UNIFORM APPLICATION CONFIDENTIAL:** Commencing from the time that a utility files a uniform application with the Public Service Commission, all information contained in the uniform application and any updates, except for information that specifically identifies the proposed location of the cellular antenna tower then being reviewed by the applying utility, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Public Service Commission and the Bellevue *Planning Commission* shall deny any of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of misconduct in the second degree as provided wider KRS 522.030.

H. **DESIGN STANDARDS:** At the time of application submittal, the applicant shall provide information demonstrating compliance with the following requirements:

1. All *structures*, except fences, shall be located at least ten (10) feet from all property lines or lease lines. The cellular telecommunications facilities shall be set back at least the height of the proposed tower when the site abuts a residence or *residentially* zoned property or when the site abuts a street.
2. A cellular antenna tower, or alternative antenna tower *structure*, may be constructed to a maximum height of two hundred (200) feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than fifteen (15) feet constructed on the top of another *building* or *structure*, with the height being the overall height of the *building/structure* and tower together, measured from the grade to the highest point. The *Planning Commission* may allow antennae greater than two hundred (200) feet in height upon review of the applicant's justification that the additional height meets the criteria identified in Subsection E, above.
3. When any cellular antenna tower, or alternative antenna tower *structure*, is taller than the distance from its base to the nearest property line or lease 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 seventy (70) miles per hour, in accordance with current ANSI/EIA/TIA standards.

4. Any monopole, guyed, lattice or similar type cellular antenna tower and any alternative cellular antenna tower *structure* similar to these towers, such as light poles, shall be maintained in either galvanized steel finish or be painted light gray or light blue in color. Alternate sections of aviation orange and aviation white paint may be used only when the FAA finds that none of the alternatives to such marking are acceptable.
5. Cellular antenna towers shall not be *illuminated* except as required by the Federal Aviation Administration (FAA) and other state or federal regulations. However, where required to be *illuminated*, the utility provider shall request dual lighting from the FAA. Strobe lighting is not permitted unless deemed absolutely necessary and shall only be permitted during daylight hours and switched to red lighting after dark.
6. The site shall be unstaffed. Personnel may periodically visit the site for maintenance equipment modification, or repairs. To accommodate such visits, ingress/egress shall only be from approved *access points*.
7. A minimum of one (1) *off-street parking* space, per provider, shall be provided on the site. In no case shall there be more than three (3) parking spaces per site.
8. Woven wire or chain link (eighty (80) percent open) or solid fences made from wood or other materials (less than fifty (50) percent open), shall be used to enclose the site. Such fences shall not be less than eight (8) feet in height. The use of barbed wire or sharp pointed fences shall be prohibited. Such *fence* may be located within the front, side and rear yards.
9. A *buffer area* shall be required around the perimeter of the *fenced* area, parking area and access area, as appropriate to adequately screen the facility. A *buffer area* shall be provided by live evergreen plantings of a sufficient size as to be equal to at least the height of the required fencing within three (3) years after planting occurs. The *Planning Commission* shall approve the number, type and planting pattern.
10. Any site to be purchased or leased for the installation of a cellular antenna tower, or alternative antenna tower, and ancillary facilities, shall comply with the minimum *lot* size requirements of the *zone* in which the facility is to be located.
11. Surfacing of all *driveways* and *off-street parking* areas shall comply with the requirements of the Official Zoning Ordinance, Article XIII.
12. *Signs*, not to exceed five (5) square feet, displaying emergency information, owner contact information and warning or safety instructions shall be installed at the base of the tower.
13. No *signs* shall be permitted, except those required in Section 9.31(H)(12) above or *signs* required by a federal, state or local agency.
14. All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three (3) service providers.
15. All option and site lease agreements shall contain non-exclusive co-location clauses.

Where the *Planning Commission*, or its duly authorized representative, finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed above are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements

unreasonable, the *Planning Commission*, or its duly authorized representative, may modify or waive such requirement, either permanently or on a temporary basis. The applicant shall request any such modification or waiver, and the applicant shall submit justification for each requested modification or waiver.

- I. **CRITERIA:** Evaluation of the proposal shall be based upon a finding of compliance with the following criteria:
1. The proposal is in agreement with the various elements of the adopted comprehensive plan.
 2. Extent to which the proposal is consistent with the purposes of these regulations.
 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 (e.g., topography, natural features, streets, relationship of adjacent *uses*, etc.).
 4. Extent to which the proposal responds to the impact of the proposed development on adjacent land *uses*, especially in terms of visual impact.
 5. Extent to which the proposed facility is integrated with existing *structures* (i.e. *buildings, signs*).
- J. **AMENDMENTS:** Any amendments to plans except for minor adjustments as determined by the *Planning Commission* or its duly authorized representative, shall be made in accordance with the procedure required by Subsection E, subject to the same limitations and requirements as those under which such plans were originally approved.
- K. **DISCONTINUANCE:** If the use of any cellular antenna, cellular antenna tower or alternative tower *structure* is discontinued, the owner shall provide the *Planning Commission* with a copy of the notice to the FCC of intent to cease operations within thirty (30) days of such notice to the FCC. If the CTF will not be reused, the owner shall have six (6) months from submittal of the FCC notice to the *Planning Commission* to obtain a demolition permit and remove the antenna or tower that will not be used. If the CTF is to be reused, the owner shall have no more than twelve (12) months from submittal of the FCC notice to the *Planning Commission* in which to commence new operation. Upon failure to commence new operation of the CTF within twelve (12) months, the CTF shall be presumed to be abandoned, and the owner shall obtain, within 90 days of the expiration of the twelve (12) month period, a demolition permit and remove the CTF within 60 days of obtaining the demolition permit. If the owner fails to remove an antenna or tower in the time provided by this paragraph, the *Planning Commission* may, on grounds of public safety, cause the demolition and removal of the CTF and recover all costs in accordance with the guarantee.
- L. **NON-CONFORMING CELLULAR TELECOMMUNICATIONS FACILITIES:** Cellular telecommunications facilities in existence on the date of the adoption of these regulations that do not comply with these regulations, are subject to the following:
1. Existing CTFs may continue use for the purpose now used, but may not be expanded or replaced without complying with these regulations, except as further provided in this section.
 2. Existing CTFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining zoning approval but without otherwise complying with these regulations.
 3. The owner of any existing CTF may replace, repair, rebuild and/or expand such CTF to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards by obtaining a zoning approval by the *Zoning Administrator*. These improvements can be made without having to conform to the public hearing

provision in Section F of the regulations so long as such facilities (construction type, *building setbacks* and heights) do not impact adjoining properties.

4. An abandoned CTF must be dismantled and removed within six (6) months of notifying the *Planning Commission* of the intent to discontinue use of a site.
- M. GUARANTEE: To insure the removal of all improvements at any abandoned telecommunications facility, any applicant filing a request under these regulations shall, at the time of submittal, deposit with the *Planning Commission*, and to the benefit of the *Planning Commission*, a letter of credit, a performance bond or other security acceptable to the *Planning Commission*, in the amount equal to the cost of the demolition and removal of the facility. Any guarantee submitted shall be irrevocable and shall provide for the *Planning Commission* to collect the full amount of the guarantee if the applicant fails to maintain the guarantee or in the event that the CTF is not dismantled and removed within six (6) months of notifying the *Planning Commission* of the intent to cease operations.
- N. FEES: Application fees for CTF's shall be as follows:
1. New Sites: *Planning Commission* application fee and *zoning permit* application fees shall total \$1000.00.
 2. Previously Approved Sites (including co-location): *Planning Commission* application fee and *zoning permit* application fees shall total \$500.00.

SECTION 9.32 - REGULATIONS CONCERNING TELEVISION AND RADIO STATIONS:

- A. TELEVISION: Earth stations for the reception and/or transmittal of TV signals, programs, messages, etc., located in any *zone*, are required to be installed in accordance with FCC Regulations, manufacturer's specifications and all applicable building codes.
1. EXCEPTION: In addition to the installation requirements delineated in Section 9.32 (A), earth stations located in the Historic Preservation Overlay *Zone* shall be installed according to the following regulations:
 - a. Such *structures*, including support equipment, shall not be permitted within any *front yard* or *side yard* in any *zone*. Such *structures* may be permitted to extend into the minimum required rear yard, as defined herein, in all *zones*, provided that such *structures* are set back from the *rear lot line* a minimum of ten (10) feet, and *side yard* clearances are maintained.
 - b. *Structures* may be ground mounted or *roof* mounted, provided that maximum height limitations are maintained. If the *structure* is *roof* mounted, it shall be located in a manner so as to detract as little as possible from the architectural character of the *building*.
- B. RADIO: Earth stations for the reception and/or transmittal of radio signals, programs, messages, etc., may be installed as *accessory structures* in any *zone*, in compliance with the following regulations:
1. Such *structures*, including tower, mast, antenna, guy wires, support equipment, etc., shall not be permitted within any *front yard* or *side yard* in any *zone*. Such *structures* may be permitted to extend into the minimum required rear yard, as defined herein, in all *zones*, provided that such *structures* are set back from the *rear lot line* a minimum of ten (10) feet, and *side yard* clearances are maintained.
 2. Such *structures*, including tower, mast, antenna, guy wires, support equipment, etc., shall not exceed seventy (70) feet in height, as measured from ground level to the highest point of the *structure*.
 3. *Structures* shall be constructed to withstand a wind load of eighty (80) miles per hour.
 4. *Structures* shall be grounded electrically and shall not cause to disturb, restrict, or impede reception of equipment on adjoining properties.